

A COLLECTION  
OF  
THE LAWS AND CANONS  
OF THE  
CHURCH OF ENGLAND,  
FROM ITS FIRST FOUNDATION TO THE CONQUEST, AND FROM THE  
CONQUEST TO THE REIGN OF KING HENRY VIII.

TRANSLATED INTO ENGLISH  
WITH  
EXPLANATORY NOTES.

*IN TWO VOLUMES.*

By JOHN JOHNSON, M.A.,  
SOMETIME VICAR OF CRANBROOK, IN THE DIOCESE OF CANTERBURY.

*A NEW EDITION.*

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VOL. I.  
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JOHN HENRY PARKER.  
MDCCCL.

## EDITOR'S PREFACE.

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NOTWITHSTANDING the large General Preface and the Advertisements which Mr. Johnson has prefixed to this work, it is necessary for the Editor to add some further explanation of the sources from which it is derived, and also to give some account of the corrections and additions which have been made in the present edition by the help of later publications.

Mr. Johnson's translation of English Canons, &c., of which the first and only previous edition was published A.D. 1720, is mainly founded upon the Concilia of Sir Henry Spelman, who had formed a plan for collecting all "the Ecclesiastical councils, decrees, laws and constitutions of the British Isles" in three periods, namely, from the first introduction of Christianity to the Norman Conquest; from the Conquest to the Reformation; and lastly from the Reformation to his own time. The first part of the intended work, completed amid the greatest difficulties, of which the almost universal ignorance of the Anglo-Saxon tongue was even greater than the troubles of the times, was published A.D. 1639; and the second A.D. 1664, by his nephew after the author's decease, which event prevented the execution of the third part<sup>a</sup>.

Besides the Concilia of Spelman there are two other works in which Johnson consulted the originals of the documents he translates, namely, the *Archæonomia* of Lambard and the *Provinciale* of Lyndwood. The first of these is not confined to ecclesiastical regulations, but is a general collection of the ancient laws of the English, published by William Lambard, the Kentish antiquary, A.D. 1568, and afterwards edited with additions and corrections by Abraham Wheloc, professor of Arabic at Cambridge, A.D. 1644. The latter is

<sup>a</sup> Wilkins, *Conc. Mag. Brit.*, vol. i. p. xxxiii.

the edition of Lambard's *Archæonomia* used by Johnson in correcting the text and translation of some of the laws in Spelman's *Concilia*, and from which he adds others to his collection, either on account of their ecclesiastical or general interest, which had been omitted by Sir H. Spelman.

The *Provinciale* contains the provincial constitutions of fourteen archbishops of Canterbury, from Stephen Langton to Henry Chicheley, collected A.D. 1422—46, by William Lyndwood, Doctor of the Canon and Civil Laws, Official of the court of Canterbury, Keeper of the Private Seal, and afterwards Bishop of St. David's. To this work in the edition used by Johnson, Oxford, A.D. 1679, are appended the Legatine constitutions of the cardinals Otho and Othobon, A.D. 1268, with the Annotations of John de Athon<sup>b</sup>, who flourished about the year 1290.

The remarks which have been made upon Johnson's translation from these sources by others who have followed in the same paths, afford sufficient testimony that he fulfilled the task with much industry and learning. Since the publication of his work, however, editions which have appeared of the original documents from the best MSS. both Latin and Anglo-Saxon, together with great advances in the study of the latter language, here, and on the continent, supply the means of emending many inaccuracies of the earlier texts, remove every difficulty of some passages which were perplexing to Johnson, and shew some parts of his translation, particularly from the Anglo-Saxon, to be inadequate, or altogether erroneous.

The works which have almost superseded those of Lambard, Spelman and Wheloc, and made it necessary that a new edition of Johnson's translation should be accompanied by numerous notes, are the following:—

1. "*Leges Anglo-Saxonicæ, Ecclesiasticæ et Civiles*," by David Wilkins, S.T.P., Canon of Canterbury, London, A.D. 1721. This was a more accurate and complete edition of the Anglo-Saxon laws than the *Archæonomia* of Lambard or the second edition of it by Wheloc.

2. "*Concilia Magnæ Britannicæ et Hibernicæ a Synodo Verolamiensi, A.D. 446, ad Londinensem, A.D. 1717*." This

<sup>b</sup> See General Preface, sections xix, xx.

work, by the same author as the last, in four folio volumes, published A.D. 1737, not only surpasses Sir H. Spelman's *Concilia* in accuracy and completeness in the two former periods, but also more than completes the design which he formed, but lived not to execute, with respect to the third or Post-Reformation period, and is still the chief standard book of English Councils, &c.

3. "Ancient Laws and Institutes of England; comprising laws enacted under the Anglo-Saxon kings from Æthelbirht to Cnut, with an English translation of the Saxon; the laws called Edward the Confessor's; the Canons of William the Conqueror, and those ascribed to Henry the First: also *Monumenta Ecclesiastica Anglicana* from the seventh to the tenth century; and the Ancient Latin version of the Anglo-Saxon laws, with a compendious glossary," &c., by Benjamin Thorpe, Esq., for the Record Commission, A.D. 1840. By this work, undertaken by one of the first Anglo-Saxon scholars of the present age, under royal patronage, and having at his command all the resources readily available for a national work, both the *Leges Anglo-Saxonicæ* of Wilkins, and also his *Concilia*, so far as regards Anglo-Saxon documents, are in their turn very far surpassed. Mr. Thorpe in his preface (p. ix.) remarks of the *Leges Anglo-Saxonicæ*: "As a monument of industry, this edition is very creditable to Dr. Wilkins; at the same time it must, though reluctantly, be acknowledged by every one competent to judge, that as a translator of Anglo-Saxon, he not unfrequently betrays an ignorance even of its first principles, that, though not unparalleled, is perfectly astounding;" of course the remark is almost equally applicable to the translations of Anglo-Saxon in the *Concilia*, though published sixteen years later. The faults of Wilkins as a translator, did not arise from want of industry or individual attainment, which could be remedied by a few years' study, but from the general ignorance of the Anglo-Saxon language in his time: moreover his *Concilia* required the preparation of so vast a body of additional matter relating to later times, that he might well be excused for not carrying on the Anglo-Saxon documents of the *Concilia* much beyond the point of improvement in text and interpretation, to which

he had brought them in his *Leges Anglo-Saxonicae*. It seemed necessary to say thus much, to explain the degree in which the labours of Wilkins, as well as his predecessors, have been regarded in the preparation of the present edition: his Anglo-Saxon text being carefully edited from good authorities, is sometimes valuable as affording a confirmation of, or an important variation from Thorpe's, but his Latin translation of the Anglo-Saxon text is treated as valueless where it differs from Thorpe, and where Anglo-Saxon scholarship alone is concerned, though sometimes quoted as of weight, where the understanding of the passage depends rather upon an acquaintance with ecclesiastical antiquities. Care must be taken to distinguish the Latin translations of Anglo-Saxon by Wilkins and his predecessors from the valuable Latin version of Anglo-Saxon laws in the twelfth century, an improved text of which is given at the close of Mr. Thorpe's work. In Latin documents, either of Anglo-Saxon or later date, Wilkins is quoted as the highest authority, except in the few cases in which the same documents are given in Thorpe's work or in Kemble's *Codex* mentioned below. It must be observed that the quotations from Thorpe's book for the Record commission, at the foot of most of the pages in Johnson's first volume, are in very few instances given as mere variations, but generally as the undoubted corrections of misreadings of the originals, as published by Lambard, Spelman and Wheloc, and of mistakes in Johnson's translation.

The first part of Thorpe's work contains a complete collection of Anglo-Saxon laws, but the second part, "*Monumenta Ecclesiastica Anglicana*," omits very many of the Latin documents of the Anglo-Saxon Church which are to be found in Spelman and Wilkins, and are translated in Johnson's first volume. On the other hand some of the documents there published by Mr. Thorpe would doubtless have been included by Johnson in his collection if they had been well known or accessible to him. Besides the Penitential of Archbishop Theodore in Latin, and the Confessional and Penitential of Archbishop Eggbriht in Saxon, which, from their nature and extent, would be properly omitted from a compendious collection of canons, &c., Mr.

Thorpe publishes some ecclesiastical laws of King Ethelred, (Thorpe, p. 129, 141, 145,) which were altogether unknown to Johnson<sup>c</sup>; Ælfric's pastoral epistle, p. 452, of which Johnson probably knew no more than the name, or he could not have failed to use it in illustration of the Canons of Ælfric; the epistle entitled 'Quando dividis Chrisma,' p. 464<sup>d</sup>, and Institutes of Polity, Civil and Ecclesiastical, p. 422, of one chapter of which Johnson translates a defective Latin version<sup>e</sup>. For these important and deeply interesting documents and the translation of them, Mr. Thorpe's work should be consulted<sup>f</sup>.

4. "Codex Diplomaticus Ævi Saxonici, Operâ J. M. Kemble, M.A." London, A.D. 1839-48, published for the Historical Society of England. This work contains upwards of fourteen hundred documents consisting of grants of kings and bishops, and other charters, from the beginning of the Anglo-Saxon period to the Conquest, carefully edited from the best authorities and chronologically arranged. In the case of the restoration of the archbishopric of Canterbury and the decree of Archbishop Athelard, A.D. 803, as well as in other instances, it affords the only means of untying the knot of historical difficulty upon which Spelman, Johnson and Wilkins spent laborious and futile efforts. Some of these documents are printed in the Appendix, which in the notes is sometimes referred to under the name of Addenda, as taking the place of Johnson's Addenda to the first edition which in the present are inserted in his text at the places to which they belong.

The only MSS. which the Editor has consulted are Cotton Nero A, I, in the parts containing what are commonly called Ecgbriht's Excerptions, (see below, p. 223, note,) and an account of St. Gregory's regulation of the Ember-weeks, (p. 180): Bodley 482, commonly called Penitentiale Ecgberhti in Anglo-Saxon (p. 180, note \*): Bodley 718, containing Ecgbriht's Penitential and Excerptions in Latin (p. 223, note \*): Bodley Jun. 121, (MS. X. in Thorpe,) containing Ælfric's canons, &c., (p. 393, note †; p. 397, note †): but full

<sup>c</sup> See in Johnson's first volume, A.D. 1014, Pf., p. 494.

<sup>e</sup> Ibid., A.D. 925. 9, p. 348-50.

<sup>d</sup> Ibid., A.D. 957. 19, p. 293, note †. p. 397, note †. p. 403.

<sup>f</sup> Fol. Lond. 1840; it was also printed the same year in two vols. 8vo.

use has been made of the above-named books, and references to them are given in the margin and foot-notes. It is hoped that the present edition will not only serve to give a fair view of the government of the Early English Church to those who have only time to read a translation, but also be useful as a guide and comment for those who may wish to enter upon the study of the originals.

JOHN BARON.

*Queen's College,*  
Christmas, A.D. 1850.

THE letters used in the Anglo-Saxon passages quoted in this volume, so far as they differ from those in common use, are explained below by the italics which follow them :

*Æ A, L C, ð d, e E, f f, L G, s g, Þ H, i i, O M, p r, r s, z t, w W, p w, Ð DH or TH, ƿ dh, þ th, ý y, ȝ and, þ that.*

#### ABBREVIATIONS.

- Ed. is in a few instances placed in the margin to denote that brackets in the opposite part of Johnson's text mark necessary insertions or alterations by the editor.
- L. Lambard, *Archæonomia*, ed. Wheloc.
- S. Spelman, *Concilia*.
- W. Wilkins, *Concilia*.
- T. Thorpe, '*Ancient Laws*,' &c., Parts I. and II.
- Br. Bromton in the *Decem Scriptores*, ed. Twysden.
- Ecg. P. Egberhti *Pœnitentiale*, Thorpe, Part II.
- Th. P. Theodori *Liber Pœnitentialis*, *ibid*.
- N. P. L. Law of the Northumbrian Priests, *ibid*.
- V. A. *Versio Antiqua*, Latin version made in the twelfth century of most of the Anglo-Saxon laws, from MSS. collated with Bromton, *ibid*.
- Wrangham MS. or MS. note. The notes so marked are from a copy of Johnson's *Canons*, formerly belonging to 'F. Wrangham,' and now in the Library of Queen's College, Oxford.
- For a description of the MSS. referred to by letters of the alphabet, chiefly in quotations from Mr. Thorpe, see the list prefixed to *Ancient Laws and Institutes of England*.

A  
COLLECTION

Of All the

*Ecclesiastical Laws, Canons,  
Answers, or Rescripts,*

With other MEMORIALS concerning the  
Government, Discipline and Worship of the  
Church of *England,*

From its first Foundation to the CONQUEST,  
that have hitherto been publish'd in the  
*Latin and Saxon* Tongues.

And of all the

Canons and Constitutions Ecclesiastical,  
made since the CONQUEST and before the  
REFORMATION, in any National Council, or  
in the Provincial Synods of

*Canterbury and York,*

That have hitherto been publish'd in the  
*Latin* Tongue.

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Now first Translated into *English* with Explanatory  
NOTES, and such Glosses from *Lyndwood* and  
*Athone*, as were thought most useful.

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PART the First.

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By JOHN JOHNSON, M. A. Vicar of *Cranbrook*  
in the Diocese of *Canterbury*.

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L O N D O N :

Printed for ROBERT KNAPLOCK in *St. Paul's* Church-Yard, and  
SAMUEL BALLARD, in *Little-Britain*. MDCCLXX.



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OF THE

## GENERAL PREFACE TO THE READER.

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I. THE sum of this work.

II. Every thing omitted, that was not necessary to give a view of the government, discipline, and worship of the English Church.

III. The difficulties of the Latin originals, and many mistakes in the Latin translations from the Saxonick here removed.

IV. Difficulties in the laws of King Wihtred, &c., cleared by Mr. Somner, and by the *Textus Roffensis*.

V. The contents of this work not fine, but useful.

VI. The first end of this work, to gratify the curious.

VII. Things herein contained are not of the greatest moment; but lapses in small matters may lead men into great mistakes, and expose the most learned.

VIII. A second end of this work was to be a strong antidote against popery, to such of the laity as may want it. The clergy need no such antidote.

IX. The old English bishops and clergy not deceivers, but deceived: Grosthead an instance of it.

X. They who are most fierce against popery may most want such an antidote; especially they who think it a fault to read popish books.

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XX. And not only these constitutions, but some part of the pope's canon-law, by virtue of a statute of King Henry VIII.

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XXII. By that statute of King Henry VIII., bishops are disabled from regulating their own courts. The writer of "The Anatomy of the Church" ought to have known this.

XXIII. In times before, and after the Conquest, synods were assembled, and jurisdiction exercised without any restraint; till the pope's canon-law made prohibitions necessary.

XXIV. Many ecclesiastical laws made by the state in Saxon times, but none to retrench ecclesiastical jurisdiction before the Articles of Clarendon.

XXV. All the corrupt constitutions must long since have been entirely abolished, had it been in the power of the convocation to do it: they have hitherto been hid in the Latin tongue.

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XXVII. If ecclesiastical jurisdiction had been new modelled according to the *Reformatio Legum Ecclesiasticarum*, or as our worship is; yet the knowledge of these constitutions, and Lyndwood's Gloss had been useful.

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XXIX. The fourth end of this work, that the reader may judge what of these constitutions may deserve to be retained, what rejected. Nothing to be retained but what is truly ancient, or good.

XXX. The objection against the ancients, viz., that their notions were introductory to popery considered.

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XXXIII. The translator cannot retract his zeal in this particular.

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XLV. Nothing can wholly excuse the disuse of the oblation, as to those who are the cause of it. The translator knows no safe communion in which the oblation is used in its purity.

XLVI. A self-congratulation, that the authors of the following memorials wrote with an intent to be rightly understood, and were great masters of sincerity, so much extolled of late.

XLVII. A grateful acknowledgment of the assistances given the translator in this work.

THE  
GENERAL PREFACE TO THE READER.

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I **HERE** present you with the translation of all the laws, canons, and constitutions of the Church of England, that were first made in the Latin, or Anglo-Saxonic tongue, from the first foundation of the Church at the latter end of the sixth century, to the reign of King Henry VIII. ; and that have been since collected and published by Sir Henry Spelman, or others.

II. I meddle not with the British, Irish, or Scottish memorials, as foreign to my present design, which was to make a collection of all the public monuments of this Church, which serve to give us a view of its government, discipline, and worship, and of the several variations of it from time to time, and I have done it in so moderate a compass, that those of the clergy who want the volumes of Sir H. Spelman, Bishop Lyndwood, and Athone, and are not able to purchase them, may be supplied from this work, at one fifth part of the cost. And though I have omitted very many of Sir H. Spelman's memorials, some as spurious, others as unnecessary to my present design ; and the greatest part of Lyndwood and Athone's glosses, as perfectly superfluous: yet I have added some things from other writers, which I thought conducive to the end I proposed to myself.

III. Though all which I publish may be found in other printed books, except some supplements and emendations taken from manuscripts, yet there they stand either in the impure Latin of the middle ages, not so easily to be understood by those who are only versed in classical writers, which is the case of most of the younger clergy ; or else in the Anglo-Saxonic, known by few ; or in the modern Latin translations of the Anglo-Saxonic, which are full of mistakes. I

hope it will not be thought a presumption in me to say this. Nay, it would be perfect stupidity in me not to discern the errors of Mr. Lambard and Sir H. Spelman, and his friend Lisle, by virtue of that light which the two great masters of the Saxon tongue, Somner and Hickes, have since held out to us; and I should be guilty of ingratitude to their memories, if I did not acknowledge my obligations to them.

IV. The Saxon text of the memorials published by Sir H. Spelman, is also full of faults; but especially the laws of King Wihtred, and the Rules of Satisfaction which immediately follow them. And here I had been wholly at a loss, had it not been for the manuscript notes and corrections of Mr. Somner upon these laws, and all the other Saxon memorials first published by that learned knight. I hoped to find relief in relation to the laws of King Wihtred, by collating Sir H. Spelman's edition with the original from which he published them in the *Textus Roffensis*\*; but that noble manuscript was not at home in its proper repository, during the whole time that I was composing this work. Since my translation of those laws was printed off, I was informed that this *Textus* was restored to its proper place of residence, and I had the favour of perusing it: but I found no variation of

\* [The book or chartulary called *Textus Roffensis*, was compiled by Ernulf, who was bishop of Rochester from A.D. 1114 to A.D. 1124, in the reign of King Henry I. It consists of two parts: the first containing the laws and constitutions of the Anglo-Saxon kings, in Latin and Saxon, transcribed from ancient copies; and the second giving a register or chartulary of the church of Rochester, from the autographs, with some other matters relating to that cathedral, written in the times of Ernulf and his successors; but these last in a later hand. In the reign of King Charles I., the *Textus Roffensis* was in the utmost danger of being secreted and finally estranged from its rightful owners, the dean and chapter of Rochester cathedral. One Leonard, a doctor of physic, had got it into his hands, and kept it two years; but the dean, Walter Balcanqual, and the chapter getting scent of the purloiner, bestirred themselves, and at last recovered their MS., A.D. 1633, but not without a bill in chancery. At the beginning of the next century happened the accident to which Mr.

Johnson refers. Being carried by water from Rochester to London, and back again, the book by some means or other fell into the water, but was happily recovered, and without much damage. A large part of the *Textus Roffensis* was published by the famous Kentish antiquary, Wm. Lambard, in his *Archæonomia*, A.D. 1568, and another part in his *Perambulation of Kent*, A.D. 1576. While this invaluable relic of antiquity was in the possession of Dr. Leonard, A.D. 1632, a transcript was made by Sir Edward Dering, Bart., from which Mr. Hearne afterwards published his *Textus Roffensis* at Oxford, A.D. 1720. See also Wharton's *Anglia Sacra*, vol. i., and Dr. Hickes's *Thesaurus Ling. Vet. Sept.* The above information is taken from "An Historical Account of that venerable monument of Antiquity, the *Textus Roffensis*, read before the Society of Antiquaries, London, June 18, 1767, by Samuel Pegge, M.A.," printed at the end of vol. i. of *Bibliotheca Top. Brit.* London: John Nicholls, A.D. 1790.]

moment but what Mr. Somner had taken notice of in his written notes; yet by inspecting the original, I was able to distinguish between Mr. Somner's conjectural emendations, and those which he made from the Textus itself. And by this inspection I further learned, that Sir H. Spelman did most probably never view the manuscript itself: for there are some mistakes so very gross that none used to the reading of Saxonic monuments could possibly be guilty of them. The transcript from which he published them seems to have been made by some one that was a stranger to the Saxonic letters; for the MS. itself is in a very fair hand, and well preserved, save where it is tarnished by the salt-water it took in its late travels. But it is observable that Somner never undertook to correct the laws in Sir H. Spelman, which had been before published by Lambard; he seems to have had a better opinion of what had been done by his own countryman than of the learned knight's performances, whose diligence and piety can yet never sufficiently be commended, and who in some particulars much exceeded Lambard. In truth, Somner, when he wrote these marginal notes, was not so able a master of the Saxonic as when he published his Dictionary.

V. I cannot, according to the fashion of editors and translators, give any great encomiums of the originals which I copy, as to the beauty of their composure, the elegance of their style, or any other internal or external ornament that can render them agreeable to the genius of this present age. Yet I can truly say, that they are many of them very useful, and contain abundance of particulars, of which no clergyman (to say nothing of others) ought to be ignorant, if he desire to acquit himself in the discharge of his office, to the honour and benefit of that Church of which he is a minister. There are four ends, which I chiefly had in view in compiling of this work.

VI. The first, I confess, was curiosity, and a desire of improving speculative knowledge. And if I proposed no other end but this in the present work, it ought by no means to be despised. No man should think his time misspent in looking back on the past ages of the Church, and in making his observations on the state of religion, and the alterations of it, either for the better or for the worse, and on the causes, or

occasions of the changes. If gentlemen, and scholars of the brightest parts, find no study more engaging than the old fashions, religion, laws, paintings, buildings, and art military of the Greeks, Romans, and other ancient people; much more reason have we to suppose, that it must be entertaining to clergymen to see the modes and manners of their predecessors in the holy function, and of the people of the same Church faithfully described to them; especially, when as to the main, by comparing our present state with theirs, we may clearly discern that our condition, both as to temporals and spirituals, is much preferable to theirs. And the true antiquarian is not to be displeased, because in his searches and enquiries he meets with some things exceeding rude, or even barbarous; but feels as much pleasure in the inspection of a brass coin as in one of a more noble metal, and in earthen urns as in pots of gold. I mean, if you consider him barely as an antiquarian, not as a proprietor of the treasure.

VII. It is true a great, and perhaps the greatest part of the contents of these papers, are things of no great moment in themselves considered. But let me tell my reader, that ignorance in small matters, when it is discovered, does often expose men to as much shame and censure as in things of the greatest consequence. And we are often under a necessity of drawing arguments from matters of little or no concern, in order to prove or disprove things that are of a more weighty nature. It were easy for me to give a large list of errors committed by men of great character, both in their writings and conversations, for want of knowledge in such minute points as many of those confessedly are which you may find in these sheets. But I am none of those who take pleasure in laying open the errors of others, whatever some may have said or thought of me: I have indeed in this work said several things, or rather the memorials which I publish in English do contain several things, directly contrary to what has been asserted by men of great name; but as I can sincerely say, that nothing of this sort proceeds from any resentment or personal prejudice that I have conceived against them, so I have always endeavoured to conceal their persons, that I might give them no provocation, unless they



are such as will be provoked by seeing the truth set in a just light.

VIII. A second design I had in this translation, was to furnish out a strong antidote against popery. And in this respect I cannot but recommend it to the perusal of such of the laity as may have entertained too favourable notions of the Romish religion, or may fall into the hands of popish emissaries. For as to the clergy, I am fully persuaded there are none that stand in need of any antidote against the errors and superstitions of the Church of Rome. I must have leave here solemnly to profess, that of all the clergy of the Church of England, with whom I have intimately and familiarly conversed, (and few have so conversed with more of them than I have done, in and about thirty years that I have officiated as a priest in this Church,) I never found one single man whom I had just reason to suspect of any inclination or tendency to popery. And I cannot but esteem it a very gross absurdity to suppose, that any number of them can have any bias that way: for all that know popery, as they do, must know that popery implies slavery, as to soul, body, and estate, all in one, and that the slavery of the clergy in that Church hath always been greater than that of the laity. The censures of the pope and his agents ever fell heaviest upon them, because they were by this means deprived of their subsistence. They had frequent taxes laid upon them by the pope, and for his use, over and above what were demanded by the civil government; whereas the laity paid no tax to Rome, save that of the Peter-pence, which was as nothing compared to those tenths upon tenths which were frequently exacted of the clergy. Some few indeed of the prelates, and favourites of the pope or king, who were indulged in enormous pluralities of twenty or thirty benefices, held by virtue of a papal dispensation, wallowed in wealth and luxury. But the main body of the clergy, that is, the vicars, curates, parish priests, chantry priests, and mass priests, and all those in the inferior orders, (excepting such as were permitted to hold rectories by special favour, who could not be very numerous,) had, generally speaking, but a bare subsistence: they that were sub-deacons, or in any order above that, were denied the common liberty of mankind, I mean lawful mar-

riage. If they were convicted of having committed the deadly sin of marriage, they themselves incurred the loss of their benefices, and were disabled from officiating in the Church, their wives were branded with the imputation of being whores, their children with the infamous characters of bastards. Great multitudes of Italians, and other foreigners, were, by the transcendant authority of the pope, possessed of many of the best dignities and benefices in the Church, and reaped the profits of cathedrals and rectories, which perhaps they never saw, while many of the poor English-born clergy were glad to eat of the crumbs which fell from their tables; I mean, to maintain themselves with being their under-agents. These and many other were the grievances of the clergy, while under the tyranny of the see of Rome; I mean, they were peculiar to them, over and above those hardships which they endured in common with the laity. And let it be considered what privileges they enjoyed to counterbalance all these hardships. The sum of these was, that they could not be hanged, or corporally punished by the hands of laymen, though they had deserved it, at least, they could not be so treated without the bishop's consent; and no man could lay violent hands on them, without incurring very hard censures and penalties. These were privileges which, it is to be hoped, not one of them in ten thousand had occasion to make use of. Nor was it out of love to the clergy that these privileges were claimed, but to maintain the sole dominion of the pope over the whole body of the ecclesiastics, and to keep the civil powers and laity in awe, from offending against those who were then deemed the peculiar subjects and property of the pope.

IX. If the clergy of England before the Reformation had indeed a zeal for the pope's authority, it must have proceeded purely from their mistaken principles, and the dictates of an erroneous conscience; for they could have no other inducement to abet a power so grievous to themselves; because no man can love slavery for slavery's sake. And I have just reason to believe, that the main of the clergy in those days were not disposed to advance the pope's power any farther than they falsely conceived themselves in strict duty bound to do. It may be truly said, that some of our

kings and archbishops, whose names might easily be numbered, did more toward the establishing of the pope's dominion here than the bishops and clergy. The monks and regulars were indeed faithful drudges to the see of Rome; but the bishops and secular clergy (and of them I now speak) were sensible of the tyranny of the pope, and would probably have been glad to shake it off, if they had thought it could be done without a violation of their consciences. For they (undoubtedly by mistake) believed him to be their spiritual sovereign appointed by God; and while they laboured under this fatal error, we are rather to pity their ignorance than to condemn them for acting according to their principles. They were, I am persuaded, so far from being deceivers, that they were grossly deceived and abused themselves; and the ignorance of the generality of them was altogether as invincible as that of their people. Robert Grossthead, bishop of Lincoln, was equal, if not superior, in learning to any of our clergy, or even bishops, during those dark ages; and he took a journey to Rome on purpose to reprimand the pope for his mal-administration. And can we think that this good man would not much more have reprov'd him for the false doctrines and idolatries, of which he and his predecessors had been the chief authors and abettors, if he had been sensible of any such false doctrines or idolatries then countenanced and maintained by that see? And if the famous Grossthead, who was looked on as a prodigy of learning and integrity, in the thirteenth century, when some of their vilest errors were first established, was not aware of any dangerous fatal doctrine or practice in that Church; much less is it to be supposed that the main of the bishops and clergy here, who were so far inferior to him in knowledge and penetration, had any suspicion of the pope's divine authority over them, or of the purity of that Church.

X. But though I look on the present English clergy as too well apprised of the intolerable tyranny of the pope, and the grossness of those errors with which he has corrupted Christianity, to be taken in his snares; yet I cannot but apprehend that many of those among us, who make the loudest outcries against popery, do indeed want such an antidote as

I take this to be. I mean, those who think it a crime to look into those books of the Church of Rome which contain their errors; and I have particular reason to complain of the blind zeal of this sort of men, because I have been barbarously defamed by some of them, upon a bare supposition that I had a mass-book sent to me by a friend. Now Protestants, who scruple the reading of the books of that Church, in declaring against popery declare against they know not what: for the only way to know the very worst of their religion is to peruse the very worst of their books, where we may see their most palpable corruptions in their true natural colours. If such men ever come by chance to see their own whimsical, confused notions of popery to be mistakes, and that popery is not what they falsely imagined it to be, they may more easily be reconciled to it by the sleight of missionaries, than they who thoroughly know it, and are therefore fore-armed against it. I thought it therefore very seasonable to offer to such Protestants as seem to know nothing of popery but its name, some knowledge to be mingled with their zeal, which, when they are well tempered together, may make a very proper composition.

XI. I have often been thinking, that one could not do a greater service to the Reformation, than by translating into English the Missal, Breviary, Pontifical, Manual, and other public Service-books of the Church of Rome, with brief annotations, shewing the rise of all that is foolish and superstitious, and the antiquity of what remains good and commendable in them. This might be done in a few volumes, and those not very large; for the Scriptural part need not be inserted otherwise than by references; and the repetitions, which are many, and do much increase the bulk of the Latin books, may be passed over by only inserting the first words, and letting the reader know where the rest are to be found. It is certain, that the leaders in the Church of Rome would with reason look upon it as a terrible blow given to them, if such translations could be published in all the vulgar tongues of Europe. For they themselves do industriously conceal their public devotions from the knowledge of the people, and have, with all their might, endeavoured to suppress all attempts of translating them. For they are sen-

sible that great numbers of men would desert their worship if they once came to the knowledge of all that filth and corruption which lies hid under an unknown tongue. For true popery is a thing of that nature, that there needs no confutation of it but the shewing of it in a true light ; upon supposition that the spectators are men of competent sense and judgment, and that they are in any measure acquainted with their Bibles. And I intended these papers as an essay toward such a work as I just now mentioned.

XII. When I recommend this work as an antidote against popery, I desire to be understood chiefly in relation to those constitutions which were made at the beginning of King Henry III.'s reign, and in the following ages. For then it was that popery appeared in its full strength and vigour. Let any rational man attentively read the Constitutions of Stephen Langton, and the archbishops his successors down to the reign of King Henry VIII. ; let him consider that these were the principal laws (under the pope's canon law) by which the Church was governed during those ages ; and then let him tell me, whether it were not time to reform. I have rarely pointed out to my reader the passages where popery appears in its most lively colours ; they are visible enough to them who have eyes to see ; much less have I attempted to confute the errors contained in many of the canons and constitutions. For I am persuaded that no Church of England man needs any other help but that of his Bible, and a tolerable degree of understanding, to discern the absurdity of many of the doctrines, and especially of the practices mentioned and enjoined, by the old English prelates in subjection to the see of Rome.

XIII. For the first 250 years after the coming over of Augustin to convert the nation, the state of religion was more tolerably pure than afterwards. Yet all public offices were performed in the Latin tongue, to which the people were strangers ; and this was indeed a corruption not to be endured, nor could the new converts have been patient under it, if they had been capable of reading St. Paul's Epistles ; but it does not appear that the Scriptures were translated into English till some ages after the conversion of our forefathers, and then but in part : and if the whole

Scripture had been in English, there is just cause to suspect that very few of the laity had been capable of reading them. Some have supposed that the Gallic Service or Liturgy was here first used by Augustin, and all other bishops and priests in this nation. Yet I conceive this to be a mistake, which will be made appear in the following memorials. I am sensible of what Bede tells us, in his fourth book and eighteenth chapter, viz., that Pope Agatho, above eighty years after Augustin's coming over, sent John, the precentor of St. Peter's church in Rome, to instruct the monks of Wirmuth in the annual course of singing, and that he did accordingly teach them the order and rite of singing and reading in the celebration of feasts, through the circle of the whole year, and that he wrote down and left behind him whatever was requisite to this purpose. And this may seem to some to imply the introduction of the Roman offices instead of the Gallic; which therefore they must suppose to have been used here till this period of time. But I conceive the words of Bede imply no such matter<sup>b</sup>. The sum of what this precentor taught them, consisted in new tunes or modes of music, some variations of habit, gesture, and perhaps of the series of performing religious offices, according as the fashions had been altered at Rome since Augustin's coming hither. There is no mention of books, or new forms of service that he brought with him; Bede expressly says, he taught them *viva voce*, and what he wrote down concerned only the celebration of the festivals. From all which it is evident, that here was no innovation in the substance of the Services, but only in the outward mode and figure of saying or singing them. John was sent to one monastery only, and is not said to have

<sup>b</sup> [Acceptit (sc. Benedictus) et præfatum Johannem Abbatem Britanniam perducendum; quatenus in monasterio suo cursum canendi annuum, sicut ad sanctum Petrum Romæ agebatur, edoceret: egitque Abbas Johannes ut jurisdictionem acceperat pontificis, et ordinem videlicet, ritumque canendi et legendi viva voce præfati monasterii cantores edocendo, et ea quæ totius anni circulus in celebratione dierum festorum posebat, etiam literis mandando: quæ hactenus in eodem monasterio servata, et a multis jam sunt circumqua-

que transcripta. Non solum autem idem Johannes ipsius Monasterii fratres docebat, verum de omnibus hanc ejusdem provinciæ monasteriis ad audiendum cum, qui cantandi erant parati confuebat. Sed et ipsum per loca in quibus doceret, multi invitare curabant. Ipse autem excepto cantandi vel legendi munere, et aliud in mandatis ab apostolico papa acceperat, ut cujus esset fidei Anglorum Ecclesia, diligenter edisceret, Romamque rediens referret.—Bede, Hist. Eccl., lib. iv. c. 18.]

taught any but the Northumbrians. If he had brought any new office or liturgy with him, certainly care had been taken to settle it in the south, as well as in the north of England. But there was no occasion to instruct the southern monks and clergy in what they knew before. Bede testifies that at Theodore's first coming to Canterbury, which was ten or twelve years before this, the Roman way of singing was well known in Kent, and then began to be taught in other Churches. Wilfrid soon after invited Eddi, otherwise called Stephen, one of Kent into the north, to teach this mody practice there, as may be seen in the second chapter of Bede's fourth book <sup>c</sup>; nay, thirty-five years before Theodore's arrival, James, the Kentish deacon, was left at York by Paulinus, when he retired to Rochester, on purpose to teach them the way of singing used by the Romans and the Kentish, as Bede expressly says in the twentieth chapter of his second book <sup>d</sup>. It is probable that neither of these Kentish singing masters went further than Hexham; however not to Wirmuth<sup>e</sup>, for the monastery there was not built till the year 674. John taught only those of this monastery, and such of the Northumbrians as had not learned it before. So after the Conquest, Osmund, bishop of Sarum, contrived a new Use for his own Church, that is, he ascertained all the rubrics which were before not determinate enough, or where books were inconsistent with each other, as it often happened, while transcribers took the liberty of varying from their copies: he adjusted and settled the series, and pomp, and the ceremonial of divine worship, in points that were before left to the discre-

<sup>c</sup> [Sed et sonos cantandi in Ecclesia, quos eatenus in Cantia tantum noverrant, ab hoc tempore per omnes Anglorum Ecclesias discere cœperunt: primusque, excepto Jacobo de quo supra diximus, cantandi magister Nordanhybrorum Ecclesiis, Aeddi cognomento Stephanus fuit, invitatus de Cantia a reverentissimo viro Vilfrido, qui primus inter Episcopos qui de Anglorum gente essent, Catholicum vivendi morem Ecclesiis Anglorum tradere didicit.—Bede, Hist. Eccl., lib. iv. c. 2.]

<sup>d</sup> [Reliquerat autem in Ecclesia sua Eburacensi, Jacobum diaconum, virum utique Ecclesiasticum et sanctum, qui multo exhinc tempore in Ecclesia ma-

nens, magnas antiquo hosti prædas, docendo et baptizando eripuit: cujus nomine vicus in quo solebat maxime habitare, juxta Cataractam, usque hodie cognominatur. Qui quoniam cantandi in Ecclesia erat peritissimus, recuperata postmodum pace in provincia, et crescente numero fidelium, etiam magister Ecclesiasticæ cantionis juxta morem Romanorum seu Cantuariorum multis cœpit existere: et ipse senex ac plenus dierum, juxta scripturas, patrum viam secutus est.—Bede, Hist. Eccl., lib. ii. c. 20.]

<sup>e</sup> [Of the founding of the monastery of Weremouth, in the diocese of Durham, A.D. 674, see Dugdale's Monasticon, i. p. 501. A.D. 1817.]

tion of them that officiated, which created confusion and multiformity in the Church. And several other English bishops took the same liberty of making Uses for their own dioceses, different from those of Sarum. And though the invention of printing hath prevented the inconsistency of our present Common Prayer-books, yet there is room for our bishops to make Uses for their dioceses, if they can judge themselves sufficiently authorized for such a work by our constitution. I mean, there is just occasion for them to give special directions, what shall be done in cases not clearly adjusted in our rubrics; and hundreds of such cases might, I conceive, be discovered. But as to the main point now before us, which is the worshipping of God in an unknown tongue; it is certain this was a corruption established here by our first converters, and continued till the reign of Edward VI. If it were allowed that the Gallic offices were received here for the first eighty years after our conversion, as in truth it cannot, yet they were in the same language, though they were different from the Roman in other points.

XIV. The worshipping of saints and images was not introduced into the Church of Rome itself, till some ages after Augustin, though they went to the utmost bounds of what can be deemed lawful in relation to saints, that is, they prayed to God that He would hear the prayers of saints deceased, which it was supposed these saints offered in behalf of the Church. And they began to dote on pictures and images as very useful remembrancers. Augustin, when he made his entry into Canterbury, had the picture of our Saviour carried before him, though not as an object of worship, yet as an ensigu of his profession. Bede, who lived above an hundred years after him, intimates that images were used as memorandums and descriptions, which is the notion that still prevails among the Lutherans. And though the Centuriators<sup>f</sup>, and others from them, would have it that images began to be adored here at the beginning of the eighth century, yet they have no proof of it but the fictions of some monks. It is well known that the second synod of Nice, which was the first that determined in favour of images,

<sup>f</sup> [Centuriatores Magdeburgenses, cent. viii. cap. ix. (Synodus Londinensis), pp. 536, 537. Basileæ. A.D. 1559.]



did not meet till toward the latter end of this century ; and the Emperor Charles the Great opposed this wicked innovation, and his secretary Alcuin, our countryman, wrote against it : and upon the whole, there is good reason to believe that image-worship did not prevail here till the middle of the ninth century, a while before Alfred's accession to the throne. And it is observable, that in all the ancient memorials here collected, there is very little appearance of zeal for the worshipping either of saints or images, till a considerable time after the Conquest. Prayers and oblations for the dead were indeed established here from the first dawnings of Christianity among us ; and there is reason to believe that there was no Church or age for the first 1500 years, in which these devotions were not used ; especially because it is evident that this practice obtained among the Jews before the incarnation of our Lord. This appears from 2 Macc. xii. 39—45, which is true history, though not canonical Scripture. And there is no direct or indirect prohibition of it in the New Testament, to the best of my knowledge and observation. But in these ancient times men were not under any obligation to offer their devotions for the dead, upon a supposition that their souls were in purgatory ; but upon another principle universally granted, viz., that they were in a very imperfect state of happiness. Yet it must be confessed, that the conceit of a purgatory was gaining ground apace in the age of Bede ; but it was an opinion only, not an article of faith, till the council of Trent made it so.

XV. The doctrine of transubstantiation was so far from being planted here by Augustin, that Elfric, his successor in the see of Canterbury four hundred years after, wrote many things inconsistent with this absurd notion, which had been indeed published and defended in France by Paschasius Radbertus, above an hundred years before Elfric, but was not yet established either in France, or in any other part of Christendom : and no man in this age can say any thing more irreconcilable to it than he has done in his homilies. And his homilies were received as the doctrine of the Church of England in the tenth and eleventh centuries ; for they were publicly read by the priests instead of sermons. And I am fully persuaded that the homilies of Elfric are more positive

against the doctrine of transubstantiation, than the homilies of the Church of England compiled in the reigns of Edward VI. and Queen Elizabeth.

XVI. As to the authority which the pope, who sent Augustin hither, assumed to himself, it was greater than what his primitive predecessors claimed, but moderate in comparison of that which his successors some ages after usurped to themselves. Augustin, according to the instructions which he received from Pope Gregory, carried himself with an air of superiority towards the British bishops whom he found in Wales. And he, as all other western archbishops in communion with the see of Rome, received from the pope a robe called a pall, which they were to put on as often as they said mass; which was in truth designed as a badge of their dependance on the pope; for they could perform no archiepiscopal act till they had been confirmed and established in the possession of their primacy, by receiving this pall from the pope. At first the archbishops were consecrated by some neighbouring bishops, and had the pall sent them by the pope after their consecration. But toward the end of the eighth century at the farthest, the archbishops elect were required to go to Rome, and receive consecration and the pall from the pope's hands. Our English bishops remonstrated against this innovation as contrary to ancient practice, and to the declaration of Pope Honorius to our bishop of the same name, and to the assertions of the learned Alcuin; and they gave very broad hints, that this new way of proceeding gave occasion for simoniacal practices. And it is indeed very credible, that when the popes had drawn our archbishops elect to Rome, they obliged them to accept the pall, if not the consecration, upon their own terms. If this remonstrance had been made after the year 960, when Elcine, or Alsine, archbishop elect, perished by cold in the Alps, while he was making his journey to fetch the pall from Rome, they had had another just ground of complaint against this innovation; but their plea was good without this addition; yet it does not appear that they procured any redress of this hardship. However, this immediately concerned the archbishops only, and was not felt by the rest of the nation. Pope Vitalian, within less than seventy years after Augustin, consecrated

Theodore, a Greek by birth, who had spent a great part of his life at Rome, and sent him to be archbishop of Canterbury. This was not taken as if the pope had imposed a primate upon us by his own authority, but as a proof of Vitalian's care and affection for the Church of England, and as a public blessing to the nation; for Theodore was certainly a person of as great abilities as any of his age; and the kings of Kent and Northumberland were consenting to what the pope did. For popes had not yet discovered that plenitude of power in their own breasts, by which they afterwards presumed to fill vacant sees with men whom they thought most proper tools to serve their own interests; and that sometimes in opposition both to kings and the lawful electors. This stretch of papal authority was never, I think, put in execution here till the reign of King John. When Wilfrid, bishop of York, was deposed by Theodore of Canterbury, who was then sole primate of all England, because he would not submit to a partition of his huge diocese, which was commensurate to the kingdom of Northumberland, and the king executed Theodore's sentence, which was passed in a national council, and Wilfrid ran to Rome, in hopes of getting redress from the pope; Agatho, who then sat in the pontifical chair, by the advice of a synod, referred Wilfrid's cause to a council to be held in England, and recommended him by his letters to the king. But neither the king nor archbishop complied with the pope, nor was any thing done in favour of him till the king was dead, and the archbishop, many years after, when he was under the infirmities of an extreme old age, wrote to the new king in Wilfrid's behalf; upon which he was restored to some part of his former bishopric, and his other possessions. And when he was again deposed, and again took refuge at Rome, and procured the decree of the pope in synod in favour of him; though Brihtward, the archbishop of Canterbury, was willing to comply with the sentence of the pope and synod, yet the king refused; for he declared it unreasonable to receive into communion a man twice condemned in a national synod, in obedience to the apostolical precepts (so the pope's letters were then called.) Though after this king's death it was said he declared his repentance, in reference to his behaviour to Wilfrid, and by

virtue of this report, whether true or false, Wilfrid again recovered part of his former diocese, and his monasteries\*. And I take it to be certain in fact, that, though Wilfrid and others complained of supposed injuries done them at home, to the pope of Rome, and the popes themselves were ready enough to meddle in such causes, yet that neither the popes assumed to themselves the peremptory and final decision of all ecclesiastical causes; nor would the kings, clergy, or people have acknowledged any such power in him, if he had claimed it, till a pretty while after the Conquest.

XVII. The fond devotion of some of our greatest monarchs, before the Conquest, was indeed very advantageous to the see of Rome. It raises indignation in the breast of any true English Christian, to see so noble a religion as ours made serviceable to the ends of Romish covetousness and ambition; to observe that princes that make so considerable a figure in history as Ine, Offa, Ethelwolf, Alfred, and Cnute, could find no better employ for their devotion than to go to Rome, and lavish the treasure of the nation, by indulging a blind superstition; and giving the pope an opportunity, when he had them there, to draw such acknowledgments and promises from them as might be afterwards made use of to the detriment of themselves and their people. Yet it must be confessed, that all the weak zeal of our Saxon and Danish kings never proved so injurious to their kingdom and people, as the management of some of our bravest kings after the Conquest did. King Stephen and Henry II., by permitting the pope to put his canon law in execution here; the same King Henry II., by submitting to the penance enjoined him by the pope's legates, for being, though undesignedly, the occasion of Archbishop Becket's murder; he and his successors, by levying such vast sums of money for recovering the Holy Land at the pope's motion; and above all, King John, by resigning his crown to the pope's legate, and receiving it back again, to be held, as it were, in fee of his Holiness, were more mischievous to themselves and the nation, than all the expensive pilgrimages to Rome performed by our more ancient monarchs. I am sensible that King Henry II.

\* See Sir H. Spelman's *Concilia*, vol. i. p. 160, 179, 200, 204. [London, A.D. 1639.]

did oppose the introduction of the pope's canon-law, and that this was the foundation of the quarrel between him and Becket ; but by afterwards so tamely submitting himself to the pope, he built up what he had before destroyed. I know that King John's peers, and especially his bishops, declared the resignation of his crown to be null and void, as undoubtedly it was in fact : but as such actions gave a pretended claim to the pope, so this served him and his successors to keep our kings afterwards in awe ; because they knew in that age the pope never wanted princes to fight his battles, when he had any colour of right on his side. And, in truth, three or four of King John's immediate successors carried it so submissively to the popes, that they gave the world reason to suspect they were themselves afraid that King John's surrender was of greater force than they were willing others should believe. It is hard to conceive that our kings should stoop so low as to accept grants of tenths on the clergy from the pope as they did, if they had thought themselves independent, as they undoubtedly were in right. Nay, it seems unaccountable that kings should permit the popes to consecrate archbishops of Canterbury on any other bottom, by bulls of provision, *ex plenitudine potestatis*, as they did for near two hundred and fifty years together, from Stephen Langton, who was advanced to that see in the year 1206, to John Kemp, who came in by that title in the year 1452, with very few exceptions. And it will seem more unaccountable still, when it is considered that during a great part of this time we had statutes in force against papal provisions ; and the states of the nation, excepting the bishops, who durst not join with the others for fear of the pope, were frequently calling on our kings to put these statutes in force. It was certainly more for the interest of our kings, that elections should be made by those in whom the laws and canons had placed it, I mean in the cathedral clergy and monks, than in a powerful foreigner, for such was the pope at that time of day ; yet it is not only certain in fact, that our kings countenanced papal provisions, but that they sometimes requested the popes to make use of this usurped and most unreasonable prerogative.

XVIII. Thus by degrees the see of Rome finished its cor-

ruptions and usurpations. By King Henry the Third's time perfect consummate popery reigned here. Not only the worship of saints, especially of the Virgin Mary, and to their images, was established here in England, but the devotion of the people was exercised chiefly that way; not only the most irrational doctrine of transubstantiation was brought to maturity, but the idolatry of worshipping the host with divine honour was grafted upon it. The pope had made himself, in effect, not only absolute sovereign in spiritual matters, but almost in temporals too. When our forefathers were first converted by Augustin, Pope Gregory's missionary, they had good reason to suppose that Christianity was one certain system of divine worship, doctrine, and discipline. For it must have seemed absurd to imagine, that a religion which came from heaven five or six hundred years before, was to be always growing and undergoing alterations from the inventions of men. If it had continued in the same state in which we first received it, that is, with divine service in an unknown tongue, there had been just occasion to reform, as to this particular at least. But when in above nine hundred years they had added above a thousand grievances, corruptions, superstitions, and even idolatries, and rivetted them into our constitution, the English nation had certainly just cause to resent the ill treatment she had received from the see of Rome, and to depart from that Church so far as she had departed from her original faith, worship, and discipline. And that our charge against that Church is true the following sheets are a sufficient demonstration, if we were destitute of all other evidence, especially the constitutions of Langton and those that follow. It is the common subterfuge of papistical writers, when they are pressed sore with objections against their notorious errors, to pretend that we misrepresent the doctrines and practices of their Church and clergy. Here they have no room for such evasions: for many, not to say most, of the doctrines and practices of the Church, are here expressed in the words of some of the truest and fastest friends that the Church of Rome ever had, the zealous old bishops and clergy of the Church of England, while she was unhappily engaged in the corrupt communion of the Church of Rome, who had been nursed up in the im-

pure bosom of that Church, and with an ignorant sincerity lived and died in it too. And yet I am apt to think, that to the generality of my English readers, this representation of their doctrines, and polity, and worship, will be an effectual confutation of them. And my reader may believe me, when I assure him that I have not designedly made any word or phrase in the English sound more or less than the original Latin does. The text of this work speaks not my own sense, but that of the bishops or others who drew the constitutions: only if any thing appeared dark or difficult, I have given my reader what light I could in my annotations.

XIX. Another end I proposed to myself in this collection, was to give my reader a more full view of our present constitution than he can have from the liturgy, acts of parliament, and canons in English, made since the Reformation only. For it is certain that the very worst part of the constitutions contained in these papers, I mean those made by Archbishop Langton and his successors down to Chicheley, are partly yet in force: these are the constitutions upon which Lyndwood wrote his gloss<sup>b</sup>, and of these the words of the statute (25 Hen. VIII. c. 19) are to be understood, viz., “*Prohibited always that such canons, constitutions, ordinances, and synodals provincial being already made, which be not contrariant nor repugnant to the laws, statutes, and customs of this realm, nor to the damage or hurt of the king's prerogative royal, shall now still be used and executed, as they were afore the making of this act.*” From this clause it is evident that all canons and constitutions ecclesiastical, which were in force before the making of this statute, do so still remain. What were contrary to statute, custom, (that is, common law,) and prerogative royal, could not legally be executed before the making of this statute (though they often were in fact.) But such as might lawfully be put in practice before, (excepting such canons as concern appeals to Rome,) may be put in practice still; unless they have been abolished by some statute made since this of King Henry VIII.; and many of them have, in whole or in part, been annulled by

<sup>b</sup> [The Provinciale of Bishop Lyndwood, who died A.D. 1446, was carefully printed at Oxford A.D. 1679, with the legatine constitutions of Otho

or Otto, and Othobon, and the annotations of John de Athon: to this edition Mr. Johnson refers.]

the acts of uniformity which establish the use of the Common Prayer-book ; which doth in very many particulars contradict these constitutions. No canons made since this act have so direct and express a ratification given them by statute, as these which were made and executed before that time. Therefore, though generally speaking, when two canons clash with each other, the last is of greatest authority ; yet the canons of 1603 being confirmed by the king only, and not by act of parliament, cannot abate the force of the old constitutions : for these canons made in the year 1603 are only by implication, not by express words, allowed to be put in execution, by statute 13 Car. II. c. 12<sup>1</sup>.

XX. The words of this statute of Henry VIII. are so understood as to confirm not only these constitutions, so far as consistent with statute law, or prerogative royal, but even so much of the pope's canon law as was here commonly received : as for instance, it passes as good law in our temporal courts, that the Lateran canon against pluralities is of as great force as an act of parliament. What part of the canon law was received in England, and the manner of putting that and our domestic constitutions in practice, is to be learned from Lyndwood : for by the common consent of lawyers, what he delivers as the common law of the Church is so to this day, excepting where it is annulled by statute. And the legatine constitutions of Otto and Othobon are to be reckoned among our own domestic constitutions. Lyndwood every where speaks of them as in force : but the glossator on these constitutions last mentioned, John Athone, is not a writer of so much authority as Lyndwood.

XXI. Some great men have been willing to have it thought that ecclesiastical jurisdiction subsists only by virtue of the clause in the statute of King Henry VIII. above recited. This is a very strange sentiment, contrary to the faith of history and to all public memorials and monuments of antiquity relating to the Church, which do all serve to confirm this truth, that ecclesiastical jurisdiction is coeuous to the Church itself, inherent in her as a religious society founded by Christ, and inseparable from her for the same reason. If discipline were not exercised for the first seventy

<sup>1</sup> [ See Statutes of the Realm, vol. v. p. 216. London, A.D. 1812.]



years after Augustin came over to convert us, the reason was plainly this, that the Church was not yet settled; the bishops found business enough in making and baptizing converts, in building edifices for religious assemblies, in regulating those assemblies and instructing their new converts, and teaching them how to conduct themselves in divine worship, and in all points of duty, both public and private: and seventy years was no long time for such a work, considering the obstructions they met with. It is evident that Theodore, who was advanced to the see of Canterbury in the year 668, did exercise ecclesiastical discipline, as Ecgbriht soon after also did in the other province; and there is no reason to suppose that it was ever after interrupted. There is scarce any crime mentioned in the Saxon laws, but that satisfaction was to be made for it to God, as well as to the world, that is, penance was to be enjoined in the ecclesiastical court, as well as a corporal punishment to be suffered in the civil court. Though the bishop sat with the alderman in the county, or hundred, to administer temporal justice; yet this did not at all hinder his exercising a spiritual jurisdiction. And though the laws determined what the temporal fines or punishment should be, yet they, for the most part, left the penance to the bishop's discretion, or to be regulated by the canons. William the First did indeed confine the bishops and other prelates to their own courts, and not permit them to sit in the county, or hundred; and this was done in conformity to the canons, which forbad ecclesiastics to exercise civil jurisdiction. Yet the laws of King Henry the First restore the bishop to the county court. But there is not, to the best of my knowledge, one single instance of a king, gemote, or parliament, either before or since the Conquest, that ever offered to deny bishops the right of exercising ecclesiastical jurisdiction, but rather gave them their assistance toward the doing it more effectually; excepting what was done in the minority of Edward the Sixth: therefore I conclude that ecclesiastical jurisdiction, abstractedly considered, does not subsist by virtue of one clause in a single statute, but by virtue of the original inherent authority of bishops, allowed and recognised from time to time by the kings and all the legislative power of the nation.

XXII. That bishops are limited to the particular way and manner of exercising their jurisdiction specified in that act, is indeed owing to that clause. That they are to do it according to the canons and constitutions then already made, is a restraint laid upon them, whereby their hands are tied from making any reformation in their own courts, unless it appears that they deviate from the practice used at the time of making this act: and it may therefore be said that the present manner of exercising their jurisdiction subsists by this clause. In the ages between King Henry III. and King Henry VIII. the archbishops of Canterbury regulated their courts; and there are several bodies of statutes in Sir H. Spelman's second volume of councils made by several archbishops for this purpose. And I conceive the bishops too during the same ages had the government of their courts, though subject to the visitation and correction of the archbishop. But by that clause in the statute of Henry VIII., they were ever since tied down to the manner and method of proceeding which then obtained. And the power of the king and bishops, in or out of convocation, cannot make any alteration in this respect, without a new act of parliament. And this should have stopped the foul mouth of that pamphleteer, who wrote "The Anatomy of the Church<sup>k</sup>." He charges it on the Church as a fault, that the corruptions of the ecclesiastical court are not reformed; but he ought to have known that the Church hath not power to alter the fault of her own courts. I wish this were the only instance of the convocation and clergy's bearing the imputation of other men's omissions. It must be owned that it is a great unhappiness in our constitution, that it is not all of a piece; and that our discipline and ecclesiastical government were not wholly new modelled, as well as our worship and doctrine, at the beginning of the Reformation or since that time. Every body knows the story of the intended reformation of the ecclesiastical laws, and how it miscarried. I wish with all my

<sup>k</sup> [This pamphlet was published anonymously with the following title, "The Church-Anatomy: or a Representation of the present Constitution of the Church of England. Drawn up by a Committee of Protestant Laymen, with a

Dedication to the Members of the Late Committee of the Convocation. London: Printed and sold by J. Roberts in Warwick Lane. M. D. CCXVIII." See Section III. "Of corruptions in the Ecclesiastical courts," pp. 24—27.]

heart, that in due season the convocation, whose proper business it is, may be so far countenanced by the legislature, (without which it is impossible,) as that so good a work may be brought to maturity. In the reign of our late gracious Queen, the convocation gave sufficient proof of their good disposition to contribute all that lay in their power to this excellent end: but their endeavours proved abortive, as they must ever do while under such restraints, unless in some critical juncture, when the whole legislature shines upon them.

XXIII. During the time of our Saxon, and even Danish kings, the bishops were in full possession of the power of making, as well as executing canons; nor does it appear that ever they abused it to the hurt of the civil government. Our kings were so far from apprehending any mischief from ecclesiastical synods, or from sending their prohibitions to them, that they often honoured these assemblies with the presence of themselves and their nobility, without interposing in their debates, or giving any stop or impediment to their definitions. The Norman princes never attempted to diminish or interrupt the archbishop's ancient right and practice of assembling synods, and making such canons and ecclesiastical provisions as were deemed necessary or reasonable. But after the pope had set himself up for sovereign in temporals as well as spirituals; and in order to exercise this sovereignty, had introduced his canon law into all nations that were in communion with him; and had a number of men in every country ready to execute his will and pleasure, in opposition to the civil government, and to its great detriment; our kings saw it necessary to check the arrogance of the pope and his creatures here in England, by sending prohibitions to the bishops, in their synods (that they might make no canons to the injury of the king's prerogative, and of the civil constitution) and in their courts, that they might put no such canons in execution. And to speak the truth, if it had not been for these prohibitions, there is reason to believe the ecclesiastical jurisdiction had swallowed up the temporal, and made a perpetual non-term in Westminster Hall; and there had been no occasion for temporal judges, unless to pass sentence for loss of life, or limb, on great criminals.

But still the authority of enacting canons and constitutions in matters merely spiritual, and the cognizance of such causes, remained untouched, entirely in the hands of the convocation as to the enactive part, and of the prelates as to the executive. While we had Boniface for our archbishop, and others of his temper in the inferior dignities of the Church, it must be confessed that our kings and parliaments had done but justice to themselves, if they had put a stop to their assemblies, and had taken care to send that foreigner home to his own country, and to see a true Englishman put into his chair. But our primates and other prelates had been sufficiently tamed and humbled before they were brought under the disabilities laid on them by the act of submission. And by the extreme caution with which they proceeded in those times, and ever since, even in matters which the law left in their power, I have good reason to doubt whether they would have exerted their ancient rights, of which I now am speaking, (though they had been entirely possessed of them,) without royal license.

XXIV. Though the Saxon bishops had an unlimited power of making canons, yet we have many laws relating to matters merely spiritual, enacted by kings in their great councils or civil gemotes. This may seem to some to have been an entrenchment on the authority of the bishops. To this it has been answered, that the bishops, without whom no great council was held, retired into a place by themselves, in order to draw up and enact laws relating to religion, as was the practice in some neighbouring countries. And I will not deny that this might sometimes be done. Yet when I see here and there an ecclesiastical law interspersed among a great number of such as are purely temporal; at other times almost an equal number of ecclesiastical and civil laws, mutually succeeding each other in the same system; at other times two or three ecclesiastical laws dropped into a set of temporal, and *vice versa*, temporal among ecclesiastical, I am inclined to believe that both sort of laws were made by an amicable conjunction of both powers. In truth, the old Saxon laws and English statutes made in relation to the Church, were in effect only civil sanctions of old canons, or grants made to the Church of some civil privileges which

she enjoyed not before; or a reinforcement of some such grant with penalties annexed; and there could be no just reason why the bishops and clergy should not accept the assistance of the kings and great men for these purposes, especially while statesmen never practised the art of giving with one hand and taking away with another; but upon all occasions made it appear that they had really the benefit of the Church at heart, without any doubling or disguise. A man that reads all the laws before the Conquest, will upon reflection be tempted to believe, that they were all drawn or proposed by the bishops or clergy, whosoever they were that gave their consent to the enacting of them. I do not remember a single instance of a law, but what any bishop, upon the principles of that age, might fairly consent to; and no law relating to the Church or religion, but what may justly be thought to have been promoted, if not postulated, by the prelates. And I take the articles of Clarendon<sup>1</sup> to be the first instance in our history of making laws that bishops did not care to sign.

XXV. I have just reason to believe, that if it had been in the power of the archbishops and bishops, or of a convocation assembled by royal summons, and authorized by royal license, to revoke and annul these constitutions, from Henry the Third's reign to that of Henry the Eighth, the thing must have been done long ago, and we had had an entire body of ecclesiastical canons, agreeable in all respects to the spirit of the Reformation, and the ecclesiastical courts had been brought under a suitable regulation. But we must confess, that this work has been taken out of the hands of our prelates and convocation, and they therefore ought not to lie under the blame of this omission. But they and we must take matters as we find them, and must be content that so much of these constitutions as is not contrary to statute, common law, or royal prerogative, should still be in force; and therefore I thought proper to publish them in the English tongue, that they may no longer be concealed from any that are concerned or desirous to know them. For as these constitutions were first made by papists, and contain in them many of the grossest corruptions; so hitherto, like the

<sup>1</sup> [A.D. 1164. See vol. ii. of this work, sub anno.]

rest of the trumpery of that Church, they have been hid from the eyes of the people, under the veil of an unknown tongue; and I thought it would be for the service of the public to bring them to light.

XXVI. Some may, perhaps, esteem these constitutions to be such a blemish in our Church, as to render her communion dangerous; and so should I, if the whole, or even one half of them, were still in force. But it is evident none of them are, none can be deemed of any validity, but such as are not contrary to our Common Prayer-book or Thirty-nine Articles, and, by consequence, our Homilies. For these are confirmed by statute; and a statute (though no other authority) is sufficient to invalidate or set aside these constitutions. Nor need any man, nor even clergymen, be scrupulous on the account of the corruptions still remaining in ecclesiastical courts, to which they are subject. It is wholly the governor's part to see that the administration of canons, laws, and discipline be right and just; for the subject's duty is only to obey, not to direct and regulate the proceedings of his superiors. And certainly there can be no fault in submitting to, and complying with the commands of them that are in authority, in case those commands do imply nothing that is sinful. Granting that the manner and form of the ecclesiastical judicature is liable to just objections; yet it can be no fault for subjects to allow of, and act according to their determinations, upon supposition that they contain nothing contrary to reason, Scripture, and good conscience. I think it altogether as justifiable for a private clergyman to execute the precept that issues from a corrupt court, as to read a chapter in the Church out of a Bible that he knows contains many mis-translations, so long as he knows that these corruptions or mis-translations do not directly hinder the salvation of men's souls. They that think all discipline, or even divine worship unlawful, but what hath no mixture of impurities, must go out of this world to seek for it. There is no such thing here on earth. But it must be a very bad Church government or discipline indeed, that is not better than none at all.

XXVII. If our canons and ecclesiastical courts were modelled never so exactly, according to Scripture, antiquity,

and the judgment of the best reformed divines, yet the knowledge of these constitutions would have been of considerable use: because in many cases old laws and canons serve to clear or give light to new ones; therefore the learned Bishop Gibson hath with good reason printed the old obsolete statutes, as well as those which came in their stead<sup>m</sup>. And farther, it seems very probable that if we had one certain body of ecclesiastical canons and constitutions, compiled by our convocation since the Reformation, yet they would, according to the method of architects, have made as many of the old materials as were for their purpose serve toward the erecting their new structure. Thus they proceeded in composing the Book of Common-prayer. I mean, they translated what they thought best out of the Latin service into the English. And as no greater errors have been committed in relation to our Liturgy, than those that have proceeded from an ignorance of the Latin Missal, Computus, and other ecclesiastical books, so they who would have pretended to have understood the new (supposed) system of canons, without comparing them with the old ones, would only have exposed themselves, as those others have done in relation to the Common Prayer-book: we may guess at what method would have been taken in drawing up a new body of ecclesiastical laws, by looking into the *Reformatio Legum Ecclesiasticarum*; and as it is evident that they who compiled that system were well acquainted with the old canon law; so it is as evident that they who were to explain, or put in practice that scheme of discipline, would have had frequent occasion to recur to these constitutions, and to Lyndwood's gloss upon them.

XXVIII. It is not my intention to degrade the Common Prayer-book, by observing that a very considerable part of it was taken from the public Service-books of the Romish Church. For it can seem no paradox to them that are in any measure acquainted with those Service-books, to assert, that there are many most excellent things among much rubbish and filth, even in the Missal itself; and though I may perhaps be thought to take a bold step in the next thing I have to say, yet I am confident that all who impartially read

<sup>m</sup> [Codex Juris Ecclesiastici Anglicani, by Edmund Gibson, D.D. See Preface, p. v. London, A.D. 1713.]

even the worst part of these constitutions, beginning at Langton's, and ending at Chichley's, will be ready to second me when I say, that whenever the good work of making a system of ecclesiastical canons is to be performed, there are a great many particulars even in these constitutions which will well deserve a place in this (now supposed) system, and especially in the foregoing part of the work ; this agrees with,

XXIX. The last end which I proposed to myself in this work, viz., that the discreet reader, by looking back into the ancient usages of our forefathers, may discern which of them may deserve to be restored. I know there are some who call nothing reformation, but what in other cases we call destruction, that is, pulling down the whole fabric. They employ all their fine talents this way, I mean in denying or demolishing old principles and practices, and in endeavouring to bring old systems into contempt, without letting us know what they would institute in the stead of our present constitution, if they can succeed in their attempts to subvert it ; only from the genius of the men we may easily be convinced, that the foundations of our present structure must be broken up, and the whole frame be shattered, if they can obtain their ends, and in lieu thereof we must have something as thin, movable, and pliant as a shepherd's tent, as perishable as a gourd with a worm in it. As to the external economy of Church and religion, they seem to have no care or concern ; and as for the internal furniture, so far as I am informed, they assert but one thing to be necessary, that is, sincerity ; and in this point alone they are positive. They may pretend to take their materials from the Scriptures, but they must first interpret away the true sense of the text by their new glosses. Till now of late a deference hath been paid to what is ancient, and a great deal of this sort is to be found in this collection, at least in the former part of it ; and papists do in no points with so much show of reason triumph over protestants, as in those few particulars, in which they have antiquity with them. And I think it concerns all that have a real concern for the Reformation, to silence their boasting by following the pattern of the primitive Church in all particulars ; and to be ashamed to see that our forefathers a thousand years ago, with all their ignorance, trod more closely in the



steps of the primitive, and even apostolical fathers, in some points, than we, with all our pretences to greater knowledge and purity.

XXX. The mighty objection of the men of this age against the Church of the three first centuries, is that their doctrines and practices were the occasion of introducing the most gross errors of the Church of Rome. Was it not, say they, the opinions of the ancients, concerning the merits of saints and martyrs, that brought in the worship of them in after ages? Were not the public confessions and penances enjoined to criminals in the ancient Church, the rise of those private confessions and penances enjoined by priests in the degenerate ages? Did not the privilege of the primitive bishops, in relaxing public penances, prove afterwards the occasion of Roman indulgences? Was not the honour paid to the bishops and clergy in the primitive Church, an introduction to that blind obedience which they claimed in the darker times? Did not their prayers for the souls of saints deceased give occasion for the belief of purgatory? and their belief of a mysterious inward change of the elements into the Body and Blood of Christ, lead the way to transubstantiation? But if every thing that has been the occasion of error is therefore to be rejected, then we must bid farewell to Christianity itself. For it is evident that none of these errors had ever been broached, if Christianity had never been preached and established. At this rate, God would be very gracious in depriving us of meat, and drink, and light, because many men make use of them all to do great mischief to themselves and others. No things in nature are the occasion of more sin and folly: shall therefore the virtuous and prudent part of mankind make no use of them, or forbid the use of them to others? If they who make these objections against antiquity are at the heart Christians, let me desire them to consider, that this argument is altogether as strong against the Bible itself as against the primitive Church. If the Scriptures had not spoke honourably of righteous men, the primitive Christians had never celebrated their memories in the manner they did: if the New Testament had not required men to confess their sins one to another, and to bring their bodies into subjection, and if the Apostle had not threatened offenders with

a rod, there had been no such penances as we read of in the Churches of those first ages ; if the Gospel had not spoke of the keys of the kingdom of heaven being given to the Apostles, and of their power of binding and loosing, it cannot be conceived that the ancient Christians would have paid such regard to their successors as they did ; if the Scriptures had not spoke of the souls of good men being in Hades (hell, as we often translate it), and of sins being remitted in the world to come, there is no reason to think that the Christians of those ages would have offered their devotions in behalf of their deceased brethren ; if our Saviour had not pronounced the Eucharistical bread to be His Body, and the Apostle had not passed sentence on unworthy receivers, as guilty of Christ's Body and Blood, the primitive Church had never entertained a belief of such a mysterious change. It is the part of wise men to distinguish between the doctrines of the primitive Church, and the errors which are supposed by accident, and through the perverseness of weak or designing men to have been occasioned by them, and not to reject the first for the sake of the latter. The sun is an occasion of corruption in all terrestrial bodies : will therefore any man of common discretion wish the sun out of the firmament on account of this accidental inconveniency ? Or will he advise men to beware how they permit themselves or their fields to be warmed by its kindly rays and influences, because by means of its warmth much corruption and mischief hath been done ?

XXXI. And I recommend nothing to my reader as fit to be imitated in these papers, but what was originally taken from the first, purest ages, or what is perfectly consistent with primitive Christianity ; such canons and constitutions, for instance, as tend to the restoring ancient discipline and worship, that require a proper behaviour in bishops and clergymen, and serve to quicken their diligence in all parts of their duty, especially in the administration of Sacraments, and that caution them against simony, and all trading or trafficking in holy things ; and, in a word, such as were designed to promote devotion, piety, and good morality, both among the clergy and laity. And those few good hints that we find in the constitutions of the worst ages should serve as a caution to us not to fall below the laws or rules of the most corrupt

ages of the Church in the conduct of ourselves. I have not here, or in the book itself, often pointed at particulars, because I thought them perceivable enough to every sagacious reader, and because some points would seem too harsh and even invidious.

XXXII. But there is one thing of so high a nature, that my reader will excuse me, if I take this occasion of speaking more largely upon it. It is the oblation in the Eucharist. This [is] a practice and doctrine mentioned in very many of the following memorials, which prevailed here as well as in all other countries, from the very beginning of Christianity. This was delivered to us in a tolerable degree of purity by our apostle, (if I may have leave so to call him,) the first archbishop of Canterbury, if it [the Service] had been translated into the Anglo-Saxonic tongue, the only language our ancestors understood. I cannot indeed say that it was in its perfectly primitive state, as practised by St. Clement, or the other first bishops of Rome, and as it came from the hands of the Apostles themselves. But though the Eucharistical Service had, before the conversion of the English, undergone several alterations for the worse; yet, as it still stands in the Sacramentary of Pope Gregory the Great, there is nothing in the oblation itself that greatly deserves our censure: and I cannot but freely declare my judgment on this occasion, that a liturgy with the oblatory form, as we have it in that Sacramentary, is in this respect more perfect than any liturgy that wholly wants such an oblatory form. And from the following monuments it will, I conceive, evidently appear that it was the then Roman liturgy which Augustin and his fellow-bishops used in England, and which was continued with some variations down to the reign of King Edward VI.

XXXIII. I am very sensible that I have incurred the great indignation of many by what I have formerly published on this subject, and I profess myself in a readiness to incur their greater indignation still, if their good will is not to be purchased without abandoning of truth, or dropping so valuable and essential a part of the Christian worship. But I desire my reader to observe that I speak this of the oblation strictly so called, and as distinguished from all other parts of Pope Gregory's Eucharistical Service; nor would I be un-

derstood to approve his omitting the invocation of the Holy Ghost: though here too I must add, that by praying for the divine grace and benediction on the symbols, he hath rendered his form of consecration preferable in this respect to all consecration prayers that mention not either the descent of the Holy Ghost, or the divine benediction of the bread and wine.

XXXIV. It has been a current notion, countenanced by men of great name, that in the reformed Churches the sermon succeeded in the room of High-Mass. A strange succession this, that one part of the High-Mass (for such the sermon was always esteemed, though not a necessary part) should succeed in the stead of the whole. I wish it could in truth and justice have been said, that the primitive Apostolical Communion Service succeeded as it ought to have done, in place of the corrupt Mass of the Church of Rome. Discreet and serious preaching is useful, and even necessary to preserve the clergy and people from relapsing into such a state of ignorance, as that from which the Reformation recovered us. But it is too evident that the licentious way of preaching, used of late years, hath done infinite mischief to religion; and hath served to distract men's understandings rather than to settle their judgments. And things are come to such a pass, that no man can explain and inculcate even the articles of our faith, or some of the most necessary parts of Christian duty, but he must offend one part of his congregation. And whereas so much stress hath been laid on the pulpit, and the hearing of sermons has been esteemed the principal part of outward religion ever since the Reformation, every discerning man cannot but see the fatal consequence of it, when he observes, that now at last preaching hath not only lost its power and effect, but even its credit and esteem among those who most of all want good instruction; and this hath proceeded chiefly from the clashing and contradiction of preachers, and from an affectation of opposing public constitutions, and making an ostentation of knowledge and of superiority of judgment in the pulpit; and a contempt of the primitive Church, as well as of the present. Such preaching must of necessity in a short time destroy the Reformation that it was intended to support; and threatens

great mischief and even ruin to Christianity itself, unless some timely care be taken by a regular ecclesiastical method to restrain preachers from publishing their own crude inventions in Christian assemblies; and the people be effectually taught to make a distinction between airy harangues formed and contrived on purpose to stagger and disunite the minds of the people, and sober, sound, practical sermons fitted to their capacities, and to the building men up in faith, peace, and holiness. I freely own preaching to be a divine ordinance, and much used in the primitive Church, but principally by bishops to those of their own diocese. Priests did sometimes preach as well as bishops, and very often in some places; and there is a necessity they should do it now, when there are so many churches in every diocese, and the greatest part of them so remote from the cathedral, but certainly some special provision ought to be made, that none, however they be dignified or distinguished, be permitted, under pretence of preaching, to run down old Christianity and primitive divine truths.

XXXV. And though there was frequent preaching in the primitive Church, yet the Eucharist was much more frequent than the sermon; and in this point we of this Church are directly opposite to the primitive. They considered the Eucharist as the standing stated solemn worship of the Christian Church, as the most acceptable prevailing Sacrifice that could be offered by men, as the certain means of keeping an uninterrupted communion with God and Christ, and one another, and of fortifying themselves in their conflicts against the wicked world and hellish spirits; they considered it as an institution perfectly divine, on the effects whereof they might entirely rely, if they celebrated and received it according to their Master's direction. They esteemed sermons as a very proper appendage to this Sacrament, but not as an essential ingredient of it; they knew, that though it was the duty of pastors to instruct their flocks, yet there must needs be a mixture of human infirmity in the best composed instructions that bishops or priests were able to give them; but that, on the other side, the Eucharist was entirely the ordinance of Christ Jesus Himself, in the use whereof there was no room for the additions of human wit,

or fancy, or false rhetoric, while the Church stuck close to the primitive institution, as she certainly did for the first four hundred years at least. And certainly the most sure way to restore the Church to its true ancient strength and beauty, is to begin with that which is of the greatest moment; I mean, the re-establishment of the primitive Communion-Office, and the frequent celebration of it, viz., every Lord's day at the least. By this means the public Christian worship will be fixed upon its proper basis: religion will not so much depend on men's shewing their parts in the pulpit, nor change its shapes according to the humours and caprice of innovators; and those of the sacred order will be kept employed in their proper office; and the usefulness and importance of their ministration will be easily manifested to all serious Christians, if they themselves be not wanting in their public and private instructions, to instil into the people just notions of all the substantial duties of religion, and especially of the holy Eucharist, in which, I may be bold to say, the whole of our religion may fairly, and without any force be summed up and recapitulated.

XXXVI. Our right reverend fathers do, upon all occasions, hint to us their opinion of the necessity of reviewing the liturgy of the Church of England. And I cannot but declare my opinion, that there is no one office in that book which more needs a review, than the Communion-Service: and I cannot but conceive some hopes that this will be done whenever our convocation shall be permitted to enter upon that great work. For I cannot but with satisfaction observe, that divines of the greatest note in our Church do not speak such abhorrence, or express so zealous an indignation against the sacrifice, as they have formerly done. One of the most eminent of them, whom I could least of all hope to favour my sentiments, in a sermon preached at an anniversary meeting of the charity schools, 1716<sup>n</sup>, is content to say, that "whether the Lord's Supper be a real sacrifice, or only a commemoration of a real sacrifice, divines are agreed that the spiritual effects are the very same." And it is true, that divines who do not believe the Eucharist to be a sacri-

▪ [Edmund Gibson, then lord bishop of Lincoln, p. 31.]

fice, may, and probably do, propose to themselves the same ends in administering and receiving this Sacrament, with those that believe it to be a sacrifice; but the true state of the question is, whether they who do not believe it to be a sacrifice, nor administer it as such, do really obtain those ends? Or, whether it can be that Sacrament which was instituted by Christ, if it be not consecrated in the manner that Christ directed? Or, whether it can be truly consecrated without being offered to God? Further, this great man thinks it much to be lamented, "that divines should raise a dispute concerning that point (the sacrifice of the Eucharist) at a time when it is openly denied that the very sacrifice of Christ was real and propitiatory." Now, with submission, I know no time more seasonable for the confutation of any false doctrine, than that in which it was published and advanced. And by proving the Eucharist to be a sacrifice we do, by necessary consequence, prove Christ's natural Body and Blood to have been a sacrifice: and if it was a sacrifice, it must unavoidably be propitiatory; because there never was any sacrifice offered to God in a due manner but what was propitiatory; and propitiation is essential to sacrifice duly offered. And I must humbly declare my opinion, that it is impossible to establish the doctrine of Christ's Body and Blood being a real sacrifice by any other arguments but those by which we prove the Eucharist to have been instituted as a sacrifice by our blessed Saviour. It would be a very great hardship upon the assertors of the sacrifice, if they must be restrained from publishing their notions till all the Socinians are dead. And it would much better have become this great man to have enjoined silence to the Socinians, than to the defenders of this apostolical truth. And if we must be silenced till we have proved the reality of the sacrifice of Christ, without proving at the same time the sacrifice of the Eucharist, I am pretty sure we may stay till Doomsday, and yet neither be able to do it ourselves, nor to see it done by others.

XXXVII. I cannot but acknowledge my obligations to the author of *No Sufficient Reasons, &c.* part II., for informing me of the grand objection made against my explanation of the sacrifice in the Eucharist; for without this information

I had had no occasion to remove that objection, which I choose to represent in his own words, viz., "Mr. Johnson supposes our Saviour to have begun His oblation of Himself for our redemption when He instituted His last supper, and thenceforward continued it even to His ascension into heaven; whereas he himself tells us more than once, that it was our Saviour's sacramental, and consequently not His real and natural Body, that He then offered in company of His disciples. And since His natural body was not then offered, how the oblation there made should be more than representative of that upon the cross; or, in other terms, that they should be one and the same oblation, is a mystery I find others as well as myself unable to comprehend." And just before he tells us, these others are persons of learning and worth.

XXXVIII. I am the less surprised at this, because the late reverend Dr. Hickes (to whose judgment I paid a singular deference, in composing the first part of the Unbloody Sacrifice) did for a long time demur upon this point, after I had proposed it to him. The pious Mr. Nelson wrote a letter to me, desiring me to submit to Dr. Hickes's judgment in this matter. But after I had drawn up my reasons and authorities at large, and laid them before him, the Doctor did by letter declare, that he came into my sentiment, and not only so, but being about that time reading Clemens Alexandrinus, *Tis ó σωζομένος*, he sent me a citation out of that book very much to this purpose<sup>p</sup>; and which I have inserted in my Appendix to the first part of Unbloody Sacrifice, p. 7. g. And I cannot but think that this worthy and learned writer, and his friends, would follow Dr. Hickes in this particular, as they do in many others, if they would please to consider this point with that impartiality that he did. And for evidence of the truth of the matter of fact, as here represented, I have Dr. Hickes's letters yet to shew, and (I think) Mr. Nelson's too<sup>q</sup>.

<sup>p</sup> p. 94. [The pamphlet, "No sufficient reason for restoring the prayers and directions of King Edward the Sixth's First Liturgy, by a Non-Juror, London, A.D. 1718," is assigned to Spinckes by Watt. "History of the Nonjurors, by T. Lathbury, p.

280. London, A.D. 1845."]

<sup>q</sup> [Καί μέλλων σπένδουσαι, και λότρον Έαυτον έπιδοδου, καιτην ήμιν Διαθηκην καταλιμπάνει.—Clemens Alexandrinus in *Quis Dives salvetur*, p. 956, Oxon. A.D. 1715.]

<sup>q</sup> [These letters are printed at the



XXXIX. "Mr. Johnson," says our author, "tells us more than once, that it was our Saviour's sacramental body that He offered in company of His Apostles." True; but I never say it was His sacramental body only; nay, but in the very place to which he refers, I affirm, that "Christ did at once offer, or give to God, bread and wine, and gave them as a pledge and earnest of the natural Body and Blood," &c. And whoever reads my two books on this subject, will find that I perpetually express myself to the same purpose. And if I had not, yet pp. 9, 12, 13, of my second part would sufficiently explain my meaning. It is therefore very strange to me, how it can be a mystery to this writer, and to his worthy learned friends, that the oblation of the bread and wine, and of the Body and Blood, should be the same oblation. Did this grave and good divine never yet read of men's offering to God houses and lands, by presenting a sword, a piece of money, a pair of gloves, upon the altar of a Church? Was he never present at the delivery of a deed of gift, or sale, or of indentures of lease or release, where by delivery of a piece of parchment or two, a good estate in houses or lands was transferred to the donee or purchaser? And will he, in order to make a mystery of these donations or conveyances, make the oblation and delivery to be two several oblations or deliveries? I must have leave to say, that no explanation of the sacrifice of Christ's natural Body and Blood is more clear and unexceptionable than that proposed by me, and which I learned from the primitive Church. And upon this foundation, if the bread and wine were given to God, so were Christ's natural Body and Blood too. If God the Father accepted the bread and wine as Christ's Body and Blood, or as pledges of His Body and Blood, then it is reasonable that the Church in all ages to come should esteem of and treat them as such. And this gives us a plain and obvious reason, why Christ should call the materials of this institution His Body and Blood. And if Christ had not thus modified His sacrifice, no part of it could have been consumed in the service of God; and though this was not absolutely necessary, because some Jewish and heathen sacrifices were

end of a volume of Mr. Johnson's Post-humous Tracts. London, A.D. 1748.]  
 \* Unbloody Sacrifice, Part I. p. 87.

[Anglo-Catholic ed., Part I. p. 166,  
 and Part II. pp. 35, 39, 40.]

not either in whole or part so consumed ; yet it was in the highest degree proper and requisite that it should be done, because most of the Jewish sacrifices, which were in a peculiar manner types of Christ, were either in whole or in part consumed in the service of God. And what is eaten and drunk in the service of God, and according to His direction, is as truly consumed in honour to Him, as what was of old burnt in the fire on the altar.

XL. I do not, nor ever did, deny that Christ offered Himself on the cross ; but I declare I cannot prove it from Scripture ; so that, if it be true, I leave it to be proved by tradition : and this learned author may produce some sayings of the Fathers, and abundance from modern writers, to support this notion. But I hope he will not equal these traditions with the Word of God. If it could be proved from the New Testament, that Christ, as a priest, offered Himself on the cross, this would not disprove His oblation of His Body and Blood in the institution of the Eucharist : for most sacrifices were two or three several times offered to God ; yet I know not one single example of a sacrifice offered by the priest, during the mactation, much less by the act of mactation. But I must remind this honest good man of one particular, viz., that all animate sacrifices were always, both among the Jews and Gentiles, actually once offered before their mactation : if therefore Christ did not offer Himself in the Eucharist, he must assign some certain time before the mactation began, that is, before He was nailed to the cross, in which He did actually tender Himself as a sacrifice to God ; or else he must be forced to own, that He was no real Sacrifice ; and far be this from so venerable a divine as he with whom I am now arguing. It is true, we do not now offer the bread and wine to God, as pledges of His Body and Blood again to be slain and poured out, but as symbols of them long since slain and poured out : and that it is not necessary that we should offer the Eucharist precisely with the same view that our Saviour did, I have shewed in the first part of Unbloody Sacrifice, p. 96\*.

XLI. As this holy oblation was first delivered to the English Church in a tolerable degree of purity, (bating the

\* [Anglo-Catholic ed., Part I. p. 176.]

unknown tongue in which it was performed,) so by the thirteenth century the sacrifice of the Mass became one of the greatest abominations of that Church ; it had before this been corrupted with direct invocation of saints and almost innumerable fantastic ceremonies ; now it became the same monstrous service it is at present, by the additional ceremony of the elevation of the Host, and enjoining divine honour to be paid to it : and so the most sacred office of religion was most of all unsanctified.

XLII. But, on the other hand, I find it expected by some, that in consequence of the doctrine which I have at large explained and defended in the first and second part of the Unbloody Sacrifice, I should publicly use those forms of administering that Sacrament for which I plead in those books.

But certainly, neither I, nor any priest, who believes bishops to be a superior order, and that by divine right, did ever assert that a priest hath power himself to alter the liturgy. Any pleader at the bar may, in defence of his clients or of himself, remind the judge of any necessary form in law omitted by him ; but it does not follow, that if the judge persist in his omission, the pleader may assume the authority of a judge, and do it himself. I take it for a certain settled maxim of ecclesiastical worship and government, that no one inferior to a bishop can make alterations in the liturgy ; and it is as certain, by our present constitution, that a bishop, nay, even all the bishops, with the archbishops at the head of them, cannot do it.

XLIII. Suppose the Sacrament of the Eucharist had been entirely dropped at the Reformation, and still continued in public disuse, I solemnly declare my opinion, that no priest, or numbers of priests, could have had sufficient authority to restore it ; and the reason is plain, according to the determination of Ignatius, viz., that neither baptism nor Eucharist are valid, unless authorized by the bishop<sup>t</sup>. What I

<sup>t</sup> Μηδεις χωρις του επισκοπου τι πρᾶσσεται των ἀνηκόντων εις την εκκλησιαν' εκεινη βαβαία ευχαριστια ηγείσθω η ἐπὶ τὸν επισκοπον οὐσα, η̄ ἢ ἂν αὐτὸς επιτρέψῃ· ἔπου ἂν φανῆ ὁ επισκοπος, ἐκεῖ τὸ πλῆθος ἔσται· ὥσπερ ἔπου ἂν ἢ Χριστὸς Ἰησοῦς, ἐκεῖ ἡ καθολικὴ εκκλησια· οὐκ ἔξω ἔσται χωρις του επισκοπου,

οὔτε βαπτίζειν, οὔτε ἀγάπην ποιεῖν· ἀλλ' ὁ ἂν ἐκεῖνος δοκιμάσῃ, τοῦτο καὶ τῷ θεῷ εὐάρεστον· ἵνα ἀσφαλὲς ἦ καὶ βέβαιον πάντων ὁ πρᾶσσεται.—Ignatius, Epist. ad Smyrn. cap. 8. Patres Apostolici. Cotelerius, vol. ii. p. 37. Antwerp, A. D. 1698.

have always pleaded for is, that it is necessary the primitive forms of celebrating the Eucharist be restored by a just ecclesiastical authority. I have ever asserted that the bishops are the proper guardians of the altar, and that they are principally concerned to secure the purity of the whole Christian worship, but especially of that which is the most necessary and essential part of it.

XLIV. If indeed a superior enjoin any thing that is sinful, it is my duty to decline his commands; and if he insist upon my compliance with him in this point, so far as to make it a necessary article of my communion with him, I must forfeit my communion with him rather than comply with any such sinful terms. But if he only do not enjoin what is necessary, the most that can in reason be expected of me, is, that I should freely declare my opinion in the point; and leave those to judge of it whom God hath appointed judges in the case. I wish I had not reason to say that many think this too much, and that I have done it too freely. Yet I cannot but praise God that He enabled me to do the work itself; and I see no just cause to condemn myself for the manner of doing it, though some others might have done it much better.

XLV. But since the oblation is necessary, is not the abolishing and disuse of it sinful? I answer, it is sinful in them who were, or are, the causes of it. But who they are, or were, I declare I know not. And though I am persuaded there never could be any just reasons for abolishing or disusing it; yet there might, and perhaps may still be, such false appearances of reason as to prejudice them against it, and to excuse, or abate, the sinfulness of it in the sight of God. But the most bitter adversary cannot impute either the abolition or disuse of it to me. Some perhaps may tell me, that a priest or layman, who lives in the diocese of a bishop who uses not the oblation himself, nor requires his priests to use it, ought to break communion with that bishop, and to join himself in communion with some other bishop that does use the primitive form of oblation, and of administering the Eucharist. And this may be true; however I am not disposed to dispute the case; but still it must be upon supposition, that the bishop who uses these primitive forms require

no terms of communion that are sinful in other points. And let it be well proved to me, that there are in any part of the world bishops (or one single bishop) duly and canonically constituted, who do use the Eucharistical forms according to the primitive scheme, without adding any adulterated mixtures of the idolatry or superstition of latter ages. And till demonstrative proof be given me that there are such bishops, or some one single bishop canonically constituted, and particularly in what province of the universe his diocese lies, I shall think it sufficient to govern myself in this point as I have hitherto done, and to wait the leisure of Divine Providence for the regular restoration of the primitive forms. And I pray God grant, that whenever I am taken hence, I may be found, as I have hitherto been, in a peaceable anti-schismatical disposition of mind.

XLVI. My reader will now give me leave to express my satisfaction, that I have, by the divine assistance, brought this work so near to a conclusion. And I cannot but congratulate myself, that while others, much superior to me in all respects, have been employed in ascertaining the true sense of a celebrated writer of this age of light, in some of his most famous pieces, I have passed my time in endeavouring to discover and represent to the world the true meaning of our ancient kings, prelates, and other great men, in their laws, canons, and other public memorials first drawn in nine hundred of the darkest years that ever passed since the incarnation of Christ. I wish I could be as fully persuaded in my own mind, that I have always been as successful in entering into the true meaning of the originals I translate, as I judge them to have been in the construction they have given us of that celebrated author's writings. But if in any particulars I have been guilty of mistake, (as it is scarce credible that I should not,) my errors will, I hope, be looked upon as pardonable, especially by those who will not be convinced that their own bright writer is justly understood by some of the most learned men, who live in the same age, and that have had the very same education with him. For if so many men of sense and judgment are thought by them to have mistook the meaning of one who writes in our mother-tongue, with so clear a head, and transparent a style; certainly it is much

more venial in a single man, of my mediocrity, to misapprehend some dark passages in monuments of antiquity, written in times remote, in languages now dead, by men who wanted the politure and fineness of this age. And whatever trips I have made, yet I dare presume to say, none greater than those of their own side, who have gone before me in the search of English antiquities; I have another advantage in the choice of my authors whom I have undertook to translate, that as I have all the reason in the world to believe they wrote with a design to be rightly understood; so, if they were now alive, they would use no palliations to conceal their real meaning, nor be angry at me for taking things as they meant them. For I believe my authors to have been men that outdid some of the greatest of our age, in that which they themselves extol as the most excellent quality, or rather as the only good quality in the sight of God, that is, sincerity. And I have so great an opinion of the most of them in this respect, (always excepting our Roman legates,) that I should have been glad to be under their correction. Nay, I wish that any knowing men that were contemporaries to those who first wrote these Memorials, had taken the pains to explain them, and transmitted their explanations down to us, I should certainly have thought myself safe in taking them for my guides. I might perhaps have been told that these guides might mislead me; or at least none can be sure that they have the mind of their authors, except authors will be their own interpreters; but I should have thought it sufficient to reply, that they who will allow none but themselves to be the interpreters of their own writings, should be content to be their own readers. For to what purpose should they publish what none but themselves are to understand? It hath been no small pleasure to me, in compiling this work, if with taking some pains I could discover any thing before unknown in the polity of our ancestors. But where is the satisfaction in reading a book, which to me seems full of dangerous errors or ill-grounded paradoxes; and then to be told by my author, at the next turn, that he meant no such evil as I supposed, that he asserted nothing but what is very common, very trivial? Even they that loved the seeming errors for the errors' sake, must acknowledge themselves dis-

appointed, not to say deceived, in case they give any credit to the author's own gloss upon his former books; or, at the best, must be forced to own that he is an able man in double entendres only.

XLVII. I shall take leave of my reader when I have first paid a debt of gratitude to those who have given me any assistance in composing this work. And first, I make my acknowledgments to the Reverend Dean and Chapter of the metropolitan church of Canterbury, and more particularly to the (then) Vice-Dean, the Reverend Dr. Elstob, for the liberty I had of perusing Mr. Somner's Annotations on Sir H. Spelman's volumes of Councils, &c., deposited in their archives. Next, to the Reverend Dean and Chapter of the cathedral church of Rochester, for the use of their *Textus Roffensis*, (the most valuable written monument of antiquity in our whole county,) by which I was enabled to discover Sir H. Spelman's errata, in his edition of King Wihtred's Laws, &c., with my own eyes, and to distinguish between these and Somner's conjectural emendations. And I should be unjust if I did not particularly commemorate the great humanity of the learned antiquarian, John Thorp, M.D., of that city, for giving me his assistance in this matter. To the Rev. Mr. Tebb, the learned editor of Justin Martyr's *Trypho*, I am indebted for the accurate collation he sent me of Sir H. Spelman's edition of Cuthbert's Canons, and Ecgabright's Excerptions, with the original MSS. in the Cotton library, and for his transcript of the supplements to the latter. The ingenious George Smith, Esq., from whom we expect a new and more accurate edition of the Venerable Bede's *Ecclesiastical History*\*, did, of his own free motion, present me with a genuine

\* [An edition of the historical works of the Venerable Bede had been prepared by Dr. John Smith, canon of Durham, who was eminently qualified for the task, and made it the chief occupation of his life, but was prevented from completing it by his decease at Cambridge, July 30, A.D. 1715, in the fifty-sixth year of his age. His editorial labours were carried on with care and spirit by his eldest son George, above mentioned, who is represented as a universal scholar, and particularly

an able antiquary. The edition at length appeared in one folio volume at Cambridge, A.D. 1722, under the father's name, with a dedication and preface by the son. The copy in the library of Queen's college, Oxford, is inscribed, "The gift of the co-editor George Smith, Esq., of Burn-Hall, Durham, to his uncle Joseph Smith, D.D., provost." The Smiths took much pains in collating the best and most ancient MSS. throughout, but in the *Ecclesiastical History* they

copy of Athelard's Council at Clofes-hoo in the year 803, transcribed from a manuscript in the same library. The Reverend Mr. Mickleburgh, Fellow of Corpus Christi college, Cambridge, accommodated me with the perusal of the manuscript which contains the canons of Elfric; and from which I transcribed the supplement to them. This, and the other manuscript from which the second edition of Ecgbriht's Excerptions were taken, are a part of that great treasure of antiquity which Archbishop Parker deposited in that college. The Reverend Mr. Rigden, Fellow of St. John's college, Cambridge, deserves my particular thanks for the transcripts made by him for my information. There is another<sup>v</sup> too nearly related to me to be forgotten, and who has a right to be remembered by me, by merit as well as nature, and who can be unknown to none that are in any measure acquainted with me; without whose constant assistance and correspondence this work could never have been brought to maturity.

religiously followed the Moore MS., so called from its having been possessed by John Moore, bishop of Ely, A.D. 1707-14, after whose decease it was purchased, with the rest of his library, by King George I., and presented to the University of Cambridge. This manuscript is believed on the best historical evidence to have been written as early as A.D. 737, in the monastery of Weremouth, two years after the decease of the Venerable Bede. If Mr. Johnson could have seen the above "new and more accurate edition," before publishing his collection of English canons, he might have saved himself and his readers much trouble and uncertainty in so many of the following memorials as are taken from Bede; for it cannot be supposed that he would have attached much weight to the conjectures of Gusanvillæus, Petit, or even to his own where at variance with the Moore MS. and the researches of the Smitbs, or on the other hand that he would have thought it necessary to support

by discussion any of the conjectures he brings forward which have such an amount of authority on their side. See life of Dr. John Smith, in *Biog. Dict.*, vol. xxviii. p. 118, London, A.D. 1816. Also the preface of George Smith, and the reprint of the Smiths' edition of the *Ecclesiastical History* by R. Hussey, B.D., Regius Professor of Eccl. Hist. Oxon. A.D. 1846.]

[Mr. Johnson's son during the preparation of this work, as well as of the "Unbloody Sacrifice," was Fellow of St. John's College in Cambridge, and sent his father much help from the stores of the University; he took the degree of Bachelor of Divinity, and was presented by the University of Cambridge to the living of Standish in Lancashire, but before he had enjoyed it one whole year, he had the misfortune to break his leg, which threw him into a fever, of which he died in a few days, about Christmas, A.D. 1723. See Brett's *Life of Johnson*, p. liv., prefixed to a volume of *Posthumous Tracts*, London, A.D. 1748.]



SOME ADVERTISEMENTS NECESSARY FOR  
THE READER.

1. In this work I undertake the part of a translator only, not of an editor; yet I have taken due care to have the text as correct as possibly I could, as the reader will find upon a perusal; and where Sir Henry Spelman's edition was imperfect, I have procured supplements from the manuscripts.

2. I meddle not with the doctrine of the Church, any farther than it is interwoven with the laws, canons, constitutions, and other memorials relating to government, discipline, and worship, contained in these papers. Therefore I have not inserted the decrees of the Lateran council under Pope Martyn I., which were confirmed by a synod holden under Archbishop Theodore at Hatfield, in the year 680. For they contain only a tedious repetition and ratification of the decrees of the five first general councils, and a condemnation of the Eutychians and Monothelites. It is sufficient to advertise my reader, that the English Church ever firmly adhered to the doctrine of the Catholic Church, in relation to the Trinity and Incarnation.

3. I have not descended to any diocesan canons, but have inserted only such as were national or provincial, or commonly so esteemed at least: but I thought it just to take in the laws, or dooms of King Wihtred, not only as being made for a kingdom, (for such was Kent in that age,) but as containing two dioceses, and as being somewhat singular and of great antiquity. Indeed I know of no diocesan canons made here before the Conquest. The earliest [diocesan council] whose acts are come down to us, is that held by Wulstan,

bishop of Worcester, in the year 1092, but these contain no canons. If I had taken in the diocesan canons made during the next 400 years, it would have increased this work near one third part in bulk, not one tenth in substance. For the most valuable part of the diocesan canons were either copied from the provincials, or, as it sometimes happened, transferred into the provincials.

4. I have not entered into the history of the Church any farther than was necessary, in order to post the several memorials or systems in their proper time, or to give my reader what light I could into the occasion and design of the several laws and canons; or lastly, to fill up some great chasm between the foregoing and following systems. When I could not discern any intrinsic marks of time in the memorials themselves, or in their titles or prefaces, or by any information which I had from other writers, I have taken the liberty of ascribing them to any one year in which the author reigned (if he were a king), or presided (if he were an archbishop). And herein I do no injury to truth, because I always advertise my reader of the uncertainty of the precise year of their birth; and the reason of my always prefixing a certain year before every set or system of laws, canons, or other memorials is, because I make it my principal note of reference.

5. My numberings of the particular laws, dooms, canons, or capitula, agree with Sir Henry Spelman's throughout his first volume, excepting where I make some additions to what he published. But the larger constitutions in Sir Henry Spelman's second volume either are not numbered at all, which is the case for the most part, or their divisions are made without any just regard to the nature of the things on which they treat, and the copies do not agree in making their breaks at the same place. It is known the canonists distinguish their constitutions by the first words with which they severally begin, which is the reason that the old copies have no numberings. Lyndwood used no other distinction, and often makes but one constitution where I have made two or three, and *vice versa*. And though he made but one constitution of them, yet he broke them into several parts, and

places them under distant heads, according to the method of canonists. Here I was forced to use my own discretion ; and I chose to follow the series of Sir Henry Spelman's copy, or of that at the end of Lyndwood and Athone, published at Oxford, as I saw occasion ; but the numberings are my own ; and I use them as my other note of reference.

6. If the reader would find any one of these constitutions in Lyndwood, his ready way is first to find it in the copy now mentioned at the end of Lyndwood and Athone, and in the margin there he will find the number of the page where Lyndwood hath posted it.

7. I always present the text entire, excepting many citations of Scripture, to which I only give the chapter and verse, especially in King Alfred's preface to his laws : for I thought nothing less instructive than such accumulations of Scripture to no visible purpose. But when the words are very pertinent, or very much otherwise, I have given them at length. In translating the prefaces of the provincial constitutions I have not wholly omitted the proemiums, as Lyndwood did, because they give some light to the constitutions themselves. And Lyndwood therefore supposes that his reader has these proemiums before him, and often refers to them under the name of Decisa. In turning these proemiums I have only pruned away some superfluous excrescences of words and phrases, and endeavoured to omit nothing of consequence ; but they were drawn in a very flatuous style, and contain but very little sense in many lines. But as to the whole enacting part of the constitutions, it was my rule, and I religiously observed it, not to drop one word. If I have any where omitted one particle of moment in the constitutions, strictly so called, it was through inadvertency, not design. And I can truly say the same in relation to all the memorials contained in the first volume of Sir Henry Spelman's Councils, except the latter part of Pope Gregory's Answers, and the texts of Scripture before King Alfred's Laws. And in truth, there are no proemiums, or very short ones, in all the laws, canons, &c., before the reign of King Henry III. ; yet the style of some of the Latin canons, and particularly

Odo's, is very swelling : this is what William of Malmshury calls the English pomp ; for in speaking of Bishop Aldhelm's style, which was most like that of Odo's, he says, " acumen is peculiar to the Greeks, nitor to the Romans, pomp to the English \*."

8. Whereas Lyndwood often curtails and transposes the text of his constitutions, I have never used that liberty, but kept myself to the series and letter of my copies ; insomuch that I have more reason to fear the censure of being too faithful a translator, than of taking too much liberty. My reader may sometimes observe, that I translate even the obscurity of my original ; and pretend not to make my translation perfectly clear, where the Latin or Saxonick is dark.

9. In the Saxonick part I have always informed my reader where I depart from Sir Henry Spelman's text, if the alteration amount to an entire word, and I tell upon what authority I depart from it, and when I do it upon my own conjecture only. But I rarely advertise my reader of my differing from him in the translation, because I found it necessary to do it so often, that I thought it would look invidious to advertise all his mistakes, or what I at least looked upon as such. The words and sentences are often wrongfully divided too in his edition. I have not always taken notice of these errata. For my reader, by comparing my translation with his text, will easily discover how I read the words, and made the points, if he be a Saxonist ; if he be not, such observations would be insignificant to him. And what I have said of the Saxonick memorials first published by Sir Henry Spelman is, in some measure, true of those published by Lambard<sup>b</sup>, especially as to his translation ; but his text was more correct than Sir Henry Spelman's.

\* In his Life of Aldhelm, part i. ad calc. [Denique Græci involute, Romani splendide, Angli pompaticè dictare solent. Id in omnibus antiquis chartis est animadvertere, quantum quibusdam verbis abstrusis et ex Græco petitis delectentur. Moderatius tamen se agit Aldhelmus, nec nisi perraro et necessario verba ponit exotica. Allegat Catho-

licos sensus sermo facundus, et violentissimas assertiones exornat color Rhetoricus. Quem si perfecte legeris, et ex acumine Græcum putabis, et ex nitore Romanum jurabis, et ex pompa Anglum intelliges.—De Pont., lib. v. p. 312. Gale, Oxon. A.D. 1691.]

<sup>b</sup> [In his Archæonomia, A.D. 1568, edited by Wheloc, A.D. 1644.]

10. If any strange word appear in the text of my translation, which is not explained in my notes at that place, let the reader look into my index, and he will find the meaning of it. This advertisement is indeed unnecessary for learned antiquarians; but this work was designed chiefly for beginners in English ecclesiastical antiquity.

N.B. I have not translated King Henry the First's laws relating to the Church and religion, not only because they are so closely interwoven with the temporal laws, that it would be hard to separate them, but because they contain little or nothing but what you have in the old Saxonic laws contained in these papers. The singularities in these laws, which are but few, the reader will find in the addenda<sup>c</sup>.

<sup>c</sup> [The addenda placed at the end of the volume in the first edition are in the present inserted in the places to which they belong, enclosed within brackets, the word addenda being printed in the margin.]



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Anno Dom. DCI.

THE ANSWERS, OR RESCRIPTS, OF GREGORY THE GREAT,  
POPE OF ROME, TO THE QUESTIONS OF AUGUSTIN, FIRST  
ARCHBISHOP OF CANTERBURY.

PREFACE TO POPE GREGORY'S ANSWERS.

GREGORY I., called also the Great, sent Augustin, the head of a monastery in Rome, to convert the English to Christianity, in the year of our Lord 596, or thereabouts. He, with his forty monks, arrived in the Isle of Thanet, where Ethelbert, king of Kent, whose dominion reached to the Humber, gave them a meeting, and invited them to Canterbury, the seat of his government; the king, with many of his people, was in a short time converted to Christianity, Berhta, his queen, a French lady, had been bred in that religion, and had then a Christian bishop actually attending her. Augustin being consecrated archbishop of Canterbury, by Etherius of Arles, (as Bede affirms<sup>a</sup>, though others, with greater probability, say he was consecrated by German bishops, in his journey to England,) soon after saw occasion to send the following questions to be answered by Pope Gregory, not for his own personal information, (for he could not possibly be ignorant in many points here proposed,) but because he saw it necessary to have several of these particulars enforced on the consciences of his clergy and people, by a greater authority than his own. He received the following answers from Gregory, together with his pall; and there is no reason to doubt but they were received by the new English converts with as great regard as if they had been the decrees of a general council; for the authority of the pope was one principal doctrine which Augustin did in-

<sup>a</sup> [Hist. Eccl., lib. i. c. 27.]

dustriously inculcate upon all occasions; and it is certain, that for several ages before this the bishops of Rome assumed to themselves a greater authority than they could in justice claim; and in this particular, Gregory, and our Archbishop Augustin, cannot be excused. Though Gregory was of an aspiring temper, yet he was far from assuming to himself that absolute authority over the whole Christian Church, which his successors in the following ages arrogated to themselves; nay, he condemned the ambition of John, patriarch of Constantinople, for styling himself universal bishop, and stuck not to call it antichristian and diabolical. He was equal to most of his predecessors in a pious zeal for propagating Christianity, and seems to have excelled all of them in learning: but he had an immoderate affectation of the monkish life, and was one of the most eminent advocates for it; and of this I dare say he would have repented, if he had lived to see the monks, as they afterwards were, the greatest corrupters of true Christianity. But the popes of the baser ages could see no faults in them, because they were the chief instruments of advancing the authority of the see of Rome, though to the great diminution of episcopacy.

I have translated these questions and answers from Bede, according to the printed editions of Sir Henry Spelman and Mr. Wheloc: but I must observe to my reader, that the learned Monsieur Petit, among his collection of ancient monuments of ecclesiastical discipline, annexed to Theodore's Penitential, hath given us many select canons from a manuscript in the hands of Antony Vion, lord of Herouval; and he observes there were no canons in this whole book but what were made before the age of the Emperor Charles the Great, (who was born in the year 747, and who died in the year 814,) and therefore not much inferior to the times of Bede, if not equal with him. Among these are the answers or rescripts of Gregory, but in the form of canons. The questions of Augustin are not set down, but there are short titles put in their stead, and many of the answers are shorter than those in Bede. Monsieur Petit was of opinion that these canons were the genuine rescripts or answers of Gregory, and that the additions in Bede are spurious. He tells us of a learned man, called Petrus Gussanvillæus, who had

condemned the common editions of these questions and answers as full of interpolations, though he knew nothing of these canons of Herouval; and farther, that he had pointed out the spurious additions, and that the sagacity of his conjectures did afterwards appear, by comparing his emendations (which he had before published) with this most ancient manuscript; "for they agreed," says Petit, "in all particulars save two or three of no great moment." Gregory's answers are in that copy reduced into twelve canons; nine of them are printed by Petit, as serving to his purpose, which was to establish the authority of Theodore's Penitential, as published by him\*. I have taken care to inform my reader how much of the following rescripts are found in those nine canons. The other three are suppressed by Monsieur Petit, as not being serviceable to his design; of these therefore we have the titles only.

\* [See "Theodori sanctissimi ac doctissimi archiepiscopi Cantuariensis Penitentiale," edited by James Petit, Paris, A.D. 1677, tom. i. pp. 99, 101. 266—280. The book of select canons quoted in illustration of the Penitential by Petit from the Herouval MSS., is of some value and interest, but its authority is here greatly overrated, as well as that of Gussanvillæus. The canons given there under the name of Pope Gregory the Great are clearly only a digest of his rescripts, and even if the MS. from which they are taken be allowed as early a date as A.D. 747, it cannot vie with the Moore MS. of Bede written in the monastery of Weremouth ten years earlier. (see above, p. xlix. note u.) Petrus Gussanvillæus, a priest, edited Pope Gre-

gory's works at Paris, A.D. 1675, and in his notes on these rescripts has condemned several passages as interpolations, chiefly and sometimes solely upon the ground that from his acquaintance with Pope Gregory's writings he could not fancy that he would have so expressed himself. To answer such objections to the received reading, would, as the Benedictine editor remarks, be waste of time. "Quamvis autem Epistolam hanc Gregorio non abjudicet Gussanvillæus, plurimas tamen ejus responsiones dubias putat aut etiam supposititias; sed tam levibus infirmisque conjecturis id probare conatur, ut in illis diluendis frustra tempus tereremus."—S. Gregorii, Pape I. Opera Omnia, tom. ii. p. 1150. Paris, A.D. 1705.]

A. D. DCI.

## I. QUESTION OF AUGUSTIN.

LATIN.  
[Bede,  
i. c. 27.  
Spelman,  
vol. i. p. 95.  
Wilkins,  
vol. i. p. 18.]

How should bishops deal with their clergy, or how should the oblations which the faithful bring to the altar, be divided?

## GREGORY'S ANSWER.

The Holy Scriptures, and especially the \*Epistles of the blessed Paul to Timothy, in which he endeavours to instruct him, how he should behave himself in the Church of God, do expressly declare this. It is the custom of the apostolical see to charge bishops, when they are ordained, that the whole income be divided into four parts, the first for the bishop and his family, that he may be able to keep hospitality; the second for the clergy, the third for the poor, the fourth for the repairing of the churches. But because you, my brother, have been trained up in the monastic rules, you ought not to live apart from your clergy, in the English Church lately converted to the faith, but as our fathers did in the infancy of the Church, when no one said that aught which he possessed was his own, but they had all things common.

\* The following part of this paragraph is the first canon, according to the Her. MS.; the title is, "How a Bishop ought to deal with his Clergy."

<sup>b</sup> But if there be any of the inferior clergy who cannot contain, they ought to marry, and receive their dividend apart from the rest: for so it was also among our fathers, as it is written, "division was made to all, as every one had need." Provision must be made for their subsistence, and they are to be kept under the ecclesiastical rule, and a good moral behaviour, and they should sing psalms early and late, and preserve their heart [and tongue] and body, by the help of God, from every thing that is sinful.

[Acts iv.  
35.]

Ed.



<sup>b</sup> This paragraph contains the second canon, according to the Her. MS.; the title is, "Of the Salaries of married Clergymen." The Paris edition, 1518, from which Sir H. Spelman published his, prefixes a new question to this paragraph, viz., "Whether clerks who cannot contain, may marry; and if they do marry, whether they may return to the secular life?"

<sup>c</sup> There is no occasion for us to speak at present of <sup>d</sup> making dividends of hospitality, of giving alms, <sup>e</sup> to men that live in common. What you have beyond what is necessary, is to be expended in piety and charity, since the Lord and Master of all says, "Give that in alms, which you have over and above, and behold all things are clean unto you."

<sup>e</sup> This paragraph contains the third canon, according to the Her. MS.; the title is, "Of living in common, and of Alms."

<sup>d</sup> Lat. *De faciendis portionibus*; but the Her. MS. has it, *deficientibus portionibus*, while their dividends were deficient or scanty.

<sup>e</sup> These words in the different character are not in the Her. MS.

<sup>f</sup> So Gregory understood the vulgar Latin, Luke xi. 41. *Quod super est date eleemosynam, &c.*

## II. QUESTION OF AUGUSTIN.

How ought a bishop to officiate in the Church <sup>g</sup>, since the faith is one, the custom of Churches various, and one manner of mass prevails in the holy Church of Rome, another in the Church of the Gauls?

<sup>g</sup> The foregoing words stand at the end of the first question in all editions I think. But I suppose I have restored them to their proper place. There was no occasion for them in the first question, and this question is imperfect without them. The dislocation is ancient, for it is in Alfred <sup>h</sup>.

### GREGORY'S ANSWER.

<sup>h</sup> You, my brother, know the custom of the Church of Rome in which you was bred. But it is my opinion, that if you

<sup>a</sup> [On the authority of Smith's edition of Bede, from Bp. Moore's MS., (see above, p. xlix. note u,) we may venture to say that the dislocation is in Mr. Johnson's translation, not in that of King Alfred. Wilkins also in his *Concilia* retains the words "qualiter episcopus agere in ecclesia debeat," at the end of the first question, and gives this question thus, "Cum una sit fides, cur sunt ecclesiarum diversæ consuetudines, et altera consuetudo missarum in sancta Ro-

mana ecclesia, atque altera in Galliarum tenetur?" Wheloc remarks in his Edition of Bede, A.D. 1644, that "cur" is against manuscript authority and the Anglo-Saxon version of King Alfred, but without this the sentence seems complete: it was sufficient for St. Augustine to state the difficulty without expressly using the adverb of interrogation, in the omission of which, Wheloc is followed by Smith and other later editors of Bede.]

have found any thing that may be more acceptable to God, whether in the Church of Rome, or that of the Gauls, or any other, you carefully select it, and by singular instruction instil what you may have collected out of many Churches, into the Church of the English newly converted to the faith : for things are not to be valued on account of places, but places for good things : therefore choose out of every Church what is pious, religious, and right, and treasure up this composition in the minds of the English, as a customary Use [for divine offices.]

<sup>b</sup> This rescript makes the fourth canon in Her. MS., with this title, "Of celebrating Mass." This answer may seem strange to some, since it is sufficiently clear, from Ecgbriht's sixteenth Answer, art. 1 and 2, that the Missal and other offices of the Roman Church were always here used, that Gregory sent them hither by Augustin, as the stated forms of worship, for the Church then to be raised in England, and there is not any shadow of reason for supposing that any other form did prevail here in these ages. The best account I can give of this matter is, 1st, that some offence might be taken by the king, queen, or others at the diversity of rites between Augustin and Luidhard, who, before Augustin's arrival, used to officiate at St. Martin's church, near Canterbury, according to the French forms, which differed from the Roman. 2ndly, Luidhard being dead, or returned to France before these answers came to Augustin's hands, the occasion of the question ceased. If he were yet alive, there is little reason to think that he continued here, when the queen had no further occasion for him, because she could now join in the same worship with her royal consort. 3dly, the occasion of this offence ceasing, there is no reason to believe that Augustin did ever compile any new form, nor is it pretended that he did. 4thly, the pope does not give Augustin leave to use the French liturgy, nor was it consistent with the dignity of the Roman Church at this time that her forms should give place to the French, nor is there any cause to believe that they did.

### III. QUESTION OF AUGUSTIN.

How ought he to be punished that steals any thing out of the churches?

#### GREGORY'S ANSWER.

<sup>1</sup> You, my brother, may judge by the condition of the thief, how he ought to be corrected. Some steal though they are provided of maintenance, others out of want ; therefore it is necessary, that some be punished with mulcts, some with stripes, some severely, some with lenity ; and when severity

is used, it must be done with charity, not with fury, with this view, that he who is corrected may not be cast into hell-fire. For we ought to exercise discipline over the faithful, as good fathers do over their carnal children, whom they whip for their faults, and yet desire that they whom they afflict should be their heirs; and keep what they have for those whom they seem to persecute with indignation. This charity is therefore to be observed, in order to dictate the measure of correction, that the mind may not be transported beyond the bounds of reason. You will add, how should they who have stole aught from the churches make restitution? But far be it from the Church to receive any increase by the earthly things which she loses, or to gain by the follies of men.

<sup>1</sup> This answer contains the fifth canon of the Her. MS., with this title, "Of things stolen from the Church."

#### IV. QUESTION OF AUGUSTIN.

Whether two own brothers may marry two own sisters related to them at a great distance?

##### GREGORY'S ANSWER.

<sup>1</sup> This is lawful beyond all doubt, for there is nothing in the sacred oracles contradicting it.

<sup>2</sup> There is nothing of this rescript in the Her. MS.

#### V. QUESTION OF AUGUSTIN.

At what distance may the faithful that are related in blood, marry with each other? or, whether it be lawful to marry mother-in-law or cousin-germans?

##### GREGORY'S ANSWER.

<sup>1</sup> A certain sordid<sup>m</sup> law in the Roman Republic, allows either the son and daughter of a brother and sister, or of two brothers, or of two sisters, to be married together: but we have learned by experience, <sup>2</sup> that the offspring of such a match cannot thrive, [and the holy law forbids us to uncover Lev. xviii. the nakedness of those that are near akin,] therefore the <sup>3</sup> distance of <sup>4</sup> three or four generations is necessary, to make <sup>5</sup>

[Gen. ii. 24; Mark x. 8; Lev. xviii. 16; xx. 21.]

[Matt. xiv. 4.]

a marriage lawful among Christians: for they of the second ought wholly to abstain from each other. But to lie with a mother-in-law is a horrible crime, because it is written in the law, "the nakedness of thy father thou shalt not uncover;" and he that uncovers the nakedness of his mother-in-law, uncovers the nakedness of his father, because it is written, "they two shall be one flesh." It is also forbidden to marry a brother's wife, because by her former marriage she was made one flesh<sup>p</sup> with thy brother. [<sup>q</sup>John Baptist was beheaded, and crowned with martyrdom, because he said to the king that it was unlawful for him to enjoy his brother's wife.] But because there are many of the English nation who had contracted such unlawful marriages, while they were in a state of infidelity, they are, upon their coming over to the faith, to be admonished that they abstain from each other, and made sensible of the sin they have committed; let them dread the terrible judgment of God, lest for the sake of carnal love they incur eternal torments. Yet they are not upon this account to be deprived of the communion of the Body and Blood of Christ, lest we should seem to revenge upon them the covenants made before their baptism. For the Church at present corrects some sins out of zeal, some she bears with out of lenity, some she connives at for good reason; and so bears and connives, as by this means often to restrain the evil which she hates. All that come over to the faith are to be warned, that they commit no such crime; and if any do, they are to be deprived of the communion of the Body and Blood of Christ. For as the sin of those who transgress through ignorance is to be borne with, so they who sin against knowledge are severely to be punished.

<sup>1</sup> This rescript contains the sixth canon of Her. MS., with this title, "Of Marriage with such as are near akin."

<sup>2</sup> Lat. *terrena*, but this word is not in the Her. MS. Gregory clearly means lib. i. tit. 10. of Justinian's code, which permits cousin-germans to marry\*. The words of this answer enclosed in hooks are not in the Her. MS.

<sup>3</sup> Lat. *sobolem ex tali conjugio non posse succrescere*. I cannot think the meaning of this to be, that such marriages are barren; for to say that

\* ["Duorum autem fratrum vel sororum liberi, vel fratris et sororis jungi possunt."—Instit. Justiniani, lib. i. c. x. § iv. p. 65. Lugd. Bat. A.D. 1719.]

such mixtures produce no children, was to encourage private and wicked familiarity between persons so related; and the Latin will bear this rendition which I have given in the text.

◦ Theodorus observes, that the Greeks married in the third degree, and that the Romans did not annul a marriage in the same degree: his own resolution of the case was, that any might marry in the fifth degree, and if they were found marrying in the fourth, the marriage should not be dissolved. See Theod. Penit., c. xi. p. 12.

‡ Thy sister. Her. MS.

¶ This is one of those interpolations which Gussanvillæus discovered, without the help of any MS. I have chosen the interpolation of King Alfred, as shorter and more to the purpose than that in the present Latin\*.

‡ Theodore in his Penitential gives more countenance to this than Gregory does in this rescript. He says, "though the marriage be unlawful, yet a man may entertain himself with such as he has." Theodore was archbishop of Canterbury above seventy years after Augustin. Any modern pope writing on this subject, would have said that the marriage was null, without his Holiness's dispensation: but a dispensation was a thing unheard of in those days, till the twelfth century. The reader will not, I hope, conclude that I certainly look on Theodore's Penitential, as published by Petit, to be genuine, because I here cite it.

• Here ends the sixth canon, according to the Her. MS.; therefore what here follows is spurious, if that MS. be authentic.

## VI. QUESTION OF AUGUSTIN.

If bishops cannot easily assemble, by reason of their distance and long journeys, whether a bishop may not be ordained without the presence of other bishops?

◦ ["Pro qua re etiam Johannes Baptistia capite truncatus est, et sancto martyrio consummatus, cui non est dictum ut Christum negaret, et pro Christi confessione occisus est; sed quia isdem Dominus noster Jesus Christus dixerat: Ego sum veritas; quia pro veritate Johannes occisus est, videlicet et pro Christo sanguinem fudit." This passage, which Mr. Johnson with Gussanvillæus supposes to be interpolated, is supported by the authority of Bp. Moore's MS., (see p. xlix. note u,) and therefore may reasonably be received as the genuine text of Bede, although the latter part of it differs from King Alfred's version: nor does it appear irrelevant. Pope Gregory, according to his usual practice of

supporting his decisions by quotations and examples from Holy Scripture, here refers to the testimony of St. John Baptist, as most pertinent and forcible in favour of the decision he has just given, and goes on to shew that the title of martyr can belong to that saint only so far as that decision is true. The word *isdem*, misprinted *iisdem* in Sir H. Spelman, is the nominative singular.

After the above passage the Paris edition of Bede, A.D. 1518, inserts a fresh question, "Declarari posco an si turpiter conjunctis sit indicenda separatio, et Sacræ Communionis deneganda oblatio?" See Smith's Bede, p. 64.]

## GREGORY'S ANSWER.

You cannot ordain bishops otherwise than by yourself alone in the Church of the English, because you are, at present, the only bishop there. When bishops come from Gaul, they may assist as witnesses, when you ordain a bishop\*. But 'we desire you, my brother, to ordain bishops in such a manner, that they may not be at too great distance from each other; that three or four may meet to ordain a bishop, for it ought not otherwise to be done: for we may take example from carnal things for regulating spiritual affairs. Married persons are invited to weddings, that they who have before entered upon a married life may rejoice over them that follow: why therefore, in this sacred mystery, in which a man is married to God, should not such meet together, as may rejoice at his advancement, and pray for his safety.

[Addenda.] ' [It may seem strange that Gregory should call Augustin the only bishop in the Church of the English, if he knew that Luidhard was yet here. Yet there is no inconsistency in this. For Gregory might justly consider Luidhard only as a sojourner here in Kent. He had probably a see in France: therefore his stay here must be very uncertain. Augustin was the only bishop that was settled here. The Latin is, "In Anglorum Ecclesia in qua adhuc tu solus episcopus inveniris."] All the foregoing part of this answer is omitted, in the Her. MS. The seventh canon begins thus, "Let bishops be ordained in such a manner, that they may not be at too great distance from each other;" and so on, as in this translation. For I have here followed the MS. only, as being more clear than the other copies; and yet saying all that is said in the others. The title of this canon is, "Of making Ordinations." As to the omitting the first part of this answer, it must be owned that there are some grounds of suspicion that it is not genuine. It may justly seem strange that two so considerable persons as Peter and Laurence should be sent with this question to Rome, and that four such notable men as Mellitus, Justus, Paulinus and Rufinianus, should come with Augustin's pall from the pope, and yet none of these six should be ordained bishops at Rome, when yet Pope Gregory could not but know by this question that there was occasion for more bishops than one in England: nay, it seems unaccountable, that Augustin himself should go, by sea and land, so far as Arles, to be consecrated himself alone. He could not but know, or would

\* [So Wheloc, but Spelman, Smith, and Wilkins give as the words of Bede in this place, "Et quidem in Anglorum ecclesia in qua solus tu episcopus

inveniris, ordinare episcopum non aliter nisi sine episcopis potes. Nam quando de Gallis episcopi veniunt, qui in ordinatione episcopi testes adstant?"]

however have learned at Arles, that three bishops are required by canon to ordain another, and that if therefore he had not two others ordained with him, he should be incapable of ministering episcopal ordination here in England, according to the canonical form. Five of the seven persons before named were afterwards bishops: let any man consider whether this be credible, and therefore whether this is not to be imputed to a defect in the writer, who gave no account of any ordination but Augustin's. Perhaps some who had observed this flaw in Bede's history, endeavoured to salve it, by inserting this question and the former part of this rescript. King Alfred's Latin books differed from our present editions, or rather were contrary to them; for his translation is thus in English, "Even in the English Church, in which, as yet, you are the only bishop to be found, you may not hallow a bishop in this manner, without other bishops; but bishops shall come to you from the kingdom of Gaul, such as may stand witnesses at the hallowing of a bishop." Copies have been altered since Alfred's time.

## VII. QUESTION OF AUGUSTIN.

In what manner shall we treat the bishops of the Gauls and Britons?

### GREGORY'S ANSWER.

° We give you no authority over the bishops of the Gauls, because the bishop of Arles hath of old received the pall from my predecessors; and we ought not to deprive him of his authority: if, therefore, you my brother, chance to pass into the province of the Gauls, you ought to treat with the bishop of Arles in such a manner, that if there be any faults among the bishops, they may be corrected, and that you may kindle in him a zeal for discipline, if you find him remiss. And I have written to him, that when your Holiness is among the Gauls, he may give you his most hearty assistance, and restrain in bishops whatever is contrary to the divine command. But you are not to act the part of a judge over the bishops of the Gauls, as being not within the bounds of your jurisdiction; but by persuasion, courtesy, and good example, to reclaim the minds of them that do amiss, to the study of holiness, because it is written in the law, "When thou goest through another man's field, thou shalt not put thy sickle into his standing corn, but rub the ears of corn in thy hand, and eat." And you are not to use the sickle of justice in another man's

[Deut.  
xxiii. 25.]

harvest ; but to take away the chaff of vice from the Lord's wheat, by the efficacy of your own good endeavours, and by your admonition and persuasion convert it to the nourishment of the body, that is, the Church : whatever is done there in an authoritative manner, must be done in conjunction with the bishop of Arles, that the ancient institution of the fathers may be maintained. But we commit all the bishops of the <sup>2</sup> Britons to you, my brother, that the unlearned may be instructed, the weak strengthened by good advice, the perverse be corrected by [your] authority <sup>3</sup>.

<sup>2</sup> Here our MS. is not transcribed by Mr. Petit, he only gives us the title of that which is with him the eighth canon, viz., "Of the Bishops of the Gauls and Britons."

<sup>3</sup> When the pope gives Augustin authority over all the bishops of Britain, it is probable that he meant this as a personal privilege, which was to die with him. There is a Latin letter in Bede, lib. i. c. 29, that expressly says this. Nor can the authenticness of the letter be disputed ; Bede does refer to it in his Epistle to Ecgbriht. But it is reasonable to presume that the pope did afterwards make another settlement of the archiepiscopal see, at least our writers so understood the case, for they universally speak of the archbishopric of Canterbury, as founded by Gregory and Austin. Albinus, Bede's informer, met with Gregory's first letter, but not with those letters, rescripts, or instruments whereby an alteration was made in this respect\*. It is utterly incredible that the bishop of London should never have claimed the primacy, when his right was so well supported as it was by this bull, if it had not been well known that other provisions had been made in this respect. And London in the ages following after King Ethelbert, was several times in the hands of princes that were able to maintain the city of London's right to the primacy, if they had been sensible of so just a claim as the pope's letter was thought in those ages.

<sup>3</sup> One of the Paris editions here inserts a question and answer, concerning the relics of St. Sixtus, but they are certainly spurious, and indeed they are framed without any consistency.

## VIII. QUESTION OF AUGUSTIN †.

1. Whether a woman big with child may be baptized? 2. How long must it be ere she come to church, after she is

\* [That Canterbury was finally made the archiepiscopal see by Pope Gregory and St. Augustine, is clear from a letter of Pope Honorius, A.D. 634, printed in Wilkins' Concilia, vol. i. p. 35.]

† [The answers to this and the fol-

lowing question are the only places in which Mr. Johnson has abridged the documents he translates. The omissions are supplied from the original Latin, in the notes to the present edition, and the answer to the ninth question is printed at length.]



brought to bed? 3. How old must the child be ere it be baptized? 4. After how long a time may her husband lie with her? 5. May a menstruous woman come into the church, or partake of the Sacrament of Communion? 6. May a man coming from his wife's bed, enter into the church, or receive the Sacrament of Communion, before he have washed himself with water? The rude nation of the English want full satisfaction as to all these particulars.

#### GREGORY'S ANSWER.

It is certain, you, my brother, have formerly made this enquiry, and I think I have answered it. But I suppose you desire to have your own directions and sentiments confirmed by my rescript.

1. \* Why should not a woman big with child be baptized, since carnal fecundity is no sin in the sight of God? For when our first parents had sinned in paradise, they forfeited, by the just judgment of Almighty God, that immortality which they had received from Him. Since then it was not God's intention to extinguish mankind for their sin, He at the same time deprived man of his immortality, and yet through the tenderness of His mercy He continued to him the propagation of his kind. With what reason then can that gift of God, which was indulged to human nature, become an obstacle to baptismal grace? Indeed it is very absurd to suppose, that the free gift of God is inconsistent with that Sacrament, in which all sin is entirely blotted out.

\* The ninth canon of the Her. MS. begins thus, "A woman with child may be baptized," &c.. as in this paragraph and the two following. The title is, "Of baptizing Women in Danger of Death, and of their Offspring."

2. But in how many days after her delivery a woman may enter into the church, you have learned from the Old Testament, that is, that for a male child she should absent herself <sup>Lev. xii.</sup> thirty-three days, for a female child sixty-six; which yet is <sup>4, 5.</sup> taken to signify some mystery. For if she come to be church'd\* the same hour in which she is delivered, she is not to be charged with sin on that account. The lasciviousness, not the pain of the flesh, is in fault; children are begotten in

[Gen. iii.  
16.]

lasciviousness, brought forth in pain: on which account it was said to the first mother of us all, "In pain shalt thou bring forth children." If therefore we forbid a lying-in woman to come to church, we impute her punishment to her as a crime.

\* *Actura gratias*: this seems to imply some known rite or form of returning thanks.

3. It is in no wise forbidden to baptize either the lying-in woman, the very hour in which she is brought to bed, or the child, in the very hour in which it was born, if there be any danger of death. For as the grace of the Holy Sacrament is with great care\* to be procured for them who are living and looking †; so to them who are under the imminent danger of death, it is to be offered without delay; lest while we stay for the proper season<sup>b</sup> for the Sacrament of redemption, before that time come, the person to be redeemed should be no more to be seen<sup>c</sup>.

<sup>b</sup> Viz., Easter-Eve and Whitsun-Eve.

\* Here ends the ninth canon, according to the Herouval MS.

4. <sup>d</sup> The husband should not lie with his wife till the child be weaned. \*But an evil custom prevails among married people, that women scorn to give suck to the children which they bear, and put them out to be nursed by others; which invention seems to owe its rise wholly to incontinence: they disdain to suckle the children which they beget, because they are not disposed to contain. However, the women who through evil custom put out their children to be nursed by others, ought not to lie with their husbands till the time of their cleansing be over, for this is forbidden, while the custom of women is upon them, even when it is not occasioned by child-birth; insomuch that the holy law inflicts death upon the man that goes in to a menstruous woman.

Lev. xviii.  
19; [xx.  
18.]

<sup>d</sup> Here begins the tenth canon of the Herouval MS., which contains this and the following paragraph. The title is, "Of a lying-in, or menstruous woman." Petrus Gussanvillæus had affirmed the first sentence of this paragraph to be spurious; but Petit assures us that it is in the Herouval MS., and he observes, that Clemens Alexandrinus teaches the same doctrine, Strom., lib. iii.; but then he does not impose it as necessary, as Gregory

\* [discretionē.]

† [discernentibus.]

seems inclined to do\*. Theodore only lays an abstinence of forty days, after the woman's delivery, but of three months before, Pœnit., c. 11.

\* The *Reformatio Legum Ecclesiasticarum* in the reign of King Edward VI. condemns the practice of putting out children to nurse, *De Matrimonio*, c. 13. p. 43.

5. Yet a menstruous woman ought not to be forbidden entrance into the church, for the superfluity of nature cannot be imputed to her as a fault: and it is not reasonable she should be deprived of her liberty of coming to church, on account of what she suffers against her own will. For we know the woman who had a bloody-flux came behind our Saviour, and touched the border of Christ's garment, and immediately her infirmity departed from her. If this woman was praised for touching the border of His garment, why should it be unlawful for a menstruous woman to go into the church? † Yet it becomes a pious mind to acknowledge

[Matt. ix. 20.]

\* [The first sentence of the above paragraph is in the Moore MS. and King Alfred's version.

The following is the passage quoted by Petit: "Θεοῦ οὐ δείξεται ἐγκόμωσι πλησιάζοντα τῶν Πρεσβυτέρων τινα, κατὰ τὴν Γραφήν· ἀλλὰ ὕστερον μετὰ τε τὴν κνοφορίαν, μετὰ τε τὴν τοῦ τεχθέντος γαλακτοουχίαν, ἐβροῖς ἂν πάλιν πρὸς τῶν ἀνδρῶν γίνωσκομένης τὰς γυναῖκας. αὐτίκα τοῦτον εὐρήσεις τὸν σκοπὸν καὶ τὸν τοῦ Μωϋσέως πατέρα φυλάσσοντα, τριετιῶν διαλειπόντα μετὰ τὴν τοῦ Ἁαρὸν ἀποκρίσιν, γενήσαντα τὸν Μωϋσεῖα. ἢ τε αὖ Λευϊτικῆ φυλῆ, τοῦτον φυλάσσουσα τὸν τῆς φύσεως νόμον ἐκ Θεοῦ, ἐλάττων τὸν ἀριθμὸν παρὰ τὰς ἄλλας εἰς τὴν προκατηγγελημένην εἰσῆλθε γῆν· οὐ γὰρ βραδίως αὐξάνει γένος εἰς πολυπληθίαν, σπειράτων μὲν τῶν ἀνδρῶν τῶν τὸν πατὴρ τοῦ νόμου γάμον ἀναδεξιμένων ἀναμερόντων δὲ, οὐ τὴν κνοφορίαν μόνον, ἀλλὰ καὶ τὴν γαλακτοουχίαν.—Clemens Alex. Stromatum, vol. i. lib. iii. c. xi. p. 543.]

† [From this point to the end of the paragraph the words of Pope Gregory the Great, as recorded by the Venerable Bede, are, "Sed dicis, illam infirmitas compulsi, has vero, de quibus loquimur, consuetudo constringit. Perpende autem frater carissime, quia omne quod in hac mortali carne patimur ex infirmitate naturæ, est digno Dei iudicio post culpam ordinatum. Esurire namque, sitire, æstare, algere, lassescere, ex infirmitate naturæ est. Et quid

est aliud contra famem alimenta, contra sitim potum, contra æstum auras, contra frigus vestem, contra lassitudinem requiem querere, nisi medicamentum quidem contra ægrotudines explorare? Fœminæ itaque et menstruus sui sanguinis fluxus, ægrotudo est. Si igitur bene præsumpsit, quæ vestimentum Domini in languore posita tetigit, quod uni personæ infirmanti conceditur, cur non concedatur cunctis mulieribus, quæ naturæ suæ vitio infirmantur? Sanctæ autem communionis mysterium in iisdem diebus percipere non debet prohiberi. Si autem ex veneratione magna percipere non præsumit, laudanda est, sed si perceperit, non iudicanda. Bonarum quippe mentium est, et ibi aliquo modo culpas suas agnoscere, ubi culpa non est, quia sæpe sine culpa agitur, quod venit ex culpa: unde etiam cum esurimus, sine culpa comedimus, ex culpa autem primi hominis factum est, ut esuriamus. Menstrua enim consuetudo mulieribus non aliqua culpa est, videlicet quia naturaliter accedit. Sed tamen quia natura ipsa ita vitiosa est, ut etiam sine voluntatis studio videatur esse polluta, ex culpa venit vitium, in quo se ipsa, qualis per iudicium facta sit, humana natura, cognoscat. Et homo qui culpam sponte perpetravit, reatum culpæ portet invitum. Atque ideo fœminæ cum semetipsas considerent, etsi in menstrua consuetudine ad sacramentum Domini corporis et sanguinis accedere non præsumant,

a fault where there is none. A woman ought not at those times to be repelled from the Sacrament of the Communion; yet she is to be commended, if out of reverence she presume not to communicate.

[Lev. xv.  
18.]

6. But<sup>f</sup> a man that hath laid with his wife, ought not to enter the church till he hath bathed himself in water, nor yet presently after he hath bathed. The old people were commanded by the law of Moses, that when a man had lien with a woman, he should be bathed in water, and not enter into the tabernacle before the going down of the sun, which yet may be spiritually understood; for a man lies with a woman when the mind delightfully embraceth an evil lust that riseth in his own thoughts. For the man ought not to think himself fit for the public assembly, who perceives himself burdened with the guilt of a depraved will, till he have cooled the fire of it. And though the sentiments and practice of several nations be very different as to this particular, yet it has, for many ages past, been the constant practice of the Romans to purify by bathing, and reverently to abstain for a while, after having performed the conjugal act. In saying this we do not make matrimony a fault; but lay a restraint from entering into the sacred place, on account of that carnal pleasure which is unseparable from the conjugal act. And this pleasure cannot be without fault; for he was

[Ps. li. 5.]

de sua recta consideratione laudandæ sunt: dum vero percipiendo ex religiosæ vitæ consuetudine ejusdem mysterii amore rapiuntur, reprimendæ (sicut prædiximus) non sunt. Sicut enim in Testamento veteri exteriora opera observantur: ita in Testamento novo, non tam quod exterius agitur, quam id quod interius cogitatur, sollicita intentione attenditur, ut subtili sententia puniatur. Nam cum multa lex velut immunda manducare prohibeat, in Evangelio tamen Dominus dicit: 'Non quod intrat in os, coinquinat hominem; sed quæ exeunt de ore, illa sunt quæ coinquinant\*.' Atque paulo post subjecit exponens: 'Ex corde exeunt cogitationes malæ.' Ubi ubertim indicatum est, quod illud ab omnipo-

tente Deo pollutum esse in opere ostenditur, quod ex pollutæ cogitationis radice generatur. Unde Paulus quoque Apostolus dicit: 'Omnia munda mundis, coinquinatis autem et infidelibus nihil est mundum†.' Atque mox ejusdem causam coinquinationis annuntians subjungit: 'Coinquinata sunt enim et mens eorum et conscientia.' Si ergo ei cibus immundus non est, cui mens immunda non fuerit, cur quod inunda mente mulier ex natura patitur, ei in immunditiam reputetur?—Hist. Eccl., lib. i. cap. 27.]

\* ["Qui enim in iniquitatibus conceptum se noverat, a delicto se natum gemebat: quia portat in ramo humorem vitii, quem traxit ex radice."]

• Matt. xv. 11.

† Titus i. 15.

which words he does not charge conjugal conversation with sin, but the pleasure of it. Many things are lawful, and yet we are polluted by the doing of them—\*. Anger against vice is commendable: and yet the discomposure it causes is not without fault—†. Yet if any man be carried to lie with his wife, not by lust, but by a desire of procreating children, he is to be left to his own judgment, both as to going to church, and receiving of the Sacrament of the Body and Blood of our Lord; for he ought to have no restraint laid upon him, who being in the fire does not burn. But when pleasure, not procreation, bears rule in this matter, husbands and wives have cause to lament their embraces‡; for when the Apostle Paul had said, “§ Let him that cannot [1 Cor. vii. 9.] contain, have a wife,” he took care presently to add, “but this I speak by indulgence, not by command.” What is [wholly] lawful, is not indulged— . What he indulged, he therefore thought faulty. It ought seriously to be considered, that the Lord, when He was going to speak to the people in Mount Sinai, first charges them to abstain from [Exod. xix. 15.] their wives. And if when God speaks by a creature§, there were such a provision made for bodily purity; how much more ought women, who receive the body of the Lord Almighty, to preserve their bodily purity, lest they be surcharged with the weight of the inestimable Sacrament? Therefore the priest said unto David and his servants, “If [1 Sam. xxi. 4.] they were clean from women, they might eat the shewbread.” When a man, after the conjugal act, hath bathed himself, and so is fit to enter into the church, according to

\* [“Sicut sæpe irascendo culpas insequimur, et tranquillitatem in nobis animi perturbamus: et cum rectum sit quod agitur, non est tamen adprobabile quod in eo animus perturbatur. Contra vitia quippe delinquentium iratus fuerat qui dicebat. ‘Turbatus est præ ira oculus meus’ (Ps. vi. 8. Old Italic Version). Quia enim non valet nisi tranquilla meus in contemplationis se lucem suspendere, in ira suum oculum turbatum dolebat, quia dum male acta deorsum insequitur, confundi atque turbari a summorum contemplatione cogebatur.”]

† [“Oportet itaque legitimam carnis copulam, ut causa prolis sit, non vo-

luptatis; et carnis commixtio, creandorum liberorum sit gratia, non satisfactio vitiorum.”]

‡ [The next four sentences of the original are, “Hoc enim eis concedit sancta prædicatio; et tamen de ipsa concessione metu animum concutit. Nam cum Paulus Apostolus diceret: ‘Qui se continere non potest, habeat uxorem suam;’ statim subjungere curavit: ‘Hoc autem dico secundum indulgentiam, non secundum imperium,’ non enim indulgetur quod licet, quia justum est. Quod igitur indulgere dixit, culpam esse demonstravit.”]

§ [“per creaturam subditam.”]

the aforesaid determination, at the same time he may also receive the Sacrament of the Communion.

'This is the eleventh head in the Her. MS., but Petit gives us only the [Addenda.] title, viz., "Of lying with one's own Wife." [A very learned writer in his excellent treatise of the Celibacy of the Clergy\*, p. 68, reflecting on these words of Gregory, asserts that Clemens Alexandrinus says this ceremony was no where practised among the Christians in his time. Stromatum, lib. iii. I can find no such saying there. The most he asserts is, that [Clem. Al., vol. i. p. 548.] Christ did not require this bathing, as Moses had done, Οὐδὲ μὲν τὸν ἀπὸ τῆς κατὰ σωζυγίαν κοίτης, ὁμοίως ὡς πάλαι, βαπτίζεσθαι καὶ νῦν προτάσσει ἡ Θεία διὰ Κυρίου Πρόνοια. c. 12.

‡ He cites Scripture, *memoriter*, and therefore unaccurately. The Apostle had said just before that "they might come together again, that Satan might not tempt them by means of their incontinency," 1 Cor. vii. 5, 6.

#### †IX. QUESTION OF AUGUSTIN.

Whether a man may receive the Body of the Lord; or if he be a priest, whether he may celebrate the holy mysteries, after a nocturnal pollution?

#### GREGORY'S ANSWER.

'The old law pronounceth a man unclean in this case; and permits him not to enter into the tabernacle till the evening, as we said under the former head; and yet the spiritual people will take this to mean another thing, as was hinted in the former case; for he, who being tempted to uncleanness is defiled by his own thoughts, is as it were under the illusion of a dream, and he is to be washed with the water of his own tears, that he may be freed from the guilt of his own thoughts, and he ought to look on himself as unclean till the evening, or till the heat of the temptation go off. And there is a very necessary distinction to be made as to this illusion; that is, it ought nicely to be considered from what cause this happens to the mind of man in his sleep. Sometimes it proceeds from intemperance, sometimes from the superfluity or infirmity of nature. And when it comes from superfluity or infirmity, no

\* [This treatise was written by Henry Wharton, M.A., and published anonymously, London, A.D. 1688.]

† [For the original, see p. 82. note.]

man ought to be concerned at the illusion, because the mind is no way accessory to it; and may grieve for the bearing, rather than for the doing of it. But when a man is by his appetite transported to intemperance in diet, and the vessels are by that means overladen with humours, the mind does thereby contract some guilt, but not to such a degree as to detain men from receiving the Holy Mysteries, nor from celebrating Mass, if (as it may happen) a festival day does absolutely require this to be done; or if necessity compel him to give the Sacrament, and no other priest can be had. For if others are present to perform the ministration, he ought, I conceive, humbly to abstain from the oblation of the Sacrament. But an illusion proceeding from intemperance, does not lay a man under a prohibition from receiving the Sacrament, unless it have smitten the mind of the man in his sleep with a foul imagination: for there are some in whom the illusion is raised in such a manner, that the mind, though residing in the body, is very often not polluted with any filthy fancy——. But if the illusion of a man in his sleep proceed from his foul thoughts while he was awake, then the mind may easily perceive its own guilt. For she knows from what root the defilement grew, viz., that what she willingly thought of, that she unwillingly endures ——. Every sin is perfected by three steps; the devil makes a suggestion, the flesh raises a delectation, the soul gives consent. The serpent suggested the first sin; Eve, as flesh, was delighted; Adam, as the soul, consented ——. When the malignant spirit suggests a sin to the mind, if no delectation follow, no sin is committed; but when the soul begins to feel a delectation, then sin begins to be conceived; but when there is a deliberate consent, then the sin appears to be finished ——. It often happens, that the soul does not consent to what the malignant spirit sows in the thoughts, and which the flesh raises to a delectation——: yet the soul, even in resisting carnal pleasure, is carried to a sort of delectation against its will, (since the flesh indeed without the soul perceives no pleasure;) so that it doth with reason contradict and withhold its consent; and yet cannot but perceive the delight, and earnestly lament it.

† We have here only the title of the Her. MS., viz., "Of the illusion which happens in Sleep." How much of the rescript is in the twelfth canon

of that MS. can only be known to those who possess it, or who have Gusanvillæus's book. But the reader is to observe that I have taken liberty very much to abridge the two last answers of Gregory; for the pope is most immoderately prolix, especially upon the case of nocturnal illusions\*.

\* [IX. Interrogatio Augustini. "Si post illusionem, quæ per somnium solet accidere, vel corpus Domini quilibet accipere valeat; vel si sacerdos sit, sacra mysteria celebrare?"

Respondit Gregorius: "Hunc quidem testamentum veteris legis, sicut in superiori capitulo jam diximus, pollutum dicit, et nisi lotum aqua usque ad vesperam intrare Ecclesiam non concedit. Quod tamen aliter populus spiritalis intelligens, sub eodem intellectu accipiet quo præfati sumus: quia quasi per somnium inluditur, qui tentatus immunditia veris imaginibus in cogitatione inquinatur; sed lavandus est aqua, ut culpas cogitationis lacrymis abluit: et nisi prius ignis tentationis recesserit, reum se quasi usque ad vesperam cognoscat. Sed est in eadem inlusionem valde necessaria discretio, quæ subtiliter pensari debet, ex qua re accidat menti dormientis: aliquando enim ex crapula, aliquando ex naturæ superfluitate vel infirmitate, aliquando ex cogitatione contingit ita. Et quidem cum ex naturæ superfluitate vel infirmitate evenerit, omnimodo hæc inlusionem non est timenda: quia hanc animum nescientem pertulisse magis dolendum est, quam fecisse. Cum vero ultra modum appetitus gulæ in sumendis alimentis rapitur, atque idcirco humorum receptacula gravantur, habet exinde animus aliquem reatum, non tamen usque ad prohibitionem percipiendi sancti mysterii, vel missarum solemniam celebrandi: cum fortasse aut festus dies exigit, aut exhiberi mysterium (pro eo quod sacerdos alius in loco deest) ipsa necessitas compellit. Nam si adaut alii, qui implere mysterium valeant, inlusionem pro crapula facta, a perceptione sacri mysterii prohibere non debet: sed ab immolatione sacri mysterii abstinere (ut arbitrator) humiliter debet, si tamen dormientis mentem turpi imaginatione non concusserit. Nam sunt quibus ita plerumque inlusionem nascitur, ut eorum animus etiam in somno corporis positus, turpibus imaginationibus non fœdetur. Qua in re unum ibi ostenditur, ipsa mens rea, non tamen vel suo iudicio libera, cum se, etsi dormienti corpore nihil meminit vidisse, tamen in vigiliis corporis meminit in ingluviem cecidisse. Sin vero

ex turpi cogitatione vigilantis oritur inlusionem dormientis, patet animo suus reatus: videt enim a qua radice inlusionem illa processerit: quia quod cogitavit sciens, hoc pertulit nesciens. Sed pensandum est, ipsa cogitatio utrum suggestionem, an delectationem, vel quod majus est, peccati consensu acciderit. Tribus enim modis implentur omne peccatum; videlicet suggestionem, delectationem, consensu. Suggestio quippe fit per diabolum: delectatio per carnem, consensus per spiritum: quia et primam culpam serpens suggestit, Eva velut caro delectata est, Adam vero velut spiritus consensit. Et necessaria est magna discretio, ut inter suggestionem atque delectationem: inter delectationem et consensum, iudex sui animus præsideat. Cum enim malignus spiritus peccatum suggerit in mente, si nulla peccati delectatio sequatur, peccatum omni modo perpetratum non est, cum vero delectari caro coeperit, tunc peccatum incipit nasci: si autem etiam ex deliberatione consentit, tunc peccatum cognoscitur perfici. In suggestionem igitur peccati initium est, in delectationem fit nutrimentum, in consensu perfectio. Et sæpe contingit, ut hoc quod malignus spiritus seminat in cogitatione, caro in delectationem trahat, nec tamen anima eidem delectationi consentiat. Et cum caro delectari sine animo nequeat, ipse tamen animus carnis voluptatibus reluctans, in delectationem carnali aliquo modo ligatur invitus, ut ei ex ratione contradicat, ne consentiat; et tamen delectationem ligatus sit, sed ligatum se vehementer ingemiscat. Unde et ille cœlestis exercitus præcipuus miles gemebat, dicens: 'Video aliam legem in membris meis repugnantem legi mentis meæ, et captivum me ducentem in lege peccati, quæ est in membris meis.'† Si autem captivus erat, minime pugnabat; sed et pugnabat: quapropter et captivus erat, et pugnabat igitur legi mentis, cui lex quæ in membris est, repugnabat. Si autem pugnabat, captivus non erat. Ecce itaque homo est, ut ita dixerim, captivus et liber; liber ex justitia quam diligit, captivus ex delectatione quam portat invitus."—Bede, Hist. Eccl., lib. i. c. 27.]

† Rom. vii. 23.



A.D. DCII., or thereabouts.

KING ETHELBERT'S DOOMS ECCLESIASTICAL.

PREFACE.

"KING Ethelbert, after the example of the \*Romans, made judicial decrees for his nation, with the advice of his wise men, which are yet kept written in the language of the English, and are observed by them. In these he first of all appointed what satisfaction ought to be made for taking away the goods of a bishop, or of those in the other orders." Bede, lib. ii. c. 5.

These judicial decrees are extant in the ancient MS. called *Textus Roffensis* \*, and are published by the excellent Dr. Hickes in *Dissertatio Epistolaris*, p. 89, with Laet's Latin translation. Sir H. Spelman published the three first, *Concilia*, vol. i. p. 127 †. I have added three more from Laet. There are eighty-nine of them in all ‡.

\* Ethelbert might be said to act after the example of the Romans, in taking the advice of wise men, not in laying mulcts on such as robbed churches or bishops; this was contrary to Gregory's direction, in his third answer to Augustin. But Gregory, perhaps, did not know this taxation of capital crimes to be the general practice of the Saxons; though Tacitus mentions it, *De Moribus Germanorum* §, and if the king had these mulcts, (as is probable, from Law, §,) then it was not contrary to Gregory's answer.

\* [See General Preface, p. viii. note a.]

† [Sir H. Spelman adds in a note, "Sequuntur multa ad vitæ probitatem et morum correctionem pertinentia, alioquin vero nihil ad rem Ecclesiæ."]

‡ [Of the laws here given, the first four are numbered as in the *Dissertatio Epistolaris*, but the fifth is the ninth, and the sixth the thirty-second, of the laws of King Ethelbert. This will explain Mr. Johnson's double reference in the above note, a.]

§ [c. 12. Licet apud concilium ac-

cusare quoque et discrimen capitis intendere. Distinctio poenarum ex delicto. Proditores et transfugas arboribus suspendunt; ignaros et imbelles et corpore infames cæno et palude, injecta insuper crate, mergunt. Diversitas supplicii illuc respicit, tanquam scelera ostendi oporteat, dum puniuntur, flagitia abscondi. Sed et levioribus delictis pro modo pœna: equorum pecorumque numero convicti multantur. Pars multæ regi vel civitati, pars ipsi qui vindicatur vel propinquis ejus exsolvitur.]

SAXON.  
[Wilkins,  
vol. i. p.  
29.]

THESE are the dooms which King Ethelbert established in the days of Augustin.

1. God's <sup>a</sup> fee and Church's fee is a twelve-fold mulct.

<sup>a</sup> Fee. That is, money, goods, or chattels.

The bishop's fee is an eleven-fold mulct.

The priest's fee is a nine-fold mulct.

The deacon's fee is a six-fold mulct.

The clerk's fee is a three-fold mulct.

A Church's <sup>b</sup> peace is a two-fold mulct.

<sup>b</sup> Peace. That is, the quiet enjoyment of the service of God, and their privileges, without molestation. By this law, he who robbed a Church paid twelve times the value of the thing stolen; he who broke the peace of a Church, as much again as he who broke the king's peace\*.

A monastery's peace<sup>†</sup> is a two-fold mulct.

2. If the king call his people to him, and any evil be done to them, the satisfaction is two-fold, and fifty shillings to the king.

3. If the king be drinking at any man's house, and any mischief there be done, let the satisfaction be three-fold.

4. If a freeman rob the king, let him pay a forfeiture <sup>c</sup> nine-fold.

<sup>c</sup> The principal breach of the Church's peace was violently to take away those who fled thither for sanctuary; the king contented himself with the satisfaction which he granted to the priest.

[Addenda.] [Among the *Consuetudines Angliæ*, (in fol. 79. p. 2. of the *Textus Roffensis*), which were drawn in the reign of Henry the First, we have these words, "In lege Cantia, Ecclesia Christi, et rex et archiepiscopus habent similem et æque carum despectum quod Angli dicunt mundbrece. Et in illa lege pecunia archiepiscopi reddetur undecies, pecunia autem regis non reddetur nisi novies.—Alius archiepiscopus, et filius regis de legali conjuge habent similem secularem rectitudinem in

\* [See below the second law of King Wihtred, A.D. 696.]

† [᠓ . . . . . ḡḡḡ is also taken by Wilkins to mean ᠓ḡḡḡḡḡḡ ḡḡḡ, 'monasterii pax.' In the MS. *Textus Roffensis* there is not room for so long a word, but it may have been contracted. See *Ancient Laws and Insti-*

*tutes of England*, p. 1, where these dooms of King Ethelbert are printed at length, as in the *Dissertatio Epistolaris*, but with an English instead of a Latin translation.]

‡ [See *Textus Roffensis*, ed. T. Hearne, p. 45.]

multis rebus; hoc est in respectu, in emendatione hominis occisi, quod dicitur manbote," &c. In English thus, "By the Kentish law, Christ's Church and the king and the archbishop have the same forfeiture due to them for the violation of their protection, [which the English call mundbrece.] And by that law, chattels stolen from the archbishop shall be restored eleven-fold, but chattels stolen from the king but nine-fold only.—The other archbishop (viz., of York) hath in many cases the same secular right with the king's son by his lawful wife, that is, in forfeiture for the violation of his protection, in satisfaction for the murder of his man which is called manbote," &c.]

Ed.

5. [9]. If a freeman rob a freeman, let him make three-fold satisfaction, and let the king have the mulct and all the goods.

6. [32.] If a freeman lies with a freeman's wife, let him submit to his <sup>d</sup>weregeld, and <sup>e</sup>purchase another woman with his own money, and bring her to the other man<sup>f</sup> in her stead.

<sup>d</sup> That is, the mulct for murder: therefore adultery was punished as murder.

<sup>e</sup> Women, or wives, were bought. See Law of Ethelbert, 76<sup>e</sup>.

<sup>f</sup> Laet read æt ham, 'to his house †.'

\* [76. Líf man mægþ gebigeþ ce-  
æpi geceapod ƿý, ƿif hit unƿacne ƿf,  
ƿif þonne ƿacne ƿf ef þæp æt ham  
geþpenge ƿ him man hƿ ƿcæt agefe.

Si vir virginem mercatus sit, pretio  
emta sit, si sine dolo factum sit. Sin  
autem dolus subest, postea domum re-  
ducitor et illi suum peculium reddatur.  
—Dissertatio, Epist., p. 92.]

† [This emendation appears probable  
from the use of a like phrase in the  
seventy-sixth law of King Ethelbert  
quoted in the foregoing note, but the  
undoubted reading of the Textus Rof-

fensis is, æt þam.

32. Líf ƿuman ƿif ƿƿier manner  
ƿif geligeþ hƿ ƿepe gelbe abuge ƿ  
oþer ƿif hƿ agenum ƿcætte begete  
ƿ þam oppum æt þam geþpenge.

Si liber homo cum liberi hominis  
uxore cubuerit, ejus capital redimat,  
et aliam foeminam suo proprio censu  
comparat, et illi alteri adducat, vel  
alterum ad ipsam inducat.—Dissertatio  
Epist., p. 90. See also Wilkins' Leges  
Anglo-Saxonicae, p. 4. London, A. D.  
1721.]

A.D. DCLXXIII.

THEODORE'S CANONS.

PREFACE \*.

AUGUSTIN and his five successors in the see of Canterbury seem to have wholly employed themselves, for near seventy years, in converting the people to Christianity, and settling the divine worship. Upon the vacancy of the see of Canterbury, by the death of Deus-dedit, the first native metropolitan, Wighard, an English priest, was sent to Rome, by the two kings of Kent and Northumberland, to be consecrated in his stead. But soon after his arrival there he died of the pestilence. Upon which Pope Vitalian, after having made an offer of the archbishopric to two others, who refused it, prevailed on Theodore to undertake the charge, though not without the consent and desire of the two kings. Theodore was born at Tarsus in Cilicia, and had spent the greatest part of his life in Greece, and the east, but lived now at Rome, in quality of a private monk, and was but sub-deacon, though above sixty years of age, and had received the eastern tonsure only, when he was nominated to the archbishopric. He was received here as a public blessing by the kings and people, and was the first archbishop, says Bede, to whom all England submitted; and in truth the bishops of York were not at this time metropolitans. He brought over with him many Greek and Latin books; erected an academy at Canterbury, and had with him a good number of men to teach the sciences, and the Greek and Latin tongues, beside Adrian the abbot, first of those two that refused the archbishopric, who was really sent by the pope as a spy upon

\* [This historical preface is quoted at length by Wilkins, and is introduced by the following remarks, which will serve to shew the esteem in which Johnson's labours in this collection of canons, "designed chiefly for beginners in ecclesiastical antiquity," (see above, p. lv.,) were held by one who published a like work for the learned.

"Egregia sunt quæ vir eruditus John Johnson in vol. i. legum ecclesiasticarum et canonum Anglice conscriptorum de vita et scriptis Theodori archiepiscopi Cantuar. recenset. Ea prout concilio Herudfordensi vel Theodori canonibus prefixa sunt hic adferre haud pigebit."  
—Wilkins' Concilia, vol. i. p. 42. note a; see also note d, quoted below, p. 90.]

Theodore, lest he should introduce any of the Greek rites in England. It is said there was no discipline in this Church before his time: and indeed the best regulated churches were grown very loose as to this point. Public penances were only done in Lent, and though men were excommunicated for obstinacy in some scandalous crimes, yet they were absolved within a few months after they submitted to the Church. But auricular confession began now to succeed in the room of public discipline. Theodore wrote a penitentiary, which was to direct confessors how to conduct themselves in hearing confessions and enjoining penance. And they made confession to the priest necessary, not in order to obtain his absolution, but to be informed what sort of penance was required for every offence, and for the several degrees and circumstances of it. And the most difficult part of the priest's office, was to know how to proportion the private penance to the crime: and Theodore's penitentiary was looked upon as the best rule in this particular: and he was, in truth, one of the greatest men that ever sat in the chair of Canterbury; but he carried it with a high hand towards the bishops, who therefore did not overmuch affect him. And the pope shewed his jealousy of him again, by sending John, his precentor, to teach the English clergy, not the Roman service, as some have imagined, (for that they received from Augustin,) but the most approved modes of singing it; and to enquire into the faith of Theodore, and the rest of the bishops. Upon which he called a synod at Bishops-Hatfield, in Hertfordshire, (not at Hothfield, in Kent, as some by mistake have thought,) in which they did in ample form declare for the faith of the five first general councils. But I am not at present concerned with this council, because nothing was there ordained in relation to government or discipline: yet this was a regular ecclesiastical council, called and holden by Theodore the archbishop, in the year 680. So was his synod at Herudford, that is, Hertford. And they were indeed both of them national synods; and in the first of them Theodore styles himself archbishop of the island of Britain.

A.D. DCLXXIII.

LATIN  
and  
SAXON.  
Bed. Hist.  
lib. iv. c. 5.  
Sir H. S.  
v. i. p. 152.  
[Wilkins,  
v. i. p. 41.]

THEODORE assembled a council of bishops, and of many \* masters of the Church, who loved and knew the canonical statutes of the fathers. When they were met together, he began with such a temper of mind as became a pontiff, to direct them diligently to the observance of such things as concerned the unity of the Church. A copy of the act of this synod here follows.

\* Probably abbots, priors, and rectors of lesser churches, that were skilled in the canons \*.

In the name of our Lord God, and Saviour Jesus Christ, in the perpetual reign and government of our said Lord, it seemed good that we should come together according to the prescription of the venerable canons, to treat of the necessary affairs of the Church; we are met together on this twenty-fourth day of September, the first indiction, in a place called Heortford. I Theodore, bishop of the church of Canterbury, destined thereunto (unworthy as I am) by the apostolical see, and our most reverend brother Bise, bishop of the East Angles, together with our brother and fellow-bishop <sup>b</sup> Wilfrid, bishop of the nation of the Northumbrians, who was present by his proper legates; as also our brethren and fellow-bishops, Putta, bishop of the castle of the Kentish, called Rochester; Lutherius, bishop of the West Saxons, and Winfrid, bishop of the province of the Mercians, were present; and when we were assembled, and had taken our proper places, I said:

\* [Magistri Ecclesiæ, ut mihi videtur, non alii fuerunt, quam clerici doctiores et in rebus Ecclesiasticis bene instituti, qui una cum Episcopis suis ad synodum venerunt, quales erant Hadrianus abbas, et Benedictus Bishop, ambo in canonicis patrum institutis versatissimi. Hi vero ad concilium non ideo sunt profecti, ut auctoritate sua decreta vel facerent vel firment, sed tantum ut episcopos, quibus solis ecclesiasticarum legum ferendarum jus erat, eruditione sua et consilio

adjuvant. Constat enim ex ipsa actione synodica, cujus textum historię suæ Baeda inseruit, Archiepiscopum et collegas suos integram canonum faciendorum potestatem habuisse. Nam ante synodi decreta Theodorus primo suum nomen, deinde omnium qui tunc adfuerunt episcoporum nomina posuit; eorumque solis suffragiis et consensu definita sunt omnia et stabilita. See Smith's Bede, p. 746. Appendix, No. xvii. "De Magistris Ecclesiæ."]

<sup>b</sup> Theodore here deposes Wilfrid, bishop of York, by placing him after Bise; some years after he was thrust out of his bishopric, and his diocese split into two. [There was the less reason for placing Wilfrid [Addenda.] after Bise, because it is certain that Wilfrid was consecrated several years before the other; and was put into possession of the see of York in the year 669, in which year Bise also might be consecrated to the see of the East Angles. Bede mentions the removal of Chad from York, before Putta's consecration to the see of Rochester, and Wilfrid's succeeding Chad presently after Putta's consecration, and Putta's consecration is spoken of as a thing done presently after Theodore's arrival. There is no reason to believe that Bise was consecrated before the latter end of the year 669, or rather the beginning of 670, (compare Bede, lib. iii. 20; lib. iv. 5;) he therefore was the junior of the three, though here placed next to the archbishop. Lothar (or Eleutherius) and Winfrid came into their sees after the others, and are here placed in their just order. These six were the whole episcopal college here at this time, the see of London being vacant. Wini was expelled from the see of West Saxony, and had purchased the bishopric of London from Wulf here, king of Mercia, who had reduced the kingdom of the East Saxons into a state of subjection or dependency. Wini was a singular instance of a penitent Simonist, and therefore for the three last years of his life became a recluse in the monastery at Winchester, and Ercunwald, it should seem, was not yet advanced to that see. It is the more strange that Bise should have the precedence of his senior bishops, when we observe that this was directly contrary to the eighth canon of this very synod.]

Hist. Eccl.  
lib. iv. c.  
2, 3.

I beseech you, most beloved brethren, for the fear and love of our Redeemer, that we may faithfully enter into a common treaty, for the sincere observance of whatever has been decreed and determined by the holy and approved fathers. I enlarged upon these, and many other things tending to charity, and the preservation of the peace of the church. And when I had finished my speech, I asked them singly and in order, whether they consented to observe all things which had been of old canonically decreed by the fathers? To which all our fellow-priests answered, We are all well agreed, readily and cheerfully to keep whatever the canons of the holy fathers have prescribed. Whereupon I presently produced the 'book of canons, and pointed out ten particulars, which I had marked, as being in a more especial manner known by me to be necessary for us, and proposed that all would undertake diligently to observe them, viz. :

<sup>c</sup> That is, the volume of which the second part of the Clergyman's

Vade-Mecum consists, excepting the canons of Trull, and the decrees of Gregory II.; neither of which were yet made\*.

1. That we all jointly keep <sup>d</sup>Easter day on the Lord's day after the fourteenth day of the moon in the first month.

<sup>d</sup> This canon was aimed at the Welsh and Irish, who still kept their Easter by another rule than that which Augustin brought from Rome†. It is not certain what their rule was, or how they came by it. Constantine, in his letter to the Churches, (Euseb. de vit. Const., lib. iii. c. 19,) declares that the Britons, as well as other nations, observed Easter as the council of Nice had directed. Whether the Romans or the Britons had departed from the measures there fixed, will very well bear a dispute. The invasions of the northern people in the fifth century cut off the communication which there had formerly been between Rome and the British Churches: and the revolutions made by the Saracens in Egypt, in the next century, did for a long while eclipse the patriarchs, and for a while interrupt the succession of them at Alexandria, from whence Easter day used to be notified to Rome, and from thence to all the Western Churches. During these commotions, the Church of Rome had the cycles for finding Easter, new modelled by Victorius, and Dionysius Exiguus; and it is probable they made some alterations, to which the Britons were strangers, and therefore opposed Augustin when he attempted to introduce them. It must be owned, that the Britons had not sufficient knowledge to state their case to the best advantage; and that their adversaries have left sufficient proof, that they depended more on the authority of St. Peter, and his pretended successor, than on their own reasons and arguments. The Northumbrians, though converted by Romanists, had taken up the British mode of keeping Easter, from three bishops, whom they had from the monastery in the isle of Hy, (now Colmkill) an Irish academy. Oswi, king of Northumberland, had a conference held before him on this subject, in the year 664, at Streons-heal, (now Whitby,) in Yorkshire, in a nunnery erected by Hilda the present abbess: there were two Irish bishops there; Colman was the principal advocate for the British Easter; there was a third bishop, viz., Agilbert of West Saxony, but Wilfrid the abbot was the chief speaker on that side: Oswi, though he had formerly kept the Irish or British Easter, gave in to the pleadings of Wilfrid, because he was told that Peter was the first author of the Roman Easter, and that he was key-keeper of heaven, from which Oswi desired not to be excluded. This was a colloquy, not a council, either civil or ecclesiastical;

\* [The Trullan canons made at Constantinople, A. D. 683, and the decrees of Pope Gregory II., A. D. 721, are also recognised as part of the code of the English Church by the fourth of the Legatine canons at Cealchythe, A. D. 786. See Clergyman's Vade-Mecum, by J. Johnson, Part. II. Preface, pp. cxii. cxiii. London. A. D. 1723.]

† [Rationem quare unanimum diei

paschæ observationem Theodorus hic inculcat, supra memoratus vir clar. Johnsonus in collect. canon., sub Theodori canonibus enarrat, totamque historiam controversiæ de certo paschatis die observando, breviter ac erudite complectitur his verbis. "This canon was aimed," &c. Wilkins' Concilia, vol. i. p. 42. note d. See above, p. 86.]



[Colman, one of those whom I call a Scotch or Irish bishop, went away un- (Addenda.) convinced, and deserted his see of Lindisfarne, where he had sat three years, and returned into his own country. Ceddi, the other of them, brother to Chad mentioned before, returned to his see of London, but died soon after.] The king pronounced sentence for himself only, and his family; for before this he had kept his Easter sometimes, while his queen, who was a Kentish lady, was in her Palm Sunday; and he passed sentence not in consideration of the merits of the cause, but in honour to St. Peter. The resolution of the king was neither a law, nor a canon, therefore it could not properly be inserted in the text. Theodore not only made this canon in behalf of the Roman Easter, but used great industry for the observing it throughout this island, yet the Welsh continued their old practice till about the year 800, and then Elbodeus, a bishop of their own, brought them into it. The ancient canon to which Theodore here refers, must have been Antioch. 1<sup>1</sup>.

2. \*That no bishop invade the parish of another, but be content with the government of the people committed to him.

\* See Can. Apost. §§<sup>2</sup>. Nic. 15<sup>3</sup>. Ant. 21<sup>4</sup>. Sard. 1<sup>5</sup>.

3. †That no bishop be allowed to give any molestation to monasteries consecrated to God, nor to take away by violence any thing that belongs to them.

† See Can. Calc. 24<sup>6</sup>.

4. ‡That the monks themselves go not from place to place, that is, from one monastery to another, without the abbot's leave, but continue in that obedience which they promised at the time of their conversion.

§ See Can. Calc. 4<sup>7</sup>. 23<sup>8</sup>. N.B. Some MS. copies, and I think all the printed copies, have here *episcopi monachi*; but Petit says that three copies have *ipsi monachi*; the first mistake, probably, came from reading *ipsi*, as if it had been *epi*, the abbreviation of *episcopi* \*. See Petit,

<sup>1</sup> [See *Conciliorum Collectio*, J. D. Mansi, tom. ii. p. 1308 D.]

<sup>2</sup> [The Apostolical Canons are generally divided into 85; but by Cotelarius and some others into 76. Mr. Johnson follows the latter division in the *Vade-Mecum*, but also gives the numbers of the former. Thus the canon here quoted is the eleventh according to Mr. Johnson, and the fourteenth in the more common division. See Preface to Apostolical Canons, *Vade-Mecum*, Part ii. p. 2. Also *Concil.*, tom. i. p. 32 D.]

<sup>3</sup> [Concil., tom. ii. p. 676 A.]

<sup>4</sup> [Ibid., tom. ii. p. 1318 A.]

<sup>5</sup> [Ibid., tom. iii. p. 5 D.]

<sup>6</sup> [Ibid., tom. vii. p. 367 D.]

<sup>7</sup> [Ibid., tom. vii. p. 359 D.]

<sup>8</sup> [Ibid., tom. vii. p. 367 C.]

\* [The absurd reading "*episcopi*" admitted by Sir H. Spelman, but rejected by Mr. Johnson and others, is contrary to the Moore MS. and the Anglo-Saxon version of Bede by King Alfred, whose words are,

ðe feorþa 17 þæt munecas ne leopon of þære to oþre ne of mýnre to oþrum, nýmbe ðurh leafrýrre hý agener Abbudes, ac þæt hý aþunan in ðær hýrnumýrre ðe hi Lobe behezon in tid heopa gehþýrrenerre.—See Wheloc's Bede, p. 273, and Smith's, p. 148, note. Also Wilkins' *Concilia*, vol. i. p. 43.]

Theodor. Pœnit., p. 43. See also the 66th of Ecgbright's Excerptions. Yet there have been bishop-monks; the Scotch, and some English bishops, frequently lived in monasteries, for want of an habitation of their own. Bede, in his letter to Ecgbright, complains that kings and great men were profuse in their endowments of monasteries, but that bishops wanted houses; and many bishops, tired with the fatigues of government, have retired into monasteries, and the entrance into the monastic life was called conversion; but it was often a conversion from better to worse.

5. <sup>b</sup> That no clerk, leaving his own bishop, go up and down at his own pleasure, nor be received wherever he comes, without the commendatory letters of his bishop; but if he be once received, and refuse to return when he is desired so to do, both the receiver and the received shall be laid under an excommunication.

<sup>a</sup> See Can. Ap. §§<sup>9</sup>. Laod. 41, 42<sup>10</sup>. Ant. 7<sup>11</sup>. Calc. 23<sup>12</sup>. Sard. 16<sup>13</sup>. Leo. 39<sup>14</sup>. Afr. 105<sup>15</sup>.

6. <sup>1</sup> That strange bishops and clerks be content with the hospitality that is freely offered them, and let not any of them exercise any priestly function without permission of the bishop, in whose parish he is known to be.

<sup>1</sup> See Can. Ap. §§<sup>16</sup>. Sard. 11<sup>17</sup>. &c.

7. <sup>2</sup> That a synod be assembled twice in the year. But because many occasions may hinder this, it was jointly agreed by all, that once in the year it be assembled, viz., on the kalends of August, at the place called <sup>1</sup> Cloves-hoo.

<sup>2</sup> See Can. Ap. §§<sup>18</sup>. Nic. 5<sup>19</sup>. Ant. 20<sup>20</sup>. Calc. 19<sup>21</sup>. Afr. 18, 95<sup>22</sup>.

<sup>1</sup> Cloves-hoo is supposed to be Abbyndon in Berks, of old written Sheafsham, perhaps for Cleofsham. See Index Nominum Locorum, at the end of Chronicon Saxonicum, pp. 9, 20\*.

8. <sup>m</sup> That no bishop put himself before another, out of an

<sup>9</sup> [Concil. J. D. Mansi, Canon. Apost. 32. tom. i. p. 35 B.]

<sup>10</sup> [Ibid., tom. ii. p. 571 B.]

<sup>11</sup> [Ibid., tom. ii. p. 1311 B.]

<sup>12</sup> [Ibid., tom. vii. p. 367 C.]

<sup>13</sup> [Ibid., tom. iii. p. 17 E.]

<sup>14</sup> [Ibid., tom. v. p. 1283 D.]

<sup>15</sup> [Ibid., tom. iii. p. 807 C.]

<sup>16</sup> [Ibid. (32.) tom. i. p. 35 B.]

<sup>17</sup> [Ibid., tom. iii. p. 19 A.]

<sup>18</sup> [Ibid. (36.) tom. i. p. 35 E.]

<sup>19</sup> [Ibid., tom. ii. p. 669 D.]

<sup>20</sup> [Ibid., tom. ii. p. 1326 B.]

<sup>21</sup> [Ibid., tom. vii. p. 365 D.]

<sup>22</sup> [Ibid., tom. iii. p. 719 C, and 779 D.]

• [See also Smith's Bede, p. 148, note 3.]

affectation of precedence, but that every one observe the time and order of his consecration.

▪ See Can. Afr. 86<sup>2</sup>.

9. <sup>a</sup> We had a conference together concerning increasing the number of bishops, in proportion to the number of the faithful. <sup>o</sup> But we determine nothing as to this point at present.

<sup>a</sup> That synods did of old create new parishes, (that is dioceses,) may be seen, Can. Afr. 53, 56, 98<sup>a</sup>. The sixth canon of Sardica<sup>2</sup> seems to leave it to the primate, and his comprovincial bishops, to erect parishes, and ordain bishops in them<sup>o</sup>, for they could not be thought to lay obligations on any, but them and the people, when they forbid bishoprics to be constituted in small cities. It is certain, there was at this time great occasion for more bishops in this nation; when, so far as appears, there were but as many bishops as there were kingdoms, save that Kent had always two; and so had the East Angles, when Bise grew infirm, and after his death; as likewise the Northumbrians, upon the expulsion of Wilfrid.

<sup>o</sup> The following sentence is not in the Saxon<sup>†</sup>. And some say, in this council the bishopric of the Mercians, that is, Lichfield, was divided into

<sup>2</sup> [Concil., tom. iii. p. 785 A.]

803 B.]

<sup>a</sup> [Ibid., tom. iii. p. 741 D, 747 D,

<sup>2</sup> [Ibid., tom. iii. p. 9 D.]

<sup>o</sup> [This is rather the drift of the 98th canon of the African code, A. D. 418, which is most to the purpose of the canons above quoted, and is thus translated by Mr. Johnson, "That people who never had a peculiar bishop, be not permitted to have one, but by the consent of the provincial synod, the primate, and the bishop to whose diocese the Church belongs." — Clergyman's Vade-Mecum, Part ii. p. 204.]

† ["Nonum capitulum in commune tractatum est, ut plures episcopi, crescente numero fidelium, augerentur, sed de hac re ad præsens siluimus." — Hist. Eccl., lib. iv. c. 5. Smith's Bede, p. 149. *ðe nýgeþa capitul pær gemænlice arneab, ꝥ te peaxendum ðam pime gelesjrumpa. ma byceopa wæryce pæpon.* King Alfred's translation, Smith's Bede, p. 573. The words "Sed de hac re ad præsens siluimus," according to the best manuscripts and editions, are given by Bede as the words of Theodore, and must therefore be allowed to be genuine, though not translated by King Alfred, who sometimes omits words and sentences which cannot be suspected to be spurious, as in this chapter the two paragraphs which follow the tenth canon. The

above sentence in Bede will bear a meaning somewhat different from that expressed in Mr. Johnson's translation, and quite consistent with the historical facts to which he refers in note *o*. We have here not a formal canon, but rather a preamble for a canon, and an earnest of something more, and may thus translate the sentence. "The ninth head considered among us, is that according to the increase in the number of the faithful, more bishops should be added, but concerning this matter for the present we kept silence." Theodore and his councillors were agreed that, in virtue of the authority vested in them by the ancient canons, and in consideration of the wants of the English Church at that time, they ought to increase the number of bishops, but in so grave a matter could not readily mature a plan in all its details, so as to be able to publish it together with their other nine canons. See Smith's Bede, p. 149, and the note there given by that learned editor, on the disobedience of Winfrid, and his consequent deposition by Theodore, A. D. 675; also Wilkins' Concilia, vol. i. p. 43.]

five, viz., Lichfield, Lege-Chester, (that is, West-Chester, I suppose, not Leicester,) Hereford, Worcester, and Lindsey. Others suppose Hereford to have been founded some time before, and that the division of the Mercian see was into Lichfield, Worcester, Chester, Sidna-Chester, and Dorchester. It is agreed that some such division was now made, or soon after: and that Winfrid, who was consecrated bishop of Lichfield, by Theodore, was also deprived by him for opposing this attempt. But our history here is very dark; and the succession of the first bishops of Rome is not more involved than is [the succession of] those of Lichfield.

Ed.

10. As to matrimony, that none be allowed to any but what is lawful. <sup>p</sup> Let none commit incest. <sup>q</sup> Let no one relinquish his own wife, but for fornication, as the Gospel teaches. But if any man divorce a wife, to whom he has been lawfully married, let him not be coupled to another, but remain as he is, or be reconciled to his wife, if he will be a right good Christian.

<sup>p</sup> See Can. Neoc. 2<sup>36</sup>. Basil. 67, 68, 75, 79<sup>27</sup>.

<sup>q</sup> See Can. Ap. §§<sup>28</sup>. Basil. 77<sup>29</sup>. Yet by Theodore's Penitential, published by Petit, the innocent party is permitted to marry again; and he that has been married but once is allowed the same liberty; and so is the woman after two years. Nay, if the husband forfeits his liberty for any crime, the wife being a free woman is allowed to take another man\*. A man may dare say, that that Penitential was a work of some great man in this age, if it were not Theodore's. Perhaps there he speaks of what may be done without direct sin, here of what best becomes a Christian; which may be implied in these words, 'Si recte Christianus esse voluerit;' which I turn, 'If he will be a right good Christian.'

After we had jointly treated upon, and determined these

<sup>26</sup> [Concil. J. D. Mansi, tom. ii. p. 539 D.]

<sup>27</sup> [Ibid., tom. iii. p. 1213 E, 1215 E, 1217 C.]

<sup>28</sup> [Canon., Apost. (47.) ibid., tom. i. p. 39 B.]

<sup>29</sup> [Ibid., tom. iii. p. 1217 B.]

\* ["Si cujus uxor fornicata fuerit, licet dimittere eam et aliam accipere; hoc est si vir dimiserit uxorem suam propter fornicationem, si prima fuerit uxor, licitum est ut aliam accipiat uxorem: illa vero si voluerit poenitere sua peccata, post duos annos alium accipiat virum. Mulieri non licet virum dimittere, licet sit fornicator: Basilium hoc judicavit. Legitimum conjugium non licet separare sine consensu amborum, potest tamen alter alteri licentiam dare accedere ad servitutem Dei in monasterio, et sibi nubere, si in primo conjugio erat secundum Græcos; et

tamen non est canonicum: sin tamen in secundo erat non licet tertio vivente viro vel uxore. Maritus si ipse seipsum in furto aut fornicatione servum facit, vel quocunque peccato, mulier si prius non habuit conjugium, habet potestatem post annum alterum accipere virum. Diaconi autem relicte non licet. Muliere mortua, licet viro post mensem alteram accipere. Mortuo viro post annum licet mulieri alterum tollere virum."—Theodori Poenit. ed. J. Petit, c. xi. p. 10. Compare Ancient Laws and Institutes of England, c. xix. p. 285.]

points, to the intent that no scandalous contention should be raised henceforth by any of us, <sup>r</sup> or that there should be no mistake in the publication of them, it seemed proper that every one of us should confirm them by the subscription of his own hand, according as they had been determined. I dictated this definitive sentence of ours, to be written by Titillus the notary. Done in the month and indiction above written.

<sup>r</sup> Lat. 'autilia pro aliis divulgarentur.' Sir H. Spelman has præ for pro.

Whosoever, therefore, shall attempt to oppose and infringe this sentence, confirmed by our consent, and the subscription of our hands as agreeable to the decrees of the canons, let him know, that he is forbid every function of a priest, and all society with us. May the Divine grace preserve you safe in the unity of His Church, so long as you live.

This synod was holden in the year 673, from the incarnation of our Lord, in which year Egbert, king of the Kentish, dying in the month of July, was succeeded by his brother Lothere.

## A. D. DCLXXIX.

### PREFACE TO THE ROMAN SYNOD CONCERNING BRITISH AFFAIRS.

It is evident not only from the ninth canon of the foregoing council, but from the whole tenor of Theodore's administration, that one main point which he aimed at was, the increasing the number of English bishoprics. Pope Gregory's model was, to have two archbishops, one at London, (after Augustin's decease,) the other at York, with twelve suffragans to each\*. And no judicious Christian can think this an excessive number. But Gregory designed this scheme on express condition that Augustin should send a bishop to York, and that the city and countries thereunto belonging received the word of God. Paulinus was ordained bishop of the Northumbrians by Justus, Augustin's third successor, in 625, and had his see at York, and received the pall from Rome, though he never had one suffragan bishop under him. For though during King Edwin's reign Christianity gained ground, yet a stop was put to the progress of it by his death, in 633, through the apostacy of his successors: whereupon Paulinus deserted his see and retired to Rochester, and lived and died bishop of that see. Yet within two years after, through the encouragement of pious King Oswald, religion began again to lift up its head and recover strength. Aidan, Finan, and Colman employed their study and labours successively, for near thirty years one after the other, for the conversion of the Northumbrians, and had each of them the whole kingdom for their diocese; their see was not York, but Lindisfarne, a small island, or rather a great rock, near the shore of Northumberland. They were all three of the British or Irish communion, and therefore received no pall from Rome, and would scarce

\* [Bede, Hist. Eccl., lib. i. c. 29. See below, p. 112, *note*.]

have accepted it, if it had been sent them. Chad, who succeeded Colman, (after the short presidency of Tuda,) carried on the good work of settling Christianity in this kingdom, for three or four years, and his see was York. But Theodore removed Chad, because but one of those who consecrated him was of the Romish communion. Yet to finish the conversion of the Northumbrians he put Wilfrid into the see of York, who was entirely a Romanist, though English born, and a man of most persuasive oratory; and he was designed bishop of York before Chad; but staying too long in France, whither he went for consecration, Chad was advanced to that see before his return.

Now, if ever, it was time to divide this immense diocese, when Wilfrid had spent ten years in settling Christianity there: therefore in the year 678 Theodore calls a synod, and divided it into two. Wilfrid for opposing this partition was deposed, if not degraded; and King Ecgfrid thrusts him out of his see. Hereupon Theodore consecrates Bosa to the see of York, Eata to that of Lindisfarne. (Some say, I know not on what grounds, that Eata was consecrated to Hexham, Lindisfarne reserved for Wilfrid, if he would accept it.) Ecgfrid had lately won Lindsey, if not the whole (present) county of Lincoln, from the Mercians. This new conquest was erected into a diocese, and Eadhed was consecrated bishop of it at the same time that Bosa and Eata were consecrated to the two Northumbrian dioceses. It seems Wilfrid, thinking his former diocese too narrow, claimed Lindsey as an appurtenance accruing to it by the right of conquest. And therefore he made complaint against Theodore, as having obtruded three bishops upon the see of which he was the only just possessor. He could procure no redress at home, for the king and court of Northumbria had a perfect aversion to him. Both Theodore and Wilfrid took care to have their cases stated to the best advantage, and laid before the pope, who had great influence here in these ages. But Wilfrid being more distrustful of his cause than the other, and knowing that every man of sense is the best solicitor in his own business, embarks for Rome, but was carried, by contrary winds, to Frisia, and spent the winter there in preaching

to that barbarous people\*. He did not leave his new converts very early next spring, and had a difficult and long journey from thence to Rome; and therefore did not arrive there till it was late in the next year, viz. 679.

In the mean time, probably before Wilfrid's arrival, Pope Agatho, upon information of these stirrs in England, calls a synod, or rather an extraordinary consistory; so I call it, because the greatest part of them who sat in it, were probably no other than the incumbents of the more considerable titles, or parish churches in the city of Rome. For these were the pope's standing counsellors in this age, and were called cardinal-priests or deacons. Those now called cardinals were first established in the tenth, or eleventh century. The seventeen bishops who were added to these priests, made it an extraordinary consistory. It is not certain, whether these bishops were called to Rome on this particular occasion; or had been summoned thither before, to assist at the great council, which was to be held there, against the Monothelites. They were all, I think, of the suburbicary provinces, and were therefore to attend upon all extraordinary occasions at Rome; but yet they might first be drawn thither at this time upon the greater occasion of condemning the Monothelites. And because other bishops were not arrived in sufficient numbers to open the great council, the pope might, in the mean time, employ them in examining and determining the British cause.

\* [The country here mentioned is Frisia or Friesland occidentalis, the north-eastern province of Holland, still called Friesland, to which Wilfrid would be naturally carried by a west wind from Northumbria. See Atlas, Blaeu. Amsterdam, A.D. 1667. vol. i. p. xvii. and vol. iv. p. 87.

At Wilfridus, cujus prudentiam hostilium consiliorum machinæ non laterent, levi Favonio provectus in altum, proras in Eurum obvertit, ut Frisiam navigaret; exceptusque a rege et populo honorifice, ibidem hyemem, quæ imminebat, exegit. Commercium miserandum, ut inter barbaros tutius quam inter suos viveret,

ejectus a patria, dilectus in Frisia. Continuo igitur ad predicationem ejus Adagilsus Rex gentilem tumorem inflexus, faciliorem in cæteros predicationis viam aperuit. Hunc ad necem vel expulsionem viri Dei Ebroinus epistolis cum tentasset aurum immensum pollicitus, irritus fuit. Chartam enim audiente Wilfrido, et epulante in triclinio lectam Adagilsus projecit in ignem, dicens: 'Sic ardeat, qui pactum cum amico initum pro auri cupiditate dissolvit.' Jamque se verna temperies etc.—W. Malmesb. de gest. Pont., lib. iiii. p. 262. See below, p. 101, *note*.]



## A. D. DCLXXIX.

### THE ROMAN COUNCIL ABOUT BRITISH AFFAIRS.

IN the name of the Lord our Saviour Jesus Christ, in the reign of our most pious lords, the august Constantine the Great, the <sup>a</sup>twenty sixth year of his empire, the tenth after his consulship, the twenty second of the new Augusti, Heraclius and Tiberius his brethren, the seventh indiction, the month of October. Agatho, the most holy and blessed apostolical, <sup>b</sup>universal pope of the holy Catholic Church of God in the city of Rome presiding, the sacred Gospels being placed in open view, in the <sup>c</sup>royal palace of our Saviour the Lord Jesus Christ, called Constantiniana, together with the glorious and most holy bishops, who were co-assessors and cognosors with him, <sup>d</sup>Crescens of Vibo-Valentia, in Calabria, <sup>e</sup>Andrew of Ostia, <sup>f</sup>Juvenal of Albanum, <sup>g</sup>Maurice of Tibur, <sup>h</sup>John of Faleronia, <sup>i</sup>Benedict of Messana, <sup>k</sup>Theodosius of Syracuse, <sup>l</sup>Deusededit of Narnia, <sup>m</sup>Paul of Namentum, <sup>n</sup>John of Porto, <sup>o</sup>Deodatus of Nepe, <sup>p</sup>Vitus of Sylva Candida, <sup>q</sup>Gaudiosus of Signia, <sup>r</sup>George of Agrigentum, <sup>s</sup>Placidius of Veletræ, <sup>t</sup>George of Catana, <sup>u</sup>Deodatus of Tusculum; and the venerable priests, Boniface, Peter, Juvenal, Theodosius, George, Theodorus, Sergius, Theodorus, Sisinnius, Theodorus, Augustus, Benedict, Paul, Tribunus, Coronus, Peter, John, Sisinnius, Epiphanius, Sisinnius, Decorus, Soleuncius, Theopictus, Martin, Sisinnius, George, Sisinnius, John, Habitus, Probinus, John, Martin, Peter, Eutichius, and Sergius, the deacons beloved of God, and all the clergy standing by.

LATIN.  
Sir H. S.,  
vol. i. p.  
168.  
[Wilkins,  
vol. i. p.  
46.]

<sup>a</sup> Constantine Pogonatus had reigned fourteen years together with his father Constans, and eleven years since his death, and so was now entered into the twenty-sixth year of his reign.

<sup>b</sup> Within ten years after the death of Pope Gregory the Great, who declared his brother John of Constantinople to have been guilty of Antichristianism, in taking on himself the title of universal bishop, his successor Boniface accepted the primacy of all churches, which implies the title of universal bishop, from the usurper Phocas. And Boniface dearly

earned this title from him, by countenancing him in the murder of his lord and master Mauricius, and usurping of his throne.

<sup>c</sup> Lat. *basilica*, the temple.

<sup>d</sup> Never any synod, or consistory, met with a more ignorant transcriber of its acts, than he who wrote the copy published by Sir H. Spelman. My reader will easily see that it had been impossible for me to have spelled out the names, and especially the sees of these bishops, if I had not found them in the subscriptions of the one hundred and twenty-five bishops, who sat the next year in a great council at Rome, which are extant in the fourth action of the synod of Constantinople in Trullo\*. For instance, the name of the first bishop in these acts, as published by Sir H. Spelman, is thus expressed in his edition, viz., *Crescente Ecclesiæ Vinonensis, Phoberio*. But in the subscriptions to the great council, in the thirty-eighth place, we have this same bishop thus subscribing, viz., *Κρίσης*———*Βιβανος ἐπαρχίας καλαβρίας*. The Latin (though it was the original) is here too corrupted, viz., *Orestes—Vibonis, &c.*

<sup>e</sup> Andrew of Ostia subscribes in the next place, after the pope in the great council: and the bishop of that see being near to Rome, was always esteemed the pope's prime counsellor; however, Crescens had the upper hand of him here; I am apt to think it was through the error of this blundering copier. See Art. 2. of the council itself.

<sup>f</sup> Juvenal of Albanum subscribes in the twenty-third place to the great council.

<sup>g</sup> Mauricius of Tibur subscribes that council in the forty-uinth place.

<sup>h</sup> In Sir H. Spelman's copy, Johannes Falaritano. In the subscriptions to the great council, it is in the one hundred and ninth place, and written Johannes Ecclesiæ Salernitanæ; as if he had been bishop of Salernum. But Binius† supposes it ought to be Falernitanæ, and the Greek is *Φαλαρῶς*.

<sup>i</sup> Benedict of Messana subscribes in the fortieth place to the great council.

<sup>k</sup> Theodosius of Syracuse in the thirty-ninth place.

<sup>l</sup> Deusdedit of Narnia in the one hundred and twelfth place.

<sup>m</sup> Sir H. Spelman's copy has here, Paulo Cognomento, without any sense. But the twenty-fifth subscription to the great council is, Paulus—Nomentanæ Ecclesiæ.

<sup>n</sup> In Sir H. Spelman, Joanne Turtuense, unintelligible: but the twenty-sixth subscription of the great council is Joannes—Portuensis Ecclesiæ.

\* [The synod here mentioned is in collections of councils reckoned the sixth ecumenical, and the third at Constantinople; it met A. D. 680, in a "trullus" or domed chamber of the palace, and its fourth action consisted in reading the letters of Pope Agatho and the great council that had been held the same year at Rome against the Monothelites, but it made no canons. Those called Trullan canons were sent forth by a later

council that met in the same place, and from pretending to be supplementary to the fifth and sixth general councils was called Quini-sexstine. See *Vade-Mecum*, Part ii. p. 264. *Council. Mansi*, tom. xi. pp. 297—316, 922 D. Mr. Johnson's numbers do not quite tally with the subscriptions as given by Binius or Harduinus, or in later collections, but are sufficiently near to make further reference unnecessary.]

† [Binii *Concilia*, tom. iii. p. 24.]

• and These two subscriptions are confounded in Sir H. Spelman thus, Theodato Neperi, Novita Sylva Candida: the reading is thus to be restored, viz., Deodato Nepesino, Vito Sylvæ Candidæ, accordingly the one hundred and eighth subscription to the great council is in Greek *Δεοδάτος*—*τῆς Ἐκκλησίας Νεπείνης*: in the Latin, Theodorus (a name of the same signification)—*Ecclesiæ Nepesinæ*: and in the twenty-fourth subscription Vitus—*Sylvæ Candidæ*.

• Gaudiosus of Signia subscribes to the great council in the eighty-sixth place.

• George of Agrigentum in the forty-sixth place.

• The twenty-second subscription to the great council is *Barbatus—Veliternensis Ecclesiæ*, but in Greek *Πλακίντιος*, &c. This brings it nearer to Sir H. Spelman's copy.

• The forty-fourth subscription to the great council is Julianus—*Catinensis*. Here it is *Georgio Catinensâ*. I am inclined to think, that the name of the fifteenth bishop was *Placentius*, or *Placidias*, and perhaps these two names were esteemed the same, because they were equivalent in signification. But both the Greek and Latin give him of Catana the name of *Julianus*: therefore either here is another blunder of our scribe, or else it may be said, that George was bishop of Catana in the year 679, but died before the council was opened in the year 680, and Julian was his successor.

• I can discover no one bishop of Tullum (so it is in Sir H. Spelman, *Deodato Tullense*) nor of Tusculum, as I have ventured to correct it in the subscriptions before cited. We are not to wonder, that one among seventeen was present at this consistory, that was not present at the great council, death, sickness, or a thousand other accidents might intervene. However, it is more probable that his see was at the suburbicary Tusculum, than at Toul in Luxemburgh, (for all the rest were Italians or Sicilians,) and he might die or return home before the great council\*.

• [Wilkins, who adopts most of Mr. Johnson's emendations, in the above list of names and titles retains *Deodato Tullense*, and with reason. Tullum, now Toul, in the department Meurthe of France, became a bishop's see about A. D. 350. *Deodatus*, or *Adeodatus*, who is reckoned the eighteenth of the "Episcopi Tullenses," was sent, A. D. 679, by Dagobert II. king of Austrasia as a companion to Wilfrid of York, when thrust out of his episcopal charge and on his way to Rome to plead his cause before the pope. He signed with the other bishops next before Wilfrid at the great council at Rome, A. D. 680, in these words, "Adeodatus humilis episcopus sanctæ ecclesiæ Leucorum, legatus venerabilis synodi per Galliarum provincias constitutæ, in hanc suggestionem, quam pro apostolica nostra fide unanimiter construximus, similiter subscripsi."—

*Gallia Christiana*, tom. xiii. pp. 958, 964. Paris. A. D. 1785. Concil., tom. xi. p. 306 B.

Jamque se verna temperies aperiebat in flores, cum Wilfridus itinere re-incepto ad Dagobertum regem transrhenanorum Francorum venit. Is non immemor, quod eum quondam factione magnatum pulsum, et de Hybernia ad se venientem hospitio receperit, et equis sociisque adjutum patriæ remisit, benigne habuit, multaque precibus fatigavit ut provinciam remanentia sua dignaretur episcopatum Strateburgensem accipiens. Cum ille rogantem ad reditum suum de Roma distulisset, cum Deodato episcopo suo ire laxavit.—W. Malmesb. *De gestis Pont. Angl.*, lib. iii. p. 262. Mansi follows Spelman in the list of names, but adds in a note emendations from Wilkins. See Concil. Mansi, tom. xi. p. 179.]

The reader will not think I have taken this pains purely to discover the true lections of this council: no, it was my intent by this means to prove that those acts are genuine. None of the monkish forgers could by chance, or even by their craft, find fourteen true names of contemporary bishops for so many Italian sees in ages past. These fourteen bishops' names thus adjusted are fourteen good arguments for the truth of this matter of fact, viz., that such a synod or consistory was at this time kept at Rome, and that these bishops sat in it; especially when the date carries such a just coincidence of the indiction, and the year of the emperor's reign.

1. Agatho the most holy and blessed pontiff, &c. (as before) said to his co-assessors, I know you cannot be ignorant for what reason I have called you, my brethren, to this venerable convention, viz., because I desire your sincerity to examine and treat with me concerning the state of the Church in the island of Britain, where by the grace of God the multitude of believers are greatly increased, there a dissension is lately raised; whereas the harmony of the faith is one only; which [faith] they received by the preaching and instruction of this apostolical see, it being begun and regulated by our blessed memorable predecessor St. Gregory, and by St. Augustin and his companions.

2. The most reverend bishops Andrew and John answered in the presence of all, saying, It is evident to all, that the Churches situate in the island of Britain do much want pontifical succour; especially because of the dissension there between the most holy archbishop Theodore, and other prelates of that same province, which the apostolical authority only is able, with the help of God, to assuage, and to remove the fuel of dissension, while it takes away the occasion of scandal and prunes off superfluities, and cures by spiritual medicines, such things as are agreed to be done there, hurtful to Christian polity.

† Here Andrew of Ostia speaks next to the pope. See note e above.

‡ Lat. *pontificalis succursu*. I read, *pontificali succursu* \*.

3. Agatho the most holy, &c. (as before) said, It appears that you, my brethren, are agreed that it is suitable to equity, that things be brought to an issue: for whatever [decrees] do still subsist, our predecessors by unanimous agreement, have long since provided and ordained; that is, the blessed Gregory the First, pontiff of this apostolical see,

\* [Ex Johnsonio edoctus ita lego.—Wilkins.]

and the apostolical summity of all \*Saxony, and his successors the apostolical pontiffs down even to our times. And we have before this provided and ordained, that those statutes which have been long since established by synodal decrees, by the blessed Peter, prince of the Apostles, be immutably and inviolably kept for ever, by all the prelates of the Churches of Christ, where they are constituted.

† Of all papal speeches and acts that I have seen, Agatho's come behind none in flatness, incoherence, and obscurity. There is little to be learned from him, but that he was much disposed to display and magnify his own supposed authority. And his bench of bishops were of a piece with him. And probably the transcriber has done his share by confounding and transposing what was before dark and harsh.

‡ It is not often that England passes under the name of Saxony as here it does.

*It seems probable that some paragraphs are here wanting: for the following definition one would think could not have been made, especially not by two bishops only, without some previous debate concerning an addition to be made to the English dioceses, beyond what had been yet done by Theodore.*

4. Crescens, bishop of the Church of Vibo, and Juvenal, bishop of the holy Church of Albanum, said, Therefore the whole synod giving a regular definition, is agreed, as to these points, \*with the most holy and blessed pontiff Agatho. And if the enemy of mankind is always endeavouring to sow tares among the good seed, †care is to be taken of him. Among the faithful in the island of Britain, he has endeavoured to excite Churches, and prelates of Churches against each other. But the supernal clemency permits not its faithful people always to be tempted, but gives advice, that they who consult and are consulted, embrace each the other, [and] both be saved. Therefore all points being considered and debated, both what we know by the relation of such as come hither, and what could be collected from the divers written reports that have been sent to the apostolical see, upon a very solicitous enquiry we have resolved, with common consent, to publish this definitive sentence: we determine then, and ordain, by the authority of the blessed Peter, prince of the Apostles, to whom the Creator and Saviour of mankind, the Lord Jesus Christ the Son of God, gave the keys of binding and loosing in heaven and earth, that every

kingdom constituted in the island of Britain have bishops of their provinces so placed, in proportion to their dominion, that all the prelates of the Churches, together with the archbishop, may be twelve in number. Let the archbishop, who for the time being is honoured with the pall by this apostolical see, promote and canonically ordain them to the sacerdotal honour; and let them be subject to his ordering only; with this express condition, that none of the bishops presume to meddle with the rights of another prelate; but that every one preserve his own rights untouched, and study to instruct and convert the people.

\* *Dele quæ.*

† I read, *cavendus est, not et cavendis*; and delete *hoc est.*

‡ Whatever division was made in, or soon after, the council of Herudford, it is certain that bishops were not yet put into those new dioceses in the kingdom of Mercia, nor till many years after this. It is certain that Sexulf of Lichfield was the sole bishop in Mercia at this time, unless you will reckon Lindsey to be in Mercia, though conquered by the king of Northumberland, and there indeed Eadhed was bishop. When the second article of this council mentions a dissension between Theodore and other prelates; the words strictly taken do imply, that some other bishops, or one at least beside Wilfrid, resented Theodore's proceedings. And it is not improbable, that Sexulf, though promoted by Theodore, as well as Wilfrid, was displeas'd at Eadhed's being put into a diocese dismembered from his; especially because he knew that Theodore meditated still a subdivision of this great Mercian diocese. It is certain that Hedde of Winchester could not dislike Theodore's management, because his see was privileged from any partition during his life, on account of his merit in translating the body of Byrinus from Dorchester to Winchester, together with his see, by papal authority. Rudburn, in his *Historia major, Wintoniensis*, (lib. ii. c. 23\*) cites the second decree of Theodore to this purpose. If we had the rest of those decrees, they would give us great light into this matter. If we compute the number of the English bishops at present, they were as follows, one at Canterbury, a second at Rochester, a third at London, a fourth at Winchester, a fifth and sixth at Elmham and Dummoc, a seventh at Lichfield, an eighth and ninth at York and Lindisfarne. If Eadhed was removed from Lindsey by this time, (as we are sure he was, when the king of Mercia recovered that country from the Northumbrians, which was now or soon after,) yet he presided at Ripon, though whether as bishop or abbot is not so certain. However, Hereford was erected into a bishopric about this time; so that we may depend upon the number ten; therefore but two more were necessary to make up the complement here prescribed by the pope and consistory. Accordingly Theodore, three years after the deposition of Wilfrid, consecrated Trumberht to Hexham, and Trumwin for the diocese

\* [Anglia Sacra, H. Wharton, vol. i. p. 193.]

of the Picts, the see whereof was afterwards fixed at Wittern, Bede, Hist. Eccl., lib. iv. c. 12. It ought particularly to be observed, that this article is wholly in favour of Theodore's proceedings. It is so far from condemning him for increasing the number of dioceses, that it enjoins more bishops still to be created; and instead of blaming him for filling the sees by his own authority, it declares the power of filling sees, when vacant, to be in him. And it ought to be remarked, that the kings of Mercia were the principal adversaries and obstructors to Theodore, and his designs of increasing the number of bishops. When Theodore deposed Wiulfred for not submitting to a partition of his diocese, and put Sexulf in his stead, the diocese was still kept undivided: this must have been through King Ethelred's opposition: and again, the same king put Wilfrid into a diocese in Mercia, when he was ejected from York. For though this king was against the division of the Mercian diocese when proposed by Theodore, yet he did it of his own accord, when he thought it would be disobliging to the archbishop of Canterbury, Brihtwald, Theodore's successor. For it was the metropolitanical power of the see of Canterbury, that these Mercian kings could not relish: therefore when Wilfrid was deposed from his Mercian see, Ethelred and his successor Kenred, would permit no bishop to supply his place. But Hedda was sole bishop of the Mercian see and kingdom, as Sexulf had been before.

5. We also ordain and decree, that bishops, and all whosoever profess the religious life of the ecclesiastical order, do not use weapons, nor keep musicians of the female sex\*, nor any musical concerts whatsoever, nor do allow of any buffooneries or plays in their presence. For the discipline of the holy Church permits not her faithful priests to use any of these things, but charges them to be employed in divine offices, in making provisions for the poor, and for the benefit of the Church: especially† let lessons out of the divine oracles be always read, for the edification of the Churches, that the minds of the hearers may be fed with the divine word, even at the very time of their bodily repast.

\* [Citharædas.]

† ["Magisque," "and rather." The translation seems here to miss the point of the original. To have music and singing, buffooneries and plays at feasts and even on ordinary days at the principal meal, is a practice which has prevailed more or less generally in all ages, and within due bounds may have been thought allowable for the laity, but to ecclesiastics such amusements were strictly forbidden, and for them it was ordered that "rather," that is, instead of all profane amuse-

ments at meal time and in preference to them, a lesson should always be read, in order that the souls of the hearers might be refreshed together with their bodily refreshments. This rule was carefully observed in monasteries, and in the refectory or hall was a desk from which the anagnostes or reader performed his office at the bidding of the prior. See Isaiah v. 12; Amos vi. 5. Antiquities of the English, J. Strutt, vol. iii. pp. 107, 146. English Monasteries, Fox, p. 170.]

4 Lat. *symphonia*, but syntax requires an accusative case. I would read, *symphoniaca*, or *symphoniacas*, women to perform their parts in a concert.

6. Agatho the most holy, &c., (as before) said, If it might be thought provident and seasonable, by \*your brotherly charity, it must also be decreed much for the soul's health of the people there, that enquiry be made concerning the [observance of the] ecclesiastical statutes, and the 'situation of the bishops, and their approbation of the catholic faith, in what manner, and how orthodoxly it is kept and held by all, in the provinces of Saxony.

\* *Vestræ*, not *Vestri*.

' Lat. *De serie episcoporum*. *Series* often redounds in ancient writings, but here it may signify the distance of the bishops and sees from each other. See Art. 4.

7. Andrew and John, the most reverend bishops of the Churches of Ostia and Porta, said, It is certainly what is enjoined your holiness, as by the sentence of the Apostles. [8]Therefore] let this decretal order be directed from hence thither, in a letter, by a prudent, proper, well learned man, to Theodore the most reverend and holy archbishop of the Kentish men, who belongs to the holy Church of God our Saviour, (in which He that redeemed the Church with His own blood, our Lord Jesus Christ, founded the <sup>h</sup>sacerdotal primacy in those parts, in building and settling it by the authority of the blessed Peter, prince of the Apostles, and by your predecessor Gregory of blessed memory, and by St. Augustine his <sup>h</sup>syncellite,) that the said Theodore may, by your sacred authority, and by consent of our synod, assemble a general council, and cause a public, <sup>h</sup>universal synod of all prelates, kings, princes, and all the faithful seniors and elders of all Saxony: and do you charge them by authority of your apostleship, with a diligent scrutiny, to make enquiry before all, and that they do all observe not only <sup>h</sup>these orders aforesaid, but whatever else your holiness enjoins by your messengers, or by your letters. For what is managed by the consent of many can give no offence to them who have consented to it. This proposal pleased the whole synod, together with the most holy and blessed apostolical



pontiff Agatho. And they all began unanimously to enquire after, and by the guidance of Christ they found the man, the venerable John, precentor of the Church of St. Peter the Apostle, and abbot of the monastery of the blessed Martin, who was sent at the command of Agatho, from Rome to Britain.

\* A full stop at *censura*.

† Lat. *sacerdotii principatum*. If there be any thing clear in the acts of this council, it is this, that Gregory, by St. Augustin, settled an archbishopric at Canterbury. And this is said at Rome, by those who kept the registries of all the proceedings of former popes, or had them within their reach to consult upon all occasions: it was said within less than eighty years after this settlement must have been made. By Pope Gregory's first provision, (Bede, lib. i. c. 29,) Canterbury was to have the primacy during Augustin's life only. The perpetual settlement of the primacy at Canterbury was therefore made in the declining part of Augustin's life, probably the year before he died, viz., 603, at the soonest\*.

† Deputy, or surrogate. See Sir H. Spelman, Gloss. Sincellus †.

† *Œcumenicam*.

† Read *has prædictus*.

8. We ordain and decree, by <sup>m</sup>this provident and notable instruction of the canons to bring profit, as to the stewards of the Church, so also to the people committed to them, whom the divine clemency hath brought to the knowledge of itself. And we judge it to be for their soul's health, that by the great numbers of neighbouring bishops, who take care to bring [each] his own parish to the study of perfect religion,

\* [The truth of this conjecture is clearly shewn by the following words in a letter from Pope Honorius to Honorius archbishop of Canterbury, A. D. 634. "Interea tuæ sedis auctoritatem nostræ auctoritatis privilegio firmari postulasti. Nos vero absque ulla dilatione gratuito animo annuentes, quia rectum est ut quæ semel statuta atque disposita a prædecessoribus nostris cognovimus, hoc ipsum et nos confirmemus. Eorum itaque vestigia assequentes juxta ritum prisicæ consuetudinis, quæ a temporibus sanctæ recordationis Augustini prædecessoris vestri nunc usque tua ecclesia detinuit, ex auctoritate beati Petri apostolorum principis primatum omnium ecclesiarum Britannicæ tibi, Honori, tuique successoribus in perpetuum obtinere concedimus. Tuæ ergo jurisdictioni

subjici præcipimus omnes ecclesias Angliæ et regiones, et in civitate Dorovernia metropolitana locus et honor archiepiscopatus, et caput omnium ecclesiarum Anglorum populorum semper in posterum servetur, et a nulla persona per aliquam malam suasionem in alium locum mutetur."— Ex cod. Cott. Faust, B. 6. fol. 94 b. Concilia, Wilkins, vol. i. p. 35. See below, p. 112, note.]

† [Sincellus. Epist. Leonis Papæ ad Kenulphum Regem Merciorum apud Malmes., lib. i. de gest. Regum, c. 5. "In sacro scrinio nostro reperimus, sanctum Gregorium prædecessorem nostrum in integro ipsam parochiam numero duodecim beato Augustino sin-cello suo archiepiscopo tradidisse et confirmasse episcopos consecrando."— H. Spelmani Glossarium, p. 516.]

the pimps of heretical pravity may find no room to deceive the simple, and to disseminate their schisms and errors, forasmuch as they are daily cut down and made to fall by the scythe of pious doctrine; and all things are wholesomely deliberated and ordered (so as strongly to prevail) by the counsel of many bishops assembling with the archbishop. For where many counsellors are, there is safety: and so, where two or three are assembled in the name of the Lord, there is He in the midst of them; much more where many are unanimously gathered together to confess His name, and to glory in His praise.

<sup>m</sup> *Hac, not hæc.* This is one of the vainest decrees that ever passed in a Roman synod. To ordain that the canonical means used by them shall destroy schisms and heresies, is just as wise as if a commission of sewers should, in sober sadness, resolve and decree, that the walls and banks raised by their direction shall shut out the sea and keep it at a distance from the *terra firma*.

▪ Here add *ut.* After *convenientium dele cum.*

9. Moreover, Agatho, the most holy &c., (as before) delivered also to the aforesaid religious abbot John the synod of the blessed Pope Martin, subscribed by one hundred and five bishops, not long before at °Rome, that when he went into Britain, he might carry it with him to the Archbishop Theodore, not only as a testimony and confirmation of his legateship; but also that Theodore the archbishop might <sup>p</sup>recommmend that, whatever it were, which he with the wise, faithful, and religious men in the provinces of the English, could find conducive to the profit of the Churches of Christ, and of all the people of God that dwell there; or to the religion of Christ, to be corroborated and transcribed by the authority aforesaid.

• Romæ, not Remis. The council at Rome under Pope Martin in the year 648, or rather 9, is clearly the council here meant. It contains four pages in Sir H. Spelman's first volume, beginning at page 171.

▪ I read *recommndaret*, not *daverat*.

It may seem strange that Pope Agatho should not charge his legate, John, to let Theodore know that he accepted of his excuse for not attending the approaching synod at Rome, which the popish writers say was his age and infirmi-

ties, though he lived ten years after this, almost eleven : nay, which is more strange, there is no hint given that he did ever at all expect him. If he ever had any hopes of seeing him at Rome, he had certainly now given it over; else he would have desired him to hasten his journey, at least so soon as the English synod had concluded their business. In this pope's synodical letter, written to the emperor, as before has been said, an excuse is made for the tardiness he had been guilty of in sending this synodical letter no sooner, viz., because he had long expected Theodore, archbishop of Canterbury, to join with him in the synod which he assembled at Rome: and this letter was written the year after that John was sent to England. The synod of one hundred and twenty-five bishops held at Rome, was assembled on purpose to collect the sentiments of the western Churches in relation to the heresy of the Monothelites: and in Agatho's letter now mentioned, the belief of the western bishops is reported to the emperor by the pope, and subscribed not only by Agatho, but the hundred and twenty-five bishops, of which Wilfrid is one. Our English writers commonly say, that Pope Agatho in that letter declares, that he hoped to have Theodore's company to the council held that year (viz., 680) in Trullo at Constanti-nople; but I do not find that the pope in his letter gives the least intimation of his own design to go to Constanti-nople, much less of bringing Theodore thither with him: nor are the words cited by our writers the same with those used in the letter itself\*. The council at which Theodore was expected was that held at Rome; and of his being invited thither there is not one word mentioned in the instructions here ordered to be given to John the precentor.

\* ["Præterea satisfaciendum est nostro exiguo famulatu apud serenissimorum dominorum nostrorum clementiam, pro tarditate missarum ex concilio nostro personarum, quas dirigi per suam augustissimam sacram, vestrum piissimum fastigium jussit. Primum quidem, quod numerosa multitudo nostrorum usque ad oceani regiones extenditur, cujus itineris longinquitas in multi temporis cursum protelatur. Spe-rebamus deinde de Britannia Theodo-

rum confamulum atque coepiscopum nostrum, magnæ insulæ Britanniæ archiepiscopum et philosophum, cum aliis qui ibidem usque hactenus demorantur, exinde ad nostram humilitatem conjungere, atque diversos hujus concilii episcopos in diversis regionibus constitutos, ut a generalitate totius concilii servilis nostra relatio fieret, ne si tantum pars, quod agebatur, cognosceret, partem lateret."—Concil. J. D. Mansi, tom. xi. p. 293, 4 B.]

The truth I take to be this, Agatho supposed that Theodore would take a journey to Rome in order to vindicate his own proceedings against Wilfrid; and if he had come, intended to have given him a place in the great synod; but Theodore not distrusting the justice of his cause, saw no occasion to take so long a voyage to answer Wilfrid's cavils: and then he was sure of the king and court of Northumberland. The pope might delay his synod upon an apprehension that Theodore would come to Rome; but when either by letters from him, or by some other means, he understood that he was not like to see him at Rome, he sends his legate to know the sentiment of him and the whole college of English bishops; and in a few months after celebrates his Roman synod. And in obedience to the pope's command a synod was called here, at Hatfield, by the archbishop, in September, 680, at which all the English bishops are said to have been present, though their names are not particularly expressed; and they declare their adherence to the five first general councils, and to that held by Pope Martin and one hundred and five bishops at Rome, in the year 648 or 9; a copy of which council Pope Agatho sent by John; and there can be no doubt but Agatho would have sent a copy of his own council too, if that had been held before John was dispatched toward England. N.B. This was John the precentor who taught the Roman use in the north. See the General Preface\*.

• [p. xvi.]

A.D. DCLXXX.

PREFACE TO THE COUNCIL AT ROME IN FAVOUR OF  
WILFRID.

NOTWITHSTANDING what had been done at Rome the former year, Wilfrid's personal appearance wrought a great alteration in the opinions of the pope and the court bishops. Wilfrid had formerly been a student at Rome: archdeacon Boniface taught him the four gospels and the Ecclesiastical Computus, and such things, says Bede, which he could not be taught in England, though Bede himself learned them in England not long after, and learned much more probably than Wilfrid ever did, and to such perfection, that the pope earnestly desired his assistance in deciding some knotty points; therefore I know not what it was Wilfrid learned at Rome, which he might not as well have learned here, unless it were the art of soliciting his cause, and securing his own interest there. And he was an able man this way. For as his diocese was enormously large, so Bede, who lived and flourished at this time, tells us, that every one, in the most remote parts of the diocese, paid a certain yearly sum to the bishop, though he never came near them. This he says in his letter to Ecgbriht, published by Sir James Ware\*. It was Wilfrid's wealth and splendid way of living, that first provoked the envy of the Northumbrian court against him. Whatever arguments they were that he made use of, they were so strong that the pope and his courtiers could not wholly resist them; and though they could not for shame wholly acquit him, yet they shewed their good inclinations toward him, by mitigating the sentence, so far as it was in their power to do it. They were indeed bound in gratitude to countenance him so far as possible; for he

\* [Also in Smith's Bede, p. 307.]

had been very serviceable to the Roman interest, by labouring to introduce all the modes of that Church, and particularly in relation to the keeping of Easter; as appears especially by the conference at Streons-heal; and this was a point which the pope and his friends had much at heart in those times.

There is one thing in the dispute between Theodore and Wilfrid which well deserves our reflection; I mean, that there is no hint given us that the latter did ever allege the right of his see to a metropolitanical power. This was what Gregory settled upon the see of York, and what the first possessor of that see, Paulinus, actually enjoyed: and by this settlement Wilfrid had been in all respects upon the level with Theodore, excepting barely the point of precedence: and upon this scheme Theodore could no more have deposed Wilfrid, than Wilfrid Theodore\*. Nor can there be any other reason assigned, as I conceive, why Wilfrid did not insist upon the privilege of his see, and sue to Rome for his pall, but this, that he knew that Gregory's settlement of the

\* [The following is the letter of Pope Gregory in which he details his plan for the bishoprics in England.

"Reverentissimo et sanctissimo fratri Augustino coepiscopo Gregorius servus servorum Dei. Cum certum sit pro omnipotente Deo laborantibus ineffabilia æterni regni præmia reservari; nobis tamen eis necesse est honorum beneficia tribuere, ut in spiritualis operis studio ex remuneratione valeant multiplicius insudare. Et quia nova Anglorum Ecclesia ad omnipotentis Dei gratiam eodem Domino largiente, et te laborante perducta est, usum tibi pallii in ea ad sola missarum sollempnia agenda concedimus: ita ut per loca singula duodecim episcopos ordines qui tuæ subjaceant ditioni, quatenus Londoniensis civitatis episcopus semper in posterum a synodo propria debeat consecrari, atque honoris pallium ab hac sancta et apostolica, cui Deo auctore deservio, sede percipiat. Ad Eboracam vero civitatem te volumus episcopum mittere, quem ipse judicaveris ordinare; ita duntaxat, ut si eadem civitas cum finitimis locis verbum Dei receperit, ipse quoque duodecim episcopos ordinet, et metropolitanitani honore perfruatur; quia ei quoque si vita comes fuerit, pallium tribuere Domino favente disponimus

quem tamen tuæ fraternitatis volumus dispositioni subjacere: post obitum vero tuum ita episcopis quos ordinaverit præsit, ut Londoniensis episcopi nullo modo ditioni subjaceat. Sit vero inter Londoniæ et Eburacæ civitatis episcopos in posterum honoris ista distinctio, ut ipse prior habeatur qui prius fuerit ordinatus: communi autem consilio et concordii actione quæque sunt pro Christi zelo agenda; disponent unanimiter, recte sentiant, et ea quæ senserint, non sibi recte discrepando perficiant. Tua vero fraternitas non solum eos episcopos quos ordinaverit, neque hos tantummodo qui per Eburacæ episcopum fuerint ordinati, sed etiam omnes Britanniæ sacerdotes habeat Deo Domino nostro Jesu Christo auctore subjectos; quatenus ex lingua et vita tuæ sanctitatis, et recte credendi et bene vivendi formam percipiant, atque officium suum fide ac moribus ex sequentes, ad cælestia cum Dominus voluerit, regna pertingant. Deus te incolumem custodiat, reverentissime frater. Data die decimis Kslendarum Juliarum, imperante Domino nostro Mauricio Tiberio piissimo Augusto anno decimo nono, post consulatum ejusdem domini anno decimo octavo, indictione quarta."—Bede, Hist. Eccl., lib. i. c. 29.]

primacy at York had been cancelled, and that the primacy of all Britain was in Theodore. That there should be but twelve bishops in England, instead of twenty-six designed by Gregory, seems wholly to be the project of Agatho the present pope, and the synod next above. But that the see of the southern archbishop should be at Canterbury, not at London, and that his primacy should extend over all Britain\*, contrary in both respects to Gregory's plan, ought to be imputed to some more ancient provision made by the pope. And that the southern primacy should continue at Canterbury must have been resolved upon or before the death of Augustin; if it had not, Laurence had been archbishop of London, not of Canterbury. And it is scarce to be conceived that this could have been done, according to the notions of this age, without the pope's concurrence. I know some impute it to the will and affection of the princes and people, who would have the primacy remain at Canterbury in honour to Augustin, their apostle. But if the pope had not approved and confirmed their resolutions, Laurence could never have obtained the pall: yet the primacy of Canterbury was not extended, probably, to all Britain, till Theodore obtained this of Vitalian. Bede, lib. iv. c. 2, expressly says, that he was the first archbishop to whom all the Church of the English submitted; yet, in truth, the archbishop of Canterbury was the only primate from the year 633, when Paulinus retreated from York to Rochester. Aidan, Finan, and Colman, who next succeeded, contented themselves with the see of Lindisfarne, and were of the British or Irish communion, and so neither desired the pall, nor if they had could they have obtained it. Tuda and Chad were men averse to all the elegancies, I had almost said, conveniences of life, much more to the affectation of grandeur and precedence, as the others likewise were. But Wilfrid was not only a perfect Romanist, in other respects, but also in his 'fastus,' and therefore would certainly have endeavoured to get the pall, and might have claimed it according to the

\* ["This was settled for ever upon the see of Canterbury by Pope Honorius, A. D. 634. The letter is in the Cotton Library, Faust. B. 6. fol. 94 f, and since Mr. Johnson's death printed in

Conc. Magn. Brit., vol. i. p. 35. And the same privilege was confirmed to Theodore himself by Pope Vitalian I. See Conc. Magn. Brit., vol. i. p. 41." MS. Wrangham. See above, p. 107, note.]

provision made by Gregory, and would have done it if he had not known that other and contrary decrees had been passed at Rome. And Pope Agatho and his synod declare that this was done by Gregory in the seventh article of the foregoing acts: therefore Wilfrid himself was content to be a suffragan to Theodore for ten years, and on all occasions professes obedience to him, excepting in the disputed point of the partition of his diocese.

Sir H. Spelman supposes the foregoing and following synod to have been the same; but I am so far from being of this opinion that I look upon them as contradictory to each other; and have here inserted them as a plain instance of Romish infallibility's opposition to itself. If, as is probable, the bishops and others that sat in both assemblies were the same, this self-opposition is still more gross and shameful, and is a clear proof of Wilfrid's dexterity in management, by which he prevailed with above fifty men, in a few months' time, to unsay what they had decreed before: and it can hardly in the nature of things be supposed, that he could effect this without a considerable length of time. But from what hath been said before, it is evident that the bishops who assisted the pope in his former consultation concerning the British affairs, were still at Rome, attending the great council against the Monothelites, which was now actually at work, as appears by the sixth article of the following synod, or rather the appendix or postscript to it. And my reader will not, from my calling it a synod in compliance with others, conclude that it was strictly such. If Pope Agatho had intended that Wilfrid should be heard in a synod properly so called, he would have proposed the matter to the one hundred and twenty-five bishops now with him, to condemn the Monothelites. But so great a number could not so easily be brought into the pope's and Wilfrid's measures. It was, as the former, strictly speaking, only an extraordinary consistory. As the principal speakers were the same in both assemblies, so there is room to suppose that the rest were so too, or however, that they were such as belonged to the suburbicary sees, of whom the Pope had plenty now with him; the great synod having before this actually begun their sessions; therefore we must suppose, that the pope held this consistory upon a non-synodical day.



A.D. DCLXXX.

THE SYNOD AT ROME CONCERNING WILFRID.

THE most holy Pope Agatho assembled a \*council of fifty bishops and abbots in the royal palace of our Saviour, called Constantiniana, the manner whereof here follows\* :

1. Agatho, the most holy and blessed bishop of the catholic and apostolical city of Rome, said to his co-assessors, "I believe you cannot be ignorant for what reason I have called you, my brethren, to meet in this venerable convention. I desire your reverences to take cognizance of, and treat with me of the dissension lately raised in the Church of the island of Britain, (where, by the grace of God, believers are grown into a great multitude,) which is related to us by such as come hither, and by written letters." Andrew and John, the most reverend bishops of Ostia and Porto said, "The ordering of all Churches depends on your apostolical authority, who are the deputy of the blessed Apostle St. Peter. We also, with the bishops our co-assessors, at your command lately read over the several writings, which they that have been sent hither from the island of Britain, have brought into your apostolical presence; as well those from the person of the most reverend Archbishop [Theodore,] (who was sent thither from hence by the apostolical see,) as the reports of others against a certain bishop, who (as they express it) is upon the subterfuge: as also such as have been offered by Wilfrid, beloved of God, bishop of the holy Church of <sup>b</sup>York, who being ejected from his see, by the aforementioned most holy [Theodore,] is come hither. Whereas they have inserted many disputable points in these [writings,] and we do not find that he hath been convicted of any crimes committed

LATIN.  
Sir H.  
Spelman,  
vol. i. p.  
160.  
[Wilkins,  
vol. i. p.  
47.]

\* [William of Malmesbury, whose account of this council is quoted by Sir H. Spelman, and here translated by Mr. Johnson, gives the history of Wilfrid at length, *De Gestis Pontificum Anglorum*, lib. iii. p. 259.]

against the perspicacious provision of the canons; and his accusers, even by their own words, have not shewed that he has done any thing so criminal, as to deserve degradation; nay, we rather know that he hath contained himself within the bounds of modesty; because he has not engaged himself in any seditious animosities; but being expelled from his see, the said Bishop Wilfrid, beloved of God, flies hither to the apostolical see, to notify the fact, as it deserves, to his fellow-bishops.’

<sup>a</sup> The historian supposed the priests specified in the acts of the former consistory to have been abbots; but, as I there observed, they were probably no other than the cardinal priests or incumbents of the city churches, who were the pope's standing counsellors. And I have given sufficient reasons to shew, that this was no proper council, or synod, but only an extraordinary consistory.

<sup>b</sup> The generality of writers call Wilfrid bishop of York, and so he was originally, I conceive, beyond all doubt; but he never was restored to this see, but forced to be content with Hexham, (then Hagulstade,) which makes some suppose him first put into that see\*.

2. The most holy and blessed bishop of the Church Catholic, and the apostolical city of Rome, said to his co-assessors, “Let Wilfrid, bishop of the holy Church of York, beloved of God, who, as we are told, stands at the door of our venerable consistory, be admitted, according to his request, together with his petition, which he is said to bring with him.” As Bishop Wilfrid, beloved of God, entered into the consistory, he said, “I intreat your pontifical beatitude, that ye would command the petition of your humble servant to be received, and read in your presence.” The most holy Bishop Agatho said, “Let the petition of Bishop Wilfrid, beloved of God, be received, and read before all.” And John the notary took and read it to the holy apostolical council.

\* [William of Malmesbury states that Wilfrid was restored to the see of York, though only for a time.

“Expulso primitus (ut dictum est) Wilfrido, qui totius Northanimbrorum regionis erat episcopus, duo pro eo constituti sunt:

In Eboraco Bosa. In Haugustald Eta. Defunctoque Eta, Johannes ordinatus pro eo. Tempore vero Alfridi regis rediit in Episcopatum totum

Wilfridus 5 annis, expulsis Johanne de Haugustaldo, et Bosa de Eboraco. Post 5 annos Wilfrido iterum ab Alfrido expulso, illi sedibus suis restituti sunt. Defuncto vero Alfrido, Wilfridus in concordiam receptus sedem apud Haugustaldum habuit, Johanne in Eboracum migrante, quia jam Bosa defunctus erat.”—De gestis Pontif. Angl., lib. iii. p. 269.]

3. "I, Wilfrid, an unworthy bishop of Saxony, have conducted myself (God preventing me) to this eminent apostolic place, as to a fortified strong castle, because I know canonical regulations are derived from hence to all Churches of Christ; therefore I do with confidence ask for justice. For I doubt not but your pontifical eminence, as well by the secret information of your humble servant, as by what I have personally offered in your apostolical presence, *viva voce*, at my first arrival, knows that certain men, the invaders of my bishopric, without convicting me of any fault, contrary to the canons, have attempted to usurp my see (which I had holden ten years and more) in a convention of the most holy Theodore, archbishop of Canterbury, and other prelates assembled with him. And three bishops are promoted to my see, though their promotion be not canonical. But it becomes me to pass over in silence, rather than to demand, what is the matter that the most holy Archbishop Theodore should ordain three bishops, myself living, to my see, (which I, though unworthy, officiated,) and that without consent of any bishop, your humble servant not acquiescing; to pass it over in silence, I say, out of reverence to that man, whom I dare not accuse, as having been sent [to Britain] by the eminent apostolical see. But if it appear that I, being expelled from my long enjoyed see, against the rite of regular sanctions, without any such crime as canonical severity strikes at, have yet been troublesome to no man, but withdrew myself, after having first made my protest to my fellow-servants and fellow-priests, the bishops of that province.— If your apostolical eminence judge that I am [justly] deprived, I cheerfully embrace the determination with a devout humility. But if [ye decree] that I should receive again my long enjoyed bishopric, I am forthwith in pursuit of it, and with all my might venerate the sentence passed by the apostolical see, only [praying] that the invaders be expelled from the old parishes of the Church over which I your unworthy servant presided. And if it be thought fit that bishops be anew added in that parish, over which I presided, let your command be that such bishops at least be promoted, as that I may unanimously serve God with them by means of the prevalence of a calm and sedate unity," &c.

‘ It is strange he should think it no fault to oppose his confessed primate and college of English bishops in so reasonable a decree as that which was made for the partition of his diocese ; in which too they acted with the approbation of the king of Northumberland.

‘ It is certain that Lindsey, or the county of Lincoln, was originally no part of his see ; and yet he could not truly say, that three bishops were thrust into his see, unless he had reckoned Eadhed of Lindsey for one.

‘ It is evident that a synod of bishops consented to the partition of his diocese, so Wilfrid himself confesses, though he minces the matter by saying they attempted to do it in a convention, &c. King Ealdfrid speaks out, and says, Wilfrid had twice been condemned in two synods, (Spelman, vol. i. p. 203,) now by Theodore, afterwards by Brihtwald. It is probable indeed, that after Wilfrid’s see was vacated and divided into two, in synod, Theodore filled both by his own authority : and it is observable, that the foregoing synod at Rome (article the fourth) does expressly allow this power of filling vacant sees to the archbishop of Canterbury.

4. Agatho, the most holy and blessed bishop of the holy Catholic Church of the city of Rome, said, “ The petition which Bishop Wilfrid, beloved of God, hath offered, gives no small satisfaction to the hearers, on this account, that whereas he conceived himself undeservedly ejected from his episcopal see, he made no resistance by contumacy and secular force, but with an humble sentiment requested the help of our ‘principal, blessed Peter, the prince of the Apostles, professing that he would submit to whatever was determined, like an humble suppliant waiting for what our principal, the blessed Apostle Peter, (whose place we officiate,) should think fit to be ordained by our mouth.”

‘ The pope here is willing to have it thought, that this and such like disputes were to be decided by his own single authority, and Wilfrid, who perfectly knew the arts of address in this court, in his petition seems to apply to the pope only ; but the two bishops who speak in the first article, express themselves in such a manner, as to shew their opinion, that Wilfrid sought redress from the bishops now assembled, as well as from the pope : and sentence is passed in the fifth article in the name of the whole synod, or consistory.

5. The whole sacred synod definitively pronounced thus, among other particulars, “ We ordain and decree that Bishop Wilfrid, beloved of God, do take the bishopric, which he lately had : and let such bishops as he shall choose, with the

consent of a synod there to be assembled, when they have first been ordained by the most holy archbishop, be promoted to be his adjutors, after the expulsion of those who in his absence have irregularly been put into possession of his bishopric," with an *et cætera*, in which they lay those who receive not these decrees under an <sup>h</sup>interdict.

¶ Let the reader judge whether this article do not in part contradict the fourth article of the preceding synod: for there the archbishop has the sole power given him of supplying vacant sees, which were to be eleven, beside that of Canterbury. Here they mention no certain number, but leave it to a synod here in England to accept or refuse such Northumbrian bishops as Wilfrid, not Theodore, should name, and make the bishops, not diocesans, but rather 'chorepiscopi' to Wilfrid; the consecration only being left to the archbishop. However the reader may here see the modesty of Pope Agatho and his bishops, in that they do not absolutely and peremptorily define the cause, but leave it to an English synod to conclude the affair. I call this modesty, in comparison to the arbitrary positive proceedings of popes in after ages. So when Wilfrid was a second time deposed in synod, and had again run to Rome for succour, John the Sixth, then pope, after many and long debates, remits the cause to be determined by a synod in England, charging the kings of Mercia and Northumberland to see that it were called; and declaring, that if they did not by this means bring matters to an issue, he would see the cause finally determined by a greater synod at Rome, which yet he never did. The truth is, Theodore paid so little deference to the pope, that he would not call the synod as Pope Agatho had enjoined him. And Brihtwald was so regardless of the see of Rome, that he would not send his advocates or solicitors thither to answer Wilfrid; of both which particulars Pope John complains in his letters, which he sent by express messengers or legates, by whom Brihtwald was at last terrified into a compliance, and Wilfrid was restored in synod to the see of Hexham only, and died four or five years after in perfect peace. We are nowhere I think expressly told for what crime Wilfrid was deposed a second time. I take the cause to have been his taking a bishopric in Mercia, by the assignment of the king only, without Archbishop Brihtwald's leave: the king of Northumberland had banished him from his proper see, and he took possession of another in an uncanonical manner; for which he was first excommunicated, then deposed. But he was restored to his Northumbrian diocese only, not his Mercian; yet he had some monasteries in the kingdom of Mercia yielded up to him, he being the founder of them.

‡ Here the historian uses the language of his own age\*, not of the seventh century. Interdict was a censure now unknown. John the Sixth in the decree which he sent to the kings of Mercia and Northumberland, in favour of Wilfrid after his second deposition and expulsion, (written about the year 704,) charges that Archbishop Brihtwald call an English

\* [William of Malmesbury died A.D. 1143.]

synod in order to bring this dispute to an issue; the punishment with which he threatens the bishops in case they absented themselves from this synod was deposition, so that they should not be treated as bishops either here in England, or at Rome. I am inclined to think that the crime being the same (if I may call it a crime) the punishment was the same too.

6. The bishop elevated with these decrees, was also commanded by the pope to take his place among the one hundred and fifty holy bishops who were then engaged in the council, against those who declared for one only operation in the two natures of our Lord Jesus Christ. Afterward resolving to return, he escaped all dangers through God's protection, and arrived in his own country: and obtaining access to the king, though not without difficulty, he shewed him the sealed decrees of the apostolic [pope]. He, when he had first caused them to be read to the bishops of his own faction, who were then in the room with him, was so void of reverence toward the Roman see, that he committed the blessed pontiff to a certain reeve to be put into gaol, after he had first stript him of whatever he had, and sent his attendants some one way, some another.

Here is a mistake in the numbers; the Roman synod consisted of one hundred and twenty-five bishops only. And Wilfrid's name stands among them in the following form, "I, Wilfrid, humble bishop of the holy Church of York, in the island of Britain, legate of the venerable synod constituted in Britain, do consent and subscribe to this report synodically made by us (Synod vi. act 4. in Trullo \*). If this subscription be genuine, it will call Wilfrid's sincerity into question. For Wilfrid was so far from being a legate from Theodore, and the other bishops in England at this time, that he was not in communion with them. The popish writers to cover this, say, that Wilfrid being absolved at Rome, Theodore was reconciled to him; but neither was Wilfrid absolved, nor was Theodore reconciled to him, as appears from what hath been said before. Bede says nothing of his being a legate; but only that the pope called him to the council, and seeing him sit there, commanded him to declare the faith of himself, and of the province or island from which he came; and when he and they were found to be catholic in their faith, this entry was made in the acts of the synod, viz., "Wilfrid, beloved of God, bishop of the city of York, bringing his cause to the apostolical see by appeal, and being by authority thereof absolved from all things, certain or uncertain," (which is more than was strictly true,) "and seated among the other one hundred and twenty-five bishops, that had definitive voices in synod, did also confess the catholic faith for all the north part of Britain, and the isles of Ireland,

\* Concil., tom. xi. p. 306.

inhabited by the nations of the English, British, Scots, and Picts; and confirmed it with his subscription." Lib. v. c. 20. N. B. By the synod constituted in Britain, we are to understand the archbishop and his comprovincial bishops, which is a way of speaking not uncommon in this age. [Hist. Eccl., P. 207.]

I have not room left me to relate at large how Wilfrid, [Post-script.] being not admitted to any share of his former diocese, went and preached Christianity among the South Saxons, and became the first bishop of Seolsey\*, how afterwards he converted the inhabitants of the Isle of Wight, and ingratiated with the court of West Saxony, and at last had a see granted him by the king of Mercia. But after having passed many years in an unwilling absence from the diocese of York, Theodore, when he was no longer Theodore, in the eighty-seventh year of his age, when he felt death approaching, relented, and wrote to the young king of Northumbria in his behalf: the king paid greater deference to Theodore's letter than his father did to the pope's, and restored him to some part of his former diocese, but he was again deposed in a synod by Brihtwald, Theodore's successor in the see of Canterbury, and again went to Rome, and after being heard in a synod (in seventy-four synods, say some, held within the space of four months) he obtained pope John the Sixth's letters in his behalf: and though Brihtwald was willing to have called a synod, as the pope directed, and to have determined the cause, yet the king peremptorily declared against it. For he did not think fit to receive a man to communion who had been twice condemned by an English synod: yet the king too in his last sickness relented, as some of his court afterwards attested, and Wilfrid at last died, after he had been bishop forty-five years, in possession of one part of his quondam diocese, and was buried in his monastery of Rippon: and they made a kind of saint of him. Archbishop Odo is said to have removed his bones to Canterbury, but his northern devotees affirmed, that they had his relics, and that the carcase, which Odo translated to Canterbury, was that of Wilfrid the Second.

\* [The monastery of Selesey, (i. e. Seals' Isle) in Sussex, was founded by St. Wilfrid, A.D. 681: Eadbercht abbot there was consecrated bishop of the South Saxons, A.D. 711, and the episcopal seat was transferred thence to Chichester by Bishop Stigand, A.D. 1075. See Bede, Hist. Eccl., lib. iv. c. 13. Not. Mon. Bp. Tanner. Godwin de Prmsul., pp. 499, 664.]

Upon the whole it appears that Wilfrid was a prelate inflamed with a zeal for propagating Christianity, that led a life free from gross immoralities, and was probably as popular as any bishop ever was, both with great and small, in the three kingdoms of Mercia, West Saxony, and South Saxony; and his character might have been without blemish if either he himself had been a metropolitan, or if he had not lived under such disciplinarian primates as Theodore and Brihtwald. But he was impatient of a superior, yet it is evident that envy died with him. And he had honours paid him not only in his own country, but in all parts of England, and even by the successors of these two primates, who were most severe upon him while he was alive. And the monks of Peterburgh and nuns of Ely contended which should do him most honour, for procuring their papal privileges and immunities. In one particular Wilfrid has been more lucky than most men of his character, for he has all the historians on his side. Bede considered him as his former bishop, and used so much tenderness toward him as not to mention his opposing the partition of his diocese, or to take notice of his being deposed by Theodore, but seems to attribute his deprivation wholly to the secular force of King Ecgfrid\*. Heddus was his deacon, and treats him with such respect as was due from one of that order to his bishop†. Malmesbury very much favoured him, but has said enough to justify Theodore and Brihtwald. It is to be lamented that Theodore and Brihtwald had no coevious historian to set matters in a full light.

Having made mention of Pope John the Sixth's letter, I thought fit to give it my reader entire. Sir H. Spelman gives it us twice; and in the first place, p. 179, gives it the date of 685, and ascribes it to John V., who was then pope: but the letter is in both places the same, though the latter is the best copy, viz., that in p. 204, and there it is ascribed to John VII. But whereas he dates it 705, this is somewhat too late, not only because King Ealfrid, one of those to whom it was written, died this year, but because Ethelred, the other king to whom it was directed, went to Rome and was shorn

\* [Hist. Eccl., lib. v. c. 19.]

† [Vita S. Wilfridi, Ep. Ebor. auctore Eddlo Stephano, apud Mabill. Act.

Ben., tom. v. pp. 631—679. See above, p. xvii. note c.]



monk there the year before this, therefore I judge it to be John's the Sixth, who sat from 701 to 705. This letter I give my reader only as appendage to the foregoing decrees concerning this affair: and therefore do not alter the date on the running title, lest I should make a 'hysteron proteron' in the series of my memorials.

"To the most eminent lords, Ethelred, king of the Mercians, and Baldfrid, king of the Deirans and Bernicians, Pope John. We rejoice at your religious improvements, through God's co-operating grace, while we discern in you a fervour of the faith, which ye received and effectually retain from the preaching of the prince of the Apostles, God illuminating your minds: and we wish that your farther improvement may enlarge our joy. But an irreconcilable dissension of some affects our soul; and we must reform it, that we may be found observers, not transgressors, of the apostolical precepts. For long since under Pope Agatho of apostolical memory, when Bishop Wilfrid had appealed to this see in his own cause, and accusers came hither, being sent by Theodore, archbishop of the holy Church of the Kentish people, (who was commanded thither from hence,) and from <sup>1</sup>Hilda the abbess of religious memory, bishops assembled here from divers parts, did regularly examine and determine the affair, and the successors of the said pontiff our predecessors did persist in that same sentence. And neither is Theodore known to have opposed it: for he never afterwards ordered any farther impeachments [of Wilfrid] hither. Now also the accusations of them, who came from Britain hither to oppose Wilfrid, and his defence of himself, have by our procurement been debated for several days, in a convention of most reverend bishops, such as were found here, both with relation to former and later letters, as also to what hath been offered by word of mouth from the <sup>1</sup>parties, while yet the principal persons, concerning whom the dispute first arose, have not here made their personal appearance, without which the dispute cannot be brought to an issue. Therefore we admonish our brother archbishop Brihtwald that he assemble a synod together with Wilfrid, and there convene <sup>2</sup>Bosa, and John, and hear the pleadings of the parties, and consider what each side can make good against the other.

LATIN.  
[Sir H.  
Spelman,  
vol. i. pp.  
179, 204;  
Wilkins,  
vol. i. p.  
68.]

And if the affair can be determined in that synod, it will be pleasing to us; but if not, let him monish them to come to the apostolical see, that what could not be determined before may be decided in a greater synod. But let him know that whoever does not appear through contempt, renders himself liable to deposition, he being no longer to be taken for a bishop, either here or there. Let your royal sublimity cause a convention, that what we have providently intended through Christ's assistance may come to good effect. But whoever, of what quality soever, with an audacious temerity stands in contempt, shall not escape "punishment from God, and being bound in heaven shall not be indemnified."

<sup>1</sup> Hilda was of the blood royal, and had a monastery of men, as well as women. Five bishops had their education in it. She had a great reputation for knowledge in civil, as well as religious matters, she was one of them who incensed King Ecgfrid against Wilfrid; one occasion of her aversion to him was her zeal for the British Easter. She died about the time of his first return from Rome, A. D. 680.

<sup>1</sup> That is, the agents or solicitors on both sides.

<sup>m</sup> These were both of them monks taken from Hilda's monastery, Bosa was put into the see of York, on Wilfrid's first deposition, John into the see of Hagustalde, or Hexham, upon Eate's death; and afterwards into the see of York, during Wilfrid's life. This seems a violent presumptive that our best as well as wisest men here in England esteemed Wilfrid's deposition to be just; otherwise John (afterwards S. John of Beverley) would never have accepted two sees in Wilfrid's former diocese, especially not his capital see of York, while Wilfrid was yet alive, and either in the Mercian see or that of Hexham. Bede reports many miracles done by this Bishop John, lib. v. c. 2, &c.

[Addenda.] [It is observable that Cuthbert, another saint, took one share of Wilfrid's diocese, even after the pope had declared in favour of him, 685. Trumberht being deposed from Hexham, Cuthbert then a hermit, and a mortified man, was chosen to succeed him: but Cuthbert, though hardly persuaded to take any bishopric, yet if he must be bishop, chose rather to have Lindisfarne, where he had been monk, for his see. Whereupon Eata resigned Lindisfarne, and took Hexham. Thus Theodore had two Northumbrian saints that stood by him in his proceedings against Wilfrid, and in opposition to the pope.]

<sup>a</sup> King Ealfrid, says the historian, opposing this papal mandate died soon after. His sister Elfred, who succeeded Hilda in her abbacy, testified her brother's repentance before his death: so Wilfrid recovered the see of Hexham, in the synod held near the river Nidde.

## A.D. \*DCXCII.

### KING WIHTRED'S GRANT OF PRIVILEGES.

THEN Wihtred began his reign over the people of Kent, and continued it thirty-three winters.—As soon as he was king, he commanded a great council to assemble, at a place called <sup>b</sup>Baccanceld: Wihtred, king of the Kentish, was there present, and Brihtwald archbishop of Canterbury, and Tobias bishop of Rochester, and the abbots and abbesses with them; and many wise men were there assembled, to take counsel together about the <sup>c</sup>reparation of the churches in Kent. Then the king began to <sup>d</sup>speak, and he said:

Saxon.  
Sax. Chr.,  
p. 48;  
[Wilkins,  
vol. i. p.  
56.]

\* King Wihtred reigned thirty-three years, died 725; therefore began his reign 692. It is by mistake placed in 694\*. See Bede, lib. v. c. 9. [Hist. Eccl., lib. v. c. 8.]

<sup>b</sup> Now called Bapchild, near to Sittingbourn, on the Canterbury side, being about midway between the coast of Kent and London, and therefore a very convenient place for a Kentish council. At this place, not many years since, were the visible remains of two chapels, standing very near to one another, on the right hand of the road from Canterbury to Sittingbourn; the present church stands on the opposite side at no great distance from them. Dr. Plott, many years since, observed to me, that this and other circumstances were good presumptions that this was the old Baccanceld, the place for Kentish councils. The old Saxons very often wrote a simple c, where we now write and pronounce ch.

<sup>c</sup> The churches of Kent must have suffered very much in the late wars with the West Saxons.

<sup>d</sup> The most proper way for King Wihtred to make grants, was to do it

\* [This grant is so placed in the Saxon Chronicle and in Sir H. Spelman's Concilia, vol. i. p. 190. The passage of Bede which confirms Mr. Johnson's emendation of the date by stating that King Wihtred was reigning A.D. 692, is in the ninth chapter, as above, in Wheloc's edition, but at the end of the eighth in that of Smith, p. 190. According to the date so fixed, King

Wihtred's grant is here printed before the Ecclesiastical Laws of King Ine, although in the first edition it follows them, probably because they were already printed before the above mistake was discovered, as Mr. Johnson was very careful to avoid what he calls "a hysteron proteron" in the series of his memorials; see above, p. 123.]

by the word of his royal mouth ; for he could not write : which was the misfortune also of Charles the Great. There is no doubt but that this grant of his was put into writing, and that the copy of it in the Chronicon Saxonicum is (as to the main) true and genuine. Sir H. Spelman tells us of five Latin copies of it ; and great objections have been raised against them, and they are certainly spurious, and do widely differ from each other. But I see no reason to question the decrees of this council, as they stand in the Chronicon Saxonicum. The spelling is indeed like that of the Danish age ; but the words and phrases are, so far as I can discern, truly antique. And if ancient monuments are to be rejected for the mistakes of transcribers, I know not what can remain unsuspected. Here is a double proof of its being originally written in true ancient Saxon ; I mean, there are two sentences which deny with a double negative : for the great master of the Saxon tongue positively affirms, that the Dane-Saxons always deny with a single negative, Sax. Gram., p. 101\*. None, indeed, of our historians mention this council. In truth, I cannot readily recollect any one single council, said by any historian to be held in Kent, except perhaps accidentally, when a great number of bishops have met at Canterbury, to consecrate new ones, and then have treated together of some ecclesiastical affairs. But will any wise man from thence conclude that the kings of Kent never held any councils ? Bede, from whom our other historians transcribe the memoirs of this age, omits some councils holden in his own province, as appears from the seventh answer of Eggbriht, who will therefore wonder, if he omitted this in Kent ? Most monkish forgeries had some foundation in fact. The confirmation of the liberties of the Church by Wihtred, was a thing well known in his little kingdom ; but when they came to inspect the memorial of it, they found it would not satisfy the Normans, for want of modern form and circumstances, therefore they supplied this defect out of their own wicked dull inventions.

[Addenda.] [I granted that no historian mentions this council. But I have lately observed that one of our best historians, Eadmer, does expressly speak of it in the life of Archbishop Bregwin, in these words, " King Wihtred, at the instigation of Archbishop Brihtwald, did in a general council ordain, that all the churches of his kingdom should be for ever freed from all domination and exaction of kings or other earthly potentates †."]

1. " My will is, that all the minsters and churches that have been given and bequeathed to the honour of God,

\* [Dr. Hicke, whose authority is here quoted, says, " In hac etiam dialecto (sc. Dano-Saxonica) nunquam non negatur negatione simplici."—See in Thesaurus Ling. Vet. Sept. Grammatica Anglo-Saxonica et Mæso-Gothica, c. xx. § 24. p. 101.]

† [" Regnabat in Cantia vir strenuus et nobilis Rex Wytheredus nomine, Deum in servis suis semper honorans. Ejus tempore Brythwaldus in episco-

patu sancto Theodoro successit, et digne in omnibus administravit. Hujus instinctu et exhortatione præfatus Rex in generali concilio suo cunctas regni sui Ecclesias ab omni dominatione et actione regum sive cujuslibet terrenæ potestatis liberans in perpetuum esse constituit."—Vita S. Bregwini, Archiep. Cant. authore (ut videtur) Osberno, in Wharton's Anglia Sacra, part ii. p. 75.]

in the days of the faithful kings my predecessors, and in the days of my kindred, that is, Ethelbyrht and his successors, do so remain to the honour of God, and stand firm for ever and ever."

2. "Whereas I, Wihtrud, an earthly king, incited by the King of heaven, and inflamed with a spirit of justice, being well instructed by our forefathers, have learned that no layman ought of right 'to go to any church, or any of the possessions thereunto belonging, and to take free quarters there, for himself, his guards, or retinue, or to demand any tribute from it: therefore we do firmly and faithfully constitute and decree, and in the name of Almighty God and of all the saints, we forbid all kings our successors, and aldermen, and all laymen for ever, all dominion over the churches, and all things belonging to them, which I, or my ancestors in former time, have given for a perpetual inheritance, to the glory of Christ, and our lady St. Mary, and the Apostles."

\* See Sax. Gram., p. 13\*. Bishop Gibson turns it, *seipsum immittere in quamvis Ecclesiam, &c.*

"3. And when it happens that bishop or abbot, or abess

\* [Quibus adde onſting, cujus sensum non satis assequutus clarissimus Spelmannus, tanquam inexplicabilem præterit in epistola Agathonis papæ, qua certas quadam immunitates concessit monasterio Medeshamstedensi vel Petroburgensi; ubi hæc verba, þat ne kýnning, ne byrcop, ne eoþl, ne nan man have nan onſting, sic vertit: *ut nec rex aliquis, aut episcopus, aut comes, aut quisquam alius onſting exigat vel percipiat*: ex adverso tamen in margine addit, forte *hospitium*. Somnero est *tributum, vectigal*. Certe *stiguan* apud Gothos, ſtingan Sax. unde vox derivata videtur, significat *cum magno comitatu et pompa procedere*; unde forsitan onſting significat *dominium vel jus hospitii ad dominum pertinens* quod rex, episcopus vel alius aliquis dominus sibi et suis vendicat, vel *tributum, et vialicum*, quod ministrare solent vasalli domino, quum magno stipatus comitatu proficiscatur.

Gul. Nicolsonus archidiaconus Carleolensis, in septentrionalibus literis vir maximus, putat hanc vocem potius contrahi ab onſetran *inhabitare*; unde Northymbris onſet idem est quod *mansus, toftum*. hæcille. Sed quo minus ab

opinione mea recedam, facit usus verbi ſtingan, in Chron. Sax. Gibs. anno DCXCIV. þat nan læpebe man nah mib þuhte to ſtingan hine an anpe cþican, na anan þapa ſingan þe to cýpcan belimð. quod sic verto: *quod nullus laicus jure debet ad ecclesiam quamvis, aut aliquam possessionem, quæ ad ecclesiam spectant, militari ordine, aut magno stipatus, comitatu, ut dominus, procedere*. Ratio propter quam, sic locum vertimus, sumitur ab iis quæ sequuntur: and for þi ſþanglice þe geſettað 7 demað 7 on Lober naman þer ealmhtige 7 on ealpa halgena þe forþeodað . . . eallan læpeban mannum æupe wenne hlauopþryce ouep cýpcan, idcirco nos firmiter constituimus, ac decernimus, et Dei omnipotentis nomine, omniumque sanctorum interdicimus omnibus laicis in perpetuum dominatione omni in ecclesiis.—See in Dr. Hicker's Thesaurus, Gram. Anglo-Sax. c. iii. § 17. p. 13. Also the letter of Pope Agatho, A.D. 680, in Chronicon Saxonicum, ed. Gibson, p. 42; Concilia, Sir H. Spelman, tom. i. p. 164; Wilkins, vol. i. p. 49.]

departs this life, let it be notified to the archbishop, and let such an one as is worthy be chosen, with his advice and consent; and let the archbishop make enquiry into the life of the man that shall be chosen into so sublime an office . . . \* and into his chastity. And let no man in any wise be chosen or consecrated into so sublime an office, without the advice of the archbishop. Kings ought to constitute earls, and aldermen, reeves of districts, and judges; and the archbishop ought to instruct and govern God's congregation; and to choose and appoint 'bishops, and abbots, and abbesses, and priests, and deacons, and to consecrate and establish them both with good precepts and examples, lest any of God's flock go astray and perish."

' It may be said, that Wihtred here prescribes laws to other kingdoms; but in truth he only declares the ancient right of primates. Further, Wihtred had probably two bishops in his kingdom, at Rochester, and at St. Martin's, near Canterbury: Botred, who subscribes in the forged Latin copies, might be bishop of St. Martin's.

[Post-script.]

It was no unusual thing for great men, once and again to renew the privileges, or charters, which they made to churches: there is, in Sir H. Spelman, p. 198, another confirmation of the liberties of the monasteries and churches in Kent; I dare not affirm it to be genuine; nor does Sir H. Spelman inform us whence he had it, but it is said to have been made in the eighth year of Wihtred's reign, which was 700, at Cilling, that is, I suppose, Feversham. Though I do not consider it as genuine, yet I may have leave to shew my reader how the liberties of the Kentish churches were then expressed, or, which is the same thing, how the word *onŕtungan*, about which our Saxonists differ, was understood by those who drew this instrument, viz., that the churches and monasteries be free from all public exactions of tribute, and from all damage and hurt, from this present day. See note e, above.

\* ["There appears to be no chasm or defect here in the original MS. Dom. A. viii., though Gibson has so printed the clause. The defect is rather at the end, after *lorje*, (*perish*,) where the compiler of the Norman interpolation

seems to have inserted much more of the *speech* of Wihtred, but afterwards obliterated it."—The Saxon Chronicle, J. Ingram, B.D. London, A.D. 1823. p. 60. note a.]

## A.D. DCXCIII.

ECCLESIASTICAL LAWS OF INE, KING OF THE WEST SAXONS,  
TAKEN OUT OF A SYSTEM OF SEVENTY-FIVE LAWS, MADE  
BY THE SAME KING.

### PREFACE.

KING Ine began his reign over the West Saxons in the year 688, Brihtwald succeeded Theodore in the archbishopric of Canterbury in the year 693, after three years' vacancy of the see: he excelled his predecessor only in one point; it was, in being an Englishman. The following laws of King Ine were made without the presence of any archbishop, and therefore probably between the beginning of his reign, 688, and the consecration of Brihtwald, which was in July, 693. The archbishop would have been ready to attend him, if the council had been held in the next year. But at present there was another obstruction; there had been a war between the kings of West Saxony and Kent, from the year 687 till 694: then Wihtred, king of Kent, purchased peace of King Ine, with thirty thousand pound\*, (as some say,) but it is not credible that such a sum could then be raised in so small a principality: others say with as many marks; but neither can this be believed: it is more probable, that it was done with thirty men, as Wheloc's edition of the Saxon Chronicle relates it; the men of Kent had burned Mull, a kinsman of King Ine, with twelve of his companions, in the war; this enraged the West Saxons; but Wihtred made peace by giving thirty of his men for thirteen of theirs. It seems probable that Ine held his council, in which these laws were made, at the farthest, in the year before the peace; and before his going to Rome, and granting the Peter-pence, for main-

\* [Chron. Sax. A.D. 694, p. 48.]

taining the English School at Rome: for provision would have been made in these laws, for the levying of them, if the grant had yet been made. If it had been in any following year of Ine's reign, Brihtwald would most probably have been there, either in person, or by his legate: for he outlived Ine three years; and sat archbishop the longest of any, I think, in this see, (I mean, above thirty-seven years,) excepting Ceolnoth\*.

\* [In Wilkins's *Concilia* is the following prefatory note to the Ecclesiastical Laws of King Ine.

De tempore hujus concilii nil certi statuum. Lambardus Inæ ponit regni initium in an. Dom. 712. Florentius Wigornensis (quem ego libentius sequor et cuius hærent vestigiis Saviliani Fasti) in an. Dom. 688. Exiisse autem Fasti anno 726. Lambardus 727. Wigornensis 728. de excessu hic parum refert: sed quoad ejus synchronos (qui in legum præfatione Hedda memorantur et Erkenwaldus) Hedda Wintoniensis sedit episcopus ab an. Dom. 677. usque an. 705. hoc est Inæ regis 18. Erkenwaldus vero Londoniensis episcopus a Godwino dicitur obiisse circa an. Dom. 685. in quo Inas, regiam dignitatem non est assecutus: et cõdendis istis legibus non tum Erkenwaldus potuit interesse. Probabilius igitur Fasti, sedit eum referunt usque ad an. Dom. 696. inclusive, hoc est, annum nonum Inæ regis; sic ut in novennali isto spatio condi censeam bas ejus leges, et incertus anni veri, ad annum (uti soleo) medianum tribuo, annum scil. Inæ 5. id est Domini nostri 692. vel 693. mihi autem non constat qui sit factum ut episcopum Londinensem suum vocet; cum is proprie regi paruit orientalium Saxonum non occidentalium, ni Londinium forte jam in ejus abisset dominationem.

The whole difficulty here stated, which led both Wilkins and Johnson to omit the mention of Ercunwald's name by King Ine as an interpola-

tion, (see p. 131, note 2, Addenda,) seems to admit of a solution quite in accordance with the above Preface, and the date there assigned to this council. Bp. Godwin, whose authority is quoted for the decease of Ercunwald about A.D. 685, expressly mentions that he was present with Wilfrid at the death-bed of Theodore, archbishop of Canterbury, Sept. 19, A.D. 690. In the absence of all proof to the contrary, we may well suppose that Ercunwald lived on till A.D. 693, and died very soon after this council, so as to be succeeded (as Bede tells us, lib. iv. c. 11) by Waldhere, A.D. 694. As King Ine could not have the presence of the archbishop of Canterbury, either because of the vacancy of the see or the hostilities between the West Saxons and the men of Kent at this time, he would naturally seek the help and countenance of the bishop of London, who of all the southern bishops, from the importance of his see, and its original designation for the primacy, ranked next to the archbishop. King Ine in calling Ercunwald "my bishop," expresses the special reverence and attachment which he felt first and chiefly towards his own West Saxon bishop Hedde, but in the second place also towards the bishop of London both in regard of his office and his personal character. See Bp. Godwin de Præsulibus, Archiep. Cant., p. 42; Abp. Parker de Privilegiis Eccl. Cant., p. 326; Acta Sanctorum, Apr. 30. tom. iiii. p. 780.]



## A.D. DCXCIII.

I NE, by the gift of God, king of the West Saxons, SAXON. Sir H. Spelman, vol. i. p. 182. [Wilkins, vol. i. p. 58. Thorpe, p. 46.] by the advice of Kenred my father, and <sup>a</sup>Hedde my bishop, and with all mine <sup>b</sup>aldermen, and the senior counsellors of my nation, and also a large assembly of the <sup>c</sup>servants of God, have been consulting the health of our souls, and the stability of our reign, that right <sup>d</sup>law, and right royal dooms, may be settled among our people. And they were confirmed so that no alderman, nor any of our subjects, were hereafter to alter these our dooms.

<sup>a</sup> He was the [fifth] bishop of the West Saxons; his see, Winchester. [Not only in Brompton's Latin translation, but in the Saxon copy contained [Addenda.] in the Textus Roffensis, after "Hedde my bishop," it is said "and Ercunwald my bishop." Yet there is no reason to believe that London, of which Ercunwald was bishop, was ever subject to King Ine: nor is it possible, I conceive, to assign any reason why Ine should call him "my bishop," though he had been actually present at the making of these laws. But Waldhere had succeeded Ercunwald before the end of King Sebbe's reign, and Sebbe's reign continued not beyond this year 693 \*. See Bede, lib. iv. c. 11.]

<sup>b</sup> The alderman was he who had the chief superintendence of any large districts or city.

<sup>c</sup> The servants of God, were the abbots, priors, and other heads of religious houses. Indeed, all monks and regulars often pass under this character: and there were few of the clergy that were not monks, or regulars. It is too early to look for parish churches in West Saxony; it was scarce sixty years ago, that Byrinus first preached Christianity to them: and the kings had not been steady in the profession of their religion.

<sup>d</sup> The old Latin, as well as Lambard, have turned *æp conjugium*. But there is no ground for this, excepting that an *e* is wanting at the end of

\* [Or rather 694; the words of Bede are, Venit (sc. Sæbbi Rex Orientalium Saxonum) ad antistitem Lundeniæ civitatis, vocabulo Valdheri, qui Erconvaldo successerat; et per ejus benedictionem, habitum religionis, quem diu desiderabat, accepit. Upon which mention of Waldhere the editor remarks, Annu

obitus Earconvaldi incertus, clarum tamen est fuisse ante R. Sæbbæ recessum, tempore scilicet Valdheri, qui successisse videtur, a. 694, licet Savi- lius in Fastis ponat a. 697, etiam post- quam fixisset recessum Sæbbæ a. 694, quod impossibile est. See Smith's Bede, p. 153, note.]

[Addenda.] the word ; the old Latin turns *æ* in the same manner, law 1 ; [Textus Roffensis hath *æpe* in the introduction, but it is left out in law 1\*.]

1. First, we command all God's servants, that they study their right rule, and duly observe it: in the next place we command that the law and dooms be observed of all folks.

2. Let a child be baptized within thirty nights: if it be otherwise, let [the father] make satisfaction with thirty shillings. If it then die, without baptism, let him make satisfaction with all that he hath.

3. If a slave work on the Sunday, by his lord's command, let him become a freeman, and let the lord pay thirty shillings for a mulct: but if the slave work without his lord's privity, let him \*forfeit his hide, or a ransom for it. If a freeman work without his lord's command, let him forfeit his freedom, or sixty shillings. Let a priest be liable to double punishment.

\* That is, let him be scourged. See law 5. But it is supposed that he might have money to redeem his hide; therefore English slaves had their property.

4. Let the 'Church-scot be paid by St. Martin's mass; if any one pay it not, let him be amerced forty shillings, and pay the Church-scot twelve-fold. [Textus Roffensis says sixty shillings, not forty.]

' By the thirteenth of these laws, it will appear that the Church-scot was to be paid according to the value of the house in the which the man lived at Christmas, but he had eleven months, wanting one fortnight, allowed for time of payment, viz., from December 25 to November 11, (called Martin-mass,) in the following year. The Rome-penny was the same to every housekeeper; but there was a difference in the Church-scot; it should seem, not according to the wealth or quality of the person, but the value of the house in which he lived at Christmas. It was commonly paid in grain, or seed, though sometimes in fowls. See 'Cyric-Set' in Spelman †. It was paid first to the bishop's church, afterwards to the lesser to which

\* [The final e which appears in the introduction, and is left out in law 1, does not change the meaning of the word. *Æpe* or *æp* means first 'law,' as here translated by Mr. Johnson, and secondly 'lawful wedlock' or a 'lawful wife.' See

Bosworth's Anglo-Sax. Dict. Wilkins, vol. i. p. 58; Thorpe, p. 45.]

† [Glossarium, p. 136. See also Ancient Laws, p. 46, note a, and the glossary under *Ciric-secat*; Saxons in England, vol. ii. p. 559. App. D.]

the man resorted for divine worship. We cannot doubt but tithes were paid in England, at this time and before; Boniface, in the year 693, was twenty years of age, (he was born 670,) and he testifies, that tithes were paid in the English Church, in his letter to Cuthbert \*; and there is reason to believe, that they were paid freely and fully, or else this king who made so severe a law for paying the Church-scot, would have made a severer for paying tithes, as some kings did some hundred years after this, when the people's first fervours abated. The Church-scot was a new taxation, and therefore not readily paid: tithes were from the beginning, and therefore paid without repining.

5. If any one be guilty of a capital crime, and flee to the church, let him have his life; but let him make satisfaction, as right directs. If any one forfeit his hide, and flee to the church, let his lashes be forgiven him.

\* Churches were sanctuaries, wherever Christianity gained a civil establishment; and since they were so here too, from thence it appears, that men suffered death for some crimes, unless they got into sanctuary; and that therefore pecuniary mulcts were not accepted in all cases: perhaps it was at the king's discretion, whether the criminal should suffer death, or pay the mulct. See law 6.

6. If one fight in the king's house, let him forfeit all his estate, and let the king deem whether he shall have his life or not. If one fight in a <sup>b</sup>minster, let him make satisfaction with an hundred twenty shillings. If one fight in the house of an alderman, or other noble counsellor, let him make satisfaction with sixty shillings; and pay other sixty shillings for a mulct. If one fight in the house of a <sup>t</sup>tenant or a common man, let him pay thirty shillings for a mulct, and six shillings to the common man. And if there be a fight in the open field, let an hundred twenty shillings be paid for a mulct. If men quarrel at their <sup>k</sup>common table, and some patiently contain themselves †, let the other pay thirty shillings for a mulct.

<sup>b</sup> Here is no particular mention of the bishop's house, but it is comprehended under the general name of a minster; because all bishops, probably, in this age and country, had their habitations in the monastery or religious house belonging to the cathedral church.

<sup>t</sup> *gefolgyben*, was, I conceive, he who held an estate at a certain rent,

\* [Lac et lanam ovium Christi, oblationibus quotidianis ac decimis fidelium suscipiant, et curam gregis Domini

deponunt.—Wilkins, vol. i. p. 92.]

† [“and one of them bear it with patience.”—T.]

[Addenda.] payable to the lord. [I take *geȝol-ȝylben* to signify properly the tenant to a plough-land. See *DOCCXXXIV.*, the note to *Ecgbright's* first answer.]

<sup>b</sup> *gebeoprepe* signifies the freemen of the whole tithing, or borough. Our ancestors were in this age emerging out of the savage life; every ten families, or thereabout, were security for each other's good behaviour; and therefore were obliged to eat and drink together, that they might often see each other, and that none might absent themselves from home upon unlawful occasions, without the knowledge of his neighbours. Every single man of the tithing, or *gebeorscipe*, was called *gebur*, which I translate, a common man. The chief of them who was security for all the rest, was the *borsholder*, or tithing-man. This was continued long after the Conquest. The Normans called the ten men, *Franc-pledges*. We still have our tithings or boroughs, and our tithing-men, or *borsholders*.

7. [13.] If one falsify his testimony or his faith, given in the <sup>1</sup>bishop's presence, let him make satisfaction with an hundred twenty shillings\*.

<sup>1</sup> This was one reason for the bishop's sitting on the temporal bench with the aldermen, viz., to tender necessary oaths in the most solemn manner; for the English in this age were under the greatest awe of falsifying an oath taken on the bishop's hand, or on a cross holden in his hand. Long after the two jurisdictions were entirely separated, *Gervasius Dorobernensis* tells us, that difficult causes, which could not be determined in the king's court, were decided by the archbishop, at the south door of Christ's church, Canterbury. I suppose, by this is meant that it was left to the archbishop to sift out the truth in knotty temporal causes, by a most solemn oath administered by the archbishop in person. See *Somneri Glossarium verbo Suth-dure* †.

8. [11] If one buy a slave, or freeman of his own nation, (though he be a malefactor,) and send him over sea, let him pay his *weregeld*, and make <sup>m</sup>deep satisfaction to God.

<sup>m</sup> By this is meant severe penance to be inflicted by the bishop, and probably in public. This was another reason why the bishop sat with the alderman, that he might condemn such criminals to penance as deserved it. This and the ninth and tenth laws, are not in *Sir H. Spelman*. N.B. The *were*, or *weregelt*, was the ransom paid for murder.

9. [15] If a man be charged with robbing in a <sup>n</sup>very large gang, let him either pay his *weregeld*, or make his purgation. Half of them who take the oath, shall be frequenters of the communion—.

\* [This and the remaining laws here given, are in *Lambard's Archaologia*, edited by *Wheloc*, numbered thus, 12, 11, 15, 19, 22, 46, 62, 75. The

numbers inserted in brackets refer to the laws of King *Ine* in *Ancient Laws*, pp. 45—65.]

† [Quoted below, p. 150. note.]

\* This law was too long to be inserted at length \* ; the large gang was any number from seven to thirty-five. In this case none were allowed to be compurgators, but such as were worth one hundred and twenty plough-lands. The very large gang was thirty-five in number, or more. In this case half of the compurgators were to be frequenters of the communion : from which it appears that men's oaths were valued according to their wealth ; but that the oath of one that frequented the communion was laid higher than his that was worth one hundred and twenty plough-lands. To the same purpose, see law 10.

10. [19.] A bailiff of one of the king's farms, if his weregeld be laid at twelve hundred shillings, and if he be a frequenter of the communion, his oath shall be of as great availment as his that hath sixty plough-lands.

11. [23.] If a foreigner be slain, let the king have two shares of the were, the son or kindred the third share. If he hath no kindred, let the king have one half, the chief † [of the murdered person] the other half. If [the chief] be

\* [The whole passage is thus edited and translated by Mr. Thorpe.

Deoƿar ƿe hazað oð vii. men, ƿrom  
vi. hloð, oð xxxv. ƿiððan bið heƿe.

Thieves we call as far as vii. men ;  
from vii. to xxxv. a 'hloth;' after  
that it is a 'here.'

#### BE ÐLOÐE.

XIV. Seþe hloðe betƿegen ƿe, geƿ-  
ƿicne ƿe hune be cxx. hida, oþþe ƿƿa  
bete.

Of 'hloth.'

14. He who is accused of 'hloth,'  
let him clear himself with cxx. hides ;  
or make 'bot' accordingly.

#### BE ÐERILE.

XV. Seþe heƿe-teama betƿegen ƿe,  
he hune be hiƿ ƿene-gilde aheƿe, oþþe  
be hiƿ ƿene geƿpicne. Se aþƿceal bion  
healy be huri gengum. Deoƿ ƿiððan  
he bið on cýningeƿ benbe, nah he þa  
ƿpicne.

Of 'Herge.'

15. He who is accused of 'here-  
team,' let him redeem himself with his  
'wer-gild,' or clear himself according  
to his 'w r.' The oath shall be half of  
communicants. A thief, after he is in  
the king's custody, shall not have the  
clearance.

#### BE DEOF-SLELE.

XVI. Seþe þeoƿ oƿrihð, ƿe moƿ  
gecýðan mið aðe þ he hune ƿýnigne  
oƿrioge, nalle þa gegilban.

Of thief-slaying.

16. He who slays a thief must de-  
clare on oath that he slew him offend-  
ing ; not his gild-brethren.

See Ancient Laws, pp. 48-9, where  
'clearance' and 'gild-brethren' (sc. ac-

complices) are fully explained in notes  
b and a.]

† [geƿþ, the word by which 'comes'  
(sc. satrapa, nobilis) of Bede (Hist. Eccl.,  
lib. iii. c. 14 *et passim*) is rendered in  
King Alfred's translation, and which  
also means a companion, fellow, ren-

dered "socius" in the Archænomia,  
and by Sir H. Spelman. For a  
probable explanation of the word in  
this place in the sense of 'host,' see  
Ancient Laws, p. 51, note a.]

an abbot or abness, let them in the same manner share with the king. If a stranger be a tenant<sup>o</sup>, [he is laid] at an hundred twenty shillings, his son at an hundred, a slave at sixty shillings, some at fifty; a stranger's hide at twelve shillings.

[Addenda.] ° [Here is meant tenant to a plough-land.]

[24.] A stranger if he hath five plough-lands is esteemed as one rated at six hundred shillings.

12. [45.] Satisfaction shall be made for breaking into the king's house, with an hundred twenty shillings, and [for breaking into] the bishop's, where his see is. [For breaking into] the alderman's, with eighty shillings; the Pking's thane's, with sixty shillings; the <sup>o</sup>commanding officer's in the army, (he being lord of the soil,) with five and thirty shillings. And [they shall] make their purgation <sup>r</sup> proportionably\*.

<sup>o</sup> The simple thane was an inferior nobleman; the king's thane, one of those who had an office at court.

<sup>o</sup> *gerþcund*-man. In the fifty-second of these laws a fine is laid on a man

\* [This, as well as the preceding law, being rather temporal than ecclesiastical, is omitted in Wilkins' Concilia,

but in the *Leges Anglo-Saxonice* the text and translation of King Ine's 45th law stand thus,

#### XLV. Be buphþýce.

Buphþýce mon ƿceal betan mið hund tƿelftigum ƿeill. Lýninge ƿ bircepe, þæp hiƿ ƿice biþ. Ealðoƿmanneƿ, mið eahtatig ƿeillunge. Lýninge ðegneƿ, ƿýxtig ƿeill. Læþcundeƿ manneƿ land-hæbdenneƿ, ƿif ƿ xxx. ƿeill. Anð biþ on anƿacan.

In other laws (King Ine, 50, 54, 63, 68, King Wihtrud 5) Wilkins interprets *gerþcund*-man, *præpositus*

#### LI. Be ðan ðe *gerþcund* man ƿýpð ƿopƿette.

Lif ƿe ƿþcund man land aƿenbe ƿýpðe ƿopƿette, ƿeƿýlle hund tƿelftig ƿeill. ƿ ðolige hiƿ landeƿ, unlandagenbe ƿxtig ƿeill. Leopliþe ðrietteƿ ƿeill, to ƿýpð ƿete.

#### 45. De urbis violatione.

Urbis violatio compensari debet centum viginti solidis, ubi regis et episcopi sedes est. Senatoris octoginta solidis; ministri regis sexaginta solidis; ejusdem conditionis hominis terram possidentis triginta et quinque solidis. Et his excusentur.

paganus, and gives King Ine's 51st law, (52 in *Archæonomia*,) referred to in note q, thus,

#### 51. De præposito pagano, qui milites providere nolit.

Si præpositus paganus terram possidens milites providere nolit, solvat centum viginti solidos, et perdat terram suam: si non possideat terram, sexaginta solidos. Colonus triginta solidos pro militiæ detractatæ mulctus. See *Leges Anglo-Sax.*, pp. 22-3, 25, 426-7.]

of this title, or character, if he leave the army: and a greater fine than on any other\*.

\* That is, the compurgators shall be proportionable to these sums in number and value. *Sed quære.* [Textus Roffensis has it thus, 7 býþ on [Addenda.] anyacan, which I thus turn, And he (that is the accused party) shall be on the disproof, orpurgation †.]

13. [67.] The Church-scot shall be paid for the roof, and fire-hearth, where men are at \* mid-winter.

\* That is, Christmas day: the opposite half-year day is still called Midsummer.

[I find some look upon Church-scot, or Church-seed, and tithes, to have [Addenda.] been the same. But upon this supposition, I can see no reason why men should be ordered to pay it for the house in which they lived at Christmas. And farther, some Saxon laws or constitutions make distinct provisions for the paying of tithes and Church-scot, and order it to be done at several times. Thus MIX. the tenth and eleventh constitutions of Eanham, require tithes to be paid at All-hallows, Church-scot at Martinmas.]

14. [76] If one kill another's godson, or godfather, let the 'magbote [to the godfather or godson] and the 'manbote be alike. Let the satisfaction increase in proportion to the were, as also the manbote does which is due to the lord. If it be the king's godson, let him make the same satisfaction (in proportion to his were) to the king as to the kindred. † If he were in defiance with him ‡, who slew him, then the satisfaction to the godfather fails in the same manner that

\* [Sithcund, vel Gefþcund-man. Qui ejusdem conditionis erat cum quovis altero prius memorato, Ex. gr. cum *Thano* LL. Inæ 45, cum eo qui *quinque hidas terræ* possidebat. Jud. Civ. Lund. de Weregild, § 12. Ubi notandum quod ejus *capitis æstimatio* (et ejus proinde *ordo* atque *dignitas*) qui ortus est a rustico *quinque hidas terræ* possidente, eadem fuit quæ et *Thani* sc. 2000 Thrysmæ; § 5. ¶ Item, Prepositus quidam pagensis, cujus officium erat in profectione militari se præbere paratissimum. LL. Withr., § 7, 8. Inæ 50, 51, 54. Ita vero dictus, uti voluit *Lambardus*, ab Anglo-sax. Sidiān, proficisci, iter facere. Potius tamen quod ex iis erat qui *quinque hidas terræ* possidebant, ideoque *ejusdem conditionis* cum *Thano*; quum Colono sive Rustico perpetuo opponitur in LL. Inæ supra citatis. Inde autem

conjicio nostros *Sithcunden* (q. d. *Sithcunden*) nomen deduxisse. Dict. Sax. et Goth. E. Lye.

“The ‘gesiths,’ ‘gesithmen,’ or ‘gesithcundmen,’ were the military companions or followers of the Anglo-Saxon chiefs and kings.”—Thorpe's Glossary.

Hence we must regard Mr. Johnson's translation, ‘commanding officer in the army,’ here and in the fifth law of King Wihtred, only as an approximation serving in the absence of an exact word to give some idea of the meaning of *gefþcund-man*. See also Somner's Glossarium, verbo, *Sithcundus homo*.]

† [7 býþ on anyacan, and according to this make the legal denial.—T.]

‡ [Lif he ðonne on ðone geonbýpde ðe hune floh, Si autem se illi opposuerit qui eum interfecit.—W. If, however, he strive against him who slew him.—T.]

the mulct to the lord doth. If it be a ' bishop's son, let it be half as much.

Mægbotc was the satisfaction due to the family, for killing one of them.

▪ Manbotc was the satisfaction due to the lord, for killing his man: in ordinary cases this was but a sixth or seventh of the magbotc.

▪ If the murdered person had committed a capital crime, and yet stood, *vi et armis*, in his own defence, and died in the combat, no satisfaction was due for him. Both the old Latin, and Lambard, say, *Si de parentela ipsius sit qui occidit eum* \*,—*Verum si ei a cognato erepta est vita* †, &c., but I see no reason for this. My translation here is verbal and clear.

Ƴ A bishop's godson.

\* [See "Legum Anglo-Saxonica- &c., p. 504.]  
rum versio antiqua" in Ancient Laws, † [Lambard's Archæonomia, p. 14.]



## A.D. DCXCVI.

### KING WIHTRED'S DOOMS ECCLESIASTICAL.

#### PREFACE.

THE following laws of King Wihtred have so many marks of genuine antiquity, and the whole texture of them is so agreeable to the simplicity of this age, and the style so truly Saxon, that a monk of the tenth or eleventh century might as well be suspected of falsifying in Hebrew or Arabic, as in the language in which these laws are written. But it is objected, that the acts, or preface, make these laws to have been compiled in the fifth year of this king's reign, and the first indiction. I answer, No; this is the mistake of Sir H. Spelman or of his friend Lisle. The Saxon preface says expressly, it was the ninth indiction: but it has been asserted, that the fifth of this king's reign falls in with the tenth indiction. This can by no means be allowed; for, if the year 692 was the first of his reign, (for which see Bede, lib. v. c. 9\*,) then 696 must be the fifth: and I suppose no one will dispute but 696 was the ninth indiction. Sir H. Spelman by mistake placed it in 697, forgetting that Wihtred coming to the throne of Kent in the beginning of the year 692, or however, before July, therefore 692 ought to be reckoned for one year of his reign. But exceptions have been made against the title here given to Brihtwald, viz., high or chief bishop of Britain. But sure it cannot be thought unreasonable, that he should be called the high or chief bishop, because he really was so. As to the other point, bishop of Britain, it was the style of his immediate predecessor Theodore, in the council of Hatfield, Bede, lib. iv. c. 17, and the province of York was subject to Brihtwald as well as Theodore. It is true, Gibmund's name is put for Tobias, then bishop of Rochester: and this was a blunder of the scribe, and I wish there were no more errors than this, especially in the spelling. But if the wrong name of a

• [Smith's Bede, p. 190.]

bishop were sufficient to invalidate or discredit any public act, Magna Charta itself must be condemned as spurious; for all the published copies of it bear 'His testibus Bonifacio, Cant. Archiepiscopo, 1224;' yet it is notorious, that Magna Charta was first solemnly passed in parliament, in the ninth year of Henry III., A.D. 1224, and then it is as notorious, that Stephen Langton sate archbishop\*.

[Addenda.] [No man doubts but King Ine's laws are genuine; yet if we had no other copy of those laws, but that in the Textus Roffensis, (and we have no other copy of Wihtried's laws, but that in this same MS.,) we must have been content to take them as they there stand with Ercunwald's name interpolated. Yet I suppose no historian will dispute it, but that Ercunwald was dead before King Ine made his laws, and probably before his accession to the throne.]

There is one difficulty in the acts, or preface, which it is here proper to mention, I mean that the council is in the Textus Roffensis said to have met on the sixth day of Rugernes, or Augernes; Sir H. Spelman could not certainly say whether the first letter was A, or R. I presume the copy from which the transcriber wrote it into the Textus Roffensis had Ernes only, which was the known name of the month August in the ancient French, (save that the first letter of it was A in their orthography :) and the Kentish people may be reasonably presumed to have borrowed this word from their next neighbours beyond sea, as well as

\* [Gibmund was bishop of Rochester from the year of our Lord 681 to 692, when he was succeeded by Tobias, who was present the same year at the council of Baccancelde, where King Wihtried made his grant of privileges, (p. 125,) and presided over the diocese of Rochester till his decease A.D. 726. As the laws of King Wihtried seem rightly assigned to A.D. 696, we may conclude the name of Gibmund here is a mistake (either of Bp. Ernulf, A.D. 1114—24, who compiled the Textus Roffensis, or of some earlier scribe) for Tobias, according to the opinion of Mr. Johnson, though no stress can be laid on the illustrations above given. It has already been shewn (p. 130, note) that Ercunwald may reasonably be supposed to have been present at the making of King Ine's laws. Stephen

Langton was Archbishop of Canterbury A.D. 1207—28, Boniface 1245—70. The early printed copies of Magna Charta, Pynson, 1608, Tottell, 1576, and Wight, 1602, do indeed exhibit the above anachronism, but no trace of it is found in the most authentic MSS. The Magna Charta of King John, A.D. 1215, has the name of Stephen, Archbishop of Canterbury, both at the beginning and towards the end of the document; the Magna Charta as solemnly passed and given under the great seal in the ninth year of King Henry III. begins the list of witnesses thus, 'Hiis testibus Dño S. Cantuar. Archiēpo.' See facsimile of Magna Charta, 17 John and 9 Hen. III., in Statutes of the Realm, A.D. 1810, vol. i. pp. 8, 22.]

several others. But the scribe was going to put down August, as being the more familiar name of that month, in the age when the transcript was made, (viz., in the reign of Henry I.,) yet upon recollection he resolved to follow his copy, and so struck out so much as he had written of the name August, though not so perfectly as to render it wholly illegible, and wrote Ernes: perhaps he resolved to insert both names; the one by abbreviation, the other at large, that one might explain the other. Our misfortune is, that there is only a single MS. copy of these laws; and that was very carelessly published by Sir H. Spelman, but Mr. Somner's corrections have cleared several difficulties\*. It may seem strange, that these laws of King Wihtred should have a more formal preface, and the time and place more precisely specified, and the persons of which the council consisted more expressly mentioned, than several other sets or systems of laws in the following ages; but it is to be remembered, that many of Archbishop Theodore's scholars were yet alive, and to them we owe this exactness. Theodore himself had not been seven years dead, at the time of this council.

[As to the name of the month it is clearly Rugepner † in [Addenda.] the Textus Roffensis. Sir H. Spelman could have raised no doubt in this point, if he had inspected the MS. Nor were there any grounds for his copier to hesitate about it. I am still of opinion that epner stands for August. As for the three first letters I have nothing that I can think worthy to offer to my reader on that head, unless he will suppose it was originally Rugepner, i. e. rye-harvest. For it is no uncommon thing in the Saxonice to double i, and double u was unawares turned into u.]

\* Mr. Somner's corrections were made from the Textus Roffensis, of which Sir H. Spelman seems to have seen only an imperfect transcript. See General Preface, pp. viii., ix. Sir H. Spelman of his own edition uses these words, "Constitutiones istas Withrædi Regis Cantii (aliasque aliquot Regum aliorum) Saxonice scriptas, et a nemine (quod sciam) aut in lucem datas aut expositas, nos pro tenui facultate nostra in Saxonico idiomate, Latinas feci-

mus, sed de versione dubii ad magis in hoc genere literatos provocamus. Consulimus tamen, qui præ cæteris habitus est instructor, consanguineum nostrum Gulielmum ab Insula, et is me fateor sæpius expedit, sæpius etiam in eodem cohærebat luto et neuter alteri opem tulit."—Concilia, Spelman, vol. i. p. 198, *note*.]

† [Mr. Thorpe gives Rugernes, 'of Rugern,' but states that the published Menologies take no notice of this month.]

A.D. DCXCVI.

SAXON.  
Sir H.  
Spelman,  
vol. i.  
p. 194.  
[Wilkins,  
vol. i.  
p. 60.  
Thorpe,  
p. 16.]

THESE are the dooms of Wihtred, king of the Kentish.  
\* When Wihtred, the most clement king of the Kentish, bare rule, in the fifth year of his reign, in the ninth indication, on the sixth day of August, at a place called <sup>b</sup> Berg-hamsted, a conciliary congress of great men was assembled: there was Brihtwald, chief bishop of Britain, and the king before named; and also the bishop of Rochester, the same was named <sup>c</sup> Gibmund; every order of the Church in that nation, of the same mind with the people <sup>d</sup> subject to them, were present, and treated. And there the great men devised these dooms with the <sup>e</sup> consent of all, and made additions to the righteous usages of the Kentish, as it is hereunder said and declared.

\* N.B. Mr. Somner's emendations of Sir H. Spelman's text, in the acts or preface of this council, are as follows, viz., *geþeahþenblíce*, for *geh*,—*æpnæmba for æpnæm þa, wæy hæten for þæy hæten*. Further, I take *ȝ papb*, as one word, and to signify 'present.' Mr. Somner also read *anmoblice* for *acmoblice*.

[Addenda.] [Mr. Somner's emendations agree with the *Textus Roffensis* saving that the *Textus* has *geþeahþenblíc* \* not *geh*—, yet I think Mr. Somner's correction to be very apposite.]

<sup>b</sup> Perhaps now Bursted, or Barsted, near Maidstone, the present assize-town †.

<sup>c</sup> Tobias. See my preface to this council.

<sup>d</sup> Saxon, *heppuman*, which never signifies military, as Sir H. Spelman here renders it; but perpetually conformable, obedient, subject, or the like.

\* [An obvious mistake.—T.]

† [There is little doubt of the truth of this conjecture, though Barham near Canterbury, and Berkhamstead in Hertfordshire, have each been suggested as the probable place of King Wihtred's council. The village of Berated, about two miles from Maidstone, is said in a document, A.D. 1573, to have been called Bertie-sted, from its ancient lords the family of Bertie, settled there before A.D. 1014, the meaning of sted in the Anglo-Saxon language being a place or

town. This tradition agrees with the name in the *Textus Roffensis*, *Berg-hamȝyþe*, which resolves itself into *Bepht-eye-ham-ȝyþe*, that is, Bright-eye-home-stead: in course of time ham was left out as superfluous, and the name of the place was spelled Berghesteade in the reign of King Edward the Third. See *Five Generations of a Loyal House*, p. xxiii. xxxvi.; Appendix, p. 459. London, Rivingtons. A.D. MDCCLV. Kemble's *Saxons in England*, vol. ii. p. 207, note 2.]

\* It is sufficiently plain, that the people in this council had consultive and even conclusive voices: and this seems but reasonable, if it be considered how much their property was affected by the first words of the first law. The king had before granted this privilege to the Church; but he and the clergy too might see just occasion to take the consent of the people to so extraordinary an immunity: and pious King Wihtred thought by this means to perpetuate his generosity to the Church.

1. † A freedom from taxes belongs to the Church; and let men pray for the king, and honour him of their own accord, without any compulsory law.

† Mr. Somner here deletes the .: between e and a in cipicean, and by conjecture reads garol ah, for garola\*, therefore he thus understood this sentence, Let the Church have an immunity from taxes. Mr. Somner also read peophigen, not he—.

2. § Let the protection of the Church, and also of the king, be fifty shillings.

§ That is, let the penalty for breach of protection be fifty shillings in both cases. King Ethelbert required as much more for breach of the Church's peace, or protection, as for breach of his own. But by one hundred years' experience, this was found unreasonable. The most common breach of the Church's protection was by drawing malefactors from sanctuary: and certainly this was a grievance to the nation, that criminals should be sheltered by the Church.

3. † Let whoremasters betake themselves to right life, with penance for their sins; or else let them be separated from communion, † without ecclesiastical purgation †.

† Uncleanness was always one principal subject of Church discipline, especially here in England: and it is observable, that the whole Kentish nation here consents that uncleanness be punished by both jurisdictions, spiritual and temporal. See law 6.

† Mr. Somner read gemanan, not genaman. Sir H. Spelman read

\* [Lipicean ppeoly bome 7 garola. Ecclesia fruatur immunitate et tributis. —W. To the Church freedom from imposts.—T.]

The text seems to have been ppeoly bome 7 garole, or some similar form conveying the same meaning.—T.]

† obbe of cipicean gemanan sycabene rien. vel a coetu ecclesiastico separeatur. W. Or that they be separated from communion with the Church.—T.]

The MS. reads genaman by mere transposition of letters for gemanan 'communion.' Mr. Johnson in supposing that re-

ference is here made to the custom of purgation, (as in dooms 17—22,) seems to have been misled by Sir H. Spelman's edition, which gives obbe of cipicean gecan genaman sycabene rien, "vel a coetu ecclesiastico arceantor." The word gecan, which might mean 'purgation,' not being found in the Textus Roffensis, nor in Hearne's edition of it from the Dering transcript, (p. 9,) nor expressed by Sir H. Spelman in his translation, can only be regarded as an error of the press.]

hpeope, though his printed text has hpeope, as likewise in many other places.

[Addenda.] [Textus Roffensis hath gemanan. Yet I stand by Somner's emendation; especially because the text hath gemanan in the fourth doom.]

<sup>k</sup> That is, either without allowing him purgation, the law being meant of notorious whoremasters, or else the meaning is, that he shall be excommunicated unless he can by law purge himself: to which latter sense the Saxon or, here inclines me. However, by this it seems plain, that purgation of any crime by the oath of the accused party and his compurgators is as ancient as ecclesiastical jurisdiction itself, within this kingdom. It is mentioned in the laws of Lothere and Eadric, kings of Kent, four or five times; and though those laws are all temporal, and the purgation there mentioned be in relation to temporal matters; yet the oaths were to be made at the altar, by law 16. The taking away this purgation has rendered discipline impracticable.

4. <sup>l</sup> If foreigners will not reform their filthiness, let them with their goods and sins depart out of the land; <sup>m</sup> so that the churchmen among the people suffer the loss of communion <sup>n</sup> without being banished\*.

<sup>l</sup> Mr. Somner here read mæn for mæp, ƿpa for ƿpæ †.

<sup>m</sup> Here, perhaps, I have too closely followed Mr. Somner's emendation. Let me have leave to suppose that Sir H. Spelman read justly, save that he made ƿpære two words, when it should be but one, (and this is very usual in his text,) then the translation is clearly thus, 'Let the complaisant † churchmen among the people,' &c., as in the text. By 'complaisant churchmen among the people,' they meant, probably, secular clergymen, as they were afterwards called who lived among the people, not in monasteries as the regulars did, but had too much of the gallant in them, so as to be infamous for their vicious amours, C. Cloves-hoo, DCCXLVII. 9. The law exempts these from the penalty of banishment, though they were foreigners, because there was probably a scarcity of clergymen at this time.

[Addenda.] [Textus Roffensis, clearly ƿpære mæn, ƿpære is evidently one word.]

<sup>n</sup> ungerƿobyne, literally, 'unbanished.'

5. If it hereafter happen that a °commanding officer in the army‡ engage himself in an unrighteous copulation, in

\* [Æ]þeobige mæn gýr hio hiopa hæmed þihtan nýllað, of lanbe mið hiopa æhtum 7 mið ƿýnnum ƿeþren. Spære mæn in leobum cƿiðlicæƿ gemanan ungerƿobyne þoligen. That foreigners, if they will not correct their fornication, depart from the land with their goods and with their sins. Let natives among the people forfeit communion with the Church, without expulsion.—T.

Mr. Price had rendered ƿpære mæn

by 'inland strangers.' I am unable to discover any authority for this interpretation, and doubt its accuracy. Spære is the Mæso-Gothic swes, and signifies *proprius, own*.—T.]

† [mæn for mæp is clearly right, but not so the reading of ƿpa for ƿpæ.]

‡ [For the true meaning of ƿpære in this law, see note\*.]

§ [Lerþcunde mannan, præpositus paganus.—W. See notes on pp. 136, 137.]

contempt of this <sup>p</sup>gemote, contrary to the command <sup>q</sup>of the king, and the bishop, and the <sup>r</sup>doom-book, let him make satisfaction for it to his lord with an hundred shillings, <sup>s</sup>an ancient right.

<sup>o</sup> See law of Ine, 12.

<sup>p</sup> All authoritative assemblies were so called.

<sup>q</sup> Mr. Somner read *Cyningar\**. But it seems a mistake of his, or of *Textus Roffensis*.

<sup>r</sup> The doom-book contained all the laws, penalties, and dooms then in force.

<sup>s</sup> *Pro more*, Somner. You have this expression in the twelfth law of *Lothere*, and *Eadric*, though in another case. And it is not uncommon in ancient monuments, yet Sir H. Spelman omits it in his translation. By this it should seem they had older laws to this purpose.

6. If it be a common man, let him make satisfaction with fifty shillings : and let 'each of them† desist from uncleanness, with penance.

† Or, 'notwithstanding this.'

7. <sup>u</sup>If a priest <sup>x</sup>connive at unrighteous copulation, or neglect baptizing of the infirm ; or be so drunk that he cannot [do it,] let him desist from his ministrations, for so long a time as the bishop's doom [requires ‡.]

<sup>v</sup> Mr. Somner has justly deleted Sir H. Spelman's translation of this law entirely ; and he read *Biscopes dom*, for *his cope*—,

[*Textus Roffensis*, *Biscopes dom*, beyond all doubt.]

[*Addenda*.]

<sup>x</sup> Mr. Somner says, *Si sacerdos a scortationibus non abstinuerit*, taking *læf* in the sense of leaving, or abstaining, and supplying *na*, which last I thought too bold for my imitation. I rather take *læf* in the sense of tolerating, giving leave, or conniving at. By this, and other evidences, it appears that priests were of old esteemed to be under an obligation to present offenders to the bishop, as church-wardens are now. Yet perhaps *læf* may stand for *leof* : If the priest love unrighteous §, &c.

8. If a <sup>y</sup>shorn man irregularly wander about, entertainment may be given him for once ; <sup>z</sup>and let it not be that he be entertained for any long time, unless he have a license ||.

\* [*cýningar*, *regis*. W. *cingær*, king's.—T.]

† [ *gēhpæp*, et nihilominus.—W.]

‡ [*Lif ppeort læfe unriht hæmed, obbe fulpibe untramef forpette, obbe to ðon ðruncen rie þ he ne mæge, gto he fulle his ðegnunge ob biscopef dom. Si sacerdos injustum concubitum permiserit, vel baptismum infirmi distu-*

*lerit, vel adeo ebrius sit, ut nequeat (munus obire,) ministerium ejus cesset ad arbitrium episcopi.—W.]*

§ [If a priest allow of, &c.—T.]

|| [ *þ ne gepeoþe buton he leaferre hæbbe, ðæt hine man læng jeornige, et hoc non fiat, nisi licentiam habeat, ut diutius sustentetur.—W.]*

ʒ That is, a monk: yet all clergymen were shorn, though not in so ample manner as monks.

\* Mr. Somner read hæbbe, not nabbe, as Sir H. Spelman, yet unless the Textus Roffensis be very clear for Mr. Somner's reading, I should rather choose Sir H. Spelman's, and turn this last clause thus, 'And that not without pay. Let him not have permission to be entertained for a long time.' *geþeoppe buton* I translate, 'without pay.'

[Addenda.] [*Textus Roffensis* hath not leaƿ before leaƿneƿre, and has habbe, not nabbe.]

9. \*If a man give freedom to a slave at the altar, let the family be free; let him take his liberty, <sup>b</sup>have his goods, and a <sup>c</sup>weregeld, and protection for all that belong to his family <sup>d</sup>though out of bounds where he pleaseth\*.

\* Mr. Somner read ƿe for ƿe, in the first clause, and ænbe for ænpe. This last may be taken either as a termination of eƿƿ, or for ƿ; and however you order it, the sense of the law is little affected by it.

[Addenda.] [There is a small interstice between æƿƿ and ænbe in *Textus Roffensis*. So there is between several syllables, which yet certainly make but one word; as for instance, between *Lƿice* and an in the first doom, which was the occasion of Sir H. Spelman's making these points: ∴ between the former and latter part of the word.]

<sup>b</sup> It is said, there never were any slaves in Kent before the Conquest: this law is a proof of the contrary. Yet it seems to shew at the same time that there were no slaves, but what, during servitude, had a kind of property of their own, which was made more independent by their manumission.

<sup>c</sup> The lord or master had the weregeld due to the slave, or any of his family, during servitude; upon manumission it became their own.

<sup>d</sup> Slaves were confined within the bounds of the manor to which they belonged. Freemen were under the king's protection, while they travelled at discretion on the highway.

[Addenda.] 10. \*If [any] one that is a slave does [any servile] work at his master's command on the 'Sunday evening, after the going down of the sun, till before the going down of the sun on Monday evening, let the master make satisfaction with eighty shillings †.

\* [*Lƿ* man *hƿ* mæn an ƿeopbe ƿeolƿ ƿere, ƿe ƿe folc-ƿƿƿ, ƿeolƿ ƿe-ƿa aƿe *hƿ* eƿƿe ænbe ƿeƿgelb, ƿ mun- be ðape hƿna, ƿe oƿeƿ meapce ðæƿ he ƿille. Si quis mancipium suum ad altare manumiserit, liber esto apud plebem; manumissor possideat hereditatem ipsius, et æstimationem capitæ, et pacem talis (mancipii) ubicunque

fuerit, extra fines regni.—W.]

If any one give freedom to his man at the altar, let him be folk-free; let the freedom-giver have his heritage, and 'wer-geld,' and the 'mund' of his family, be he over the march wherever he be.—T.]

† [So Spelman and Wilkins, but Thorpe, without alteration of reading, translates



\* Mr. Somner read *efne* for *efne*, *hære* for *hære*, *ƿe* *þrihtne* for *be* *þr*—

[Mr. Somner's emendations here agree with Textus Roffensis.]

[Addenda.]

† It is obvious to observe, that Sunday evening here signifies what we now call Saturday evening, and Monday evening what we now call Sunday evening; and this is according to the Scripture account; "For the evening and the morning were the first day," &c.

[Gen. i. 5.]

11. § If a slave on this day doth [work] of his own accord, let him make satisfaction for it with his master, with six shillings, or with his hide.

§ Mr. Somner here read, *þæf* for *þæf*, and turns *beþ* *hiſ* *pæde*, *proprio motu id fecerit*, in both which I follow him. Sir H. Spelman translates the phrase last mentioned, *itineraverit*. See this phrase again, law 16.

12. If a free <sup>h</sup>servant [do this] at the time forbidden, let him incur the penalty of the <sup>1</sup>heals-fang; and let the man <sup>1</sup>who apprehends him have [half] the mulct and the work\*. [Ed.]

<sup>h</sup> I read *þeop* for *þonne*. And if this reading be not allowed, and *þonne* be a mere expletive, yet this must, I conceive, be the sense of the law.

† I retain the original word, because the sense of it is not certain. It is certain that it signifies a neck-catch; but whether a pillory, which a man might suffer without diminution of his freedom; or a collar, which was the badge of perpetual slavery, is not so certain; but I incline to the latter. Loss of freedom was a frequent punishment among the Saxons; and this was the punishment assigned to the breach of the Lord's day. See law Ine 3, to which Somner here refers, which shews that he was of the same opinion. See also law 15, below, and my note upon it.

‡ *Qui fundi dominus fuerit*, says Mr. Somner, but I rather choose to read *apæne* as one word, as Sir H. Spelman did, if we may judge by his translation. Further, I read *þeopc*, not *þeope*, and I suppose this sentence to refer to the three foregoing laws. See law 15.

[*apæne* has the last syllable somewhat disjoined from the rest of the word in Textus Roffensis, yet I stick by my translation. The MS. hath clearly *þeopc*, not —*pe*.] [Addenda.]

13. If a husband, without the knowledge of his wife, make

*oƿeƿ* *þrihtneſ* *hære* "contrary to his lord's command," and, LXXX. *ƿcill*. *ƿe* *þrihtne* *gebet*e, "let him make a 'bot' of LXXX. shillings to his lord."

\* [Lij *ƿuman* *þonne* an *ð*:ne *ƿopbod*-*enan* *timan*, *ƿio* *he* *healyfang* *ƿcylbiſ*, *ƿe* *man* *ƿe* *þ* *apæne*, *he* *age* *healf* *þ* *ƿite* *ƿe* *ðæt* *ƿe*pe.]

Si liber homo autem (id fecerit)

*tempore vetito, sit reus collistrigii, et qui eum detulit, habeat mulctæ et æstimationis capitis dimidium.*—W.

"But if a freeman (so do) at the forbidden time, let him be liable in his 'healsfang,' and the man who detects him, let him have half the 'wite' and the work" (*þeopc*).—T.]

an offering to a devil, let him incur the loss of all his possessions, and also the heals-fang. If both make an offering to a devil, let her\* incur the heals-fang, and [the loss of] all her possessions.

14. If a slave make an offering to a devil, let him make satisfaction with six shillings, or with his hide.

15. †If a man give flesh to his servants on a fasting-day, †let him redeem [himself from] the heals-fang, by making his servant free †.

\* Mr. Somner read *ƿygne* for *grygne*, and *hƿum* for *heopum*, or *þe*— This last makes little or no odds.

[Addenda.] [Textus Roffensis hath *heopum* and *ƿygne*.]

† Sir H. Spelman omits *heal-fang alyre*, in his translation. Mr. Somner turns this clause, *Servus liber exeat, [herus] pretio collestrigii id redimat*. But this inflicts a double punishment on the master, which was more than was done for breach of the Lord's day, law 10. But what is intimated in Mr. Somner's translation, viz., that the *heals-fang* † often denotes the known price for buying off that punishment, is certainly true. The settled mulct in this case, was, I think, sixty shillings; this explains law 12. The mulct there mentioned, and whereof he that apprehended the offender was to have half, seems plainly to have been the money paid for buying off the *heals-fang*.

16. If the servant eat [flesh] of his own accord, [let him forfeit] six shillings, or his hide.

\* [The word 'also,' expressed by Sir H. Spelman, and perhaps unintentionally omitted by Mr. Johnson, is here necessary to the sense of the translation.]

† [Si quis servis (heopum) suis in jejuniu carnem det, tam liberis quam servis, collestrigium redimat.—W.]

*Lif mon hif heopum in fæsten flæro gefe, ƿygne ge þeopne, halƿfange alyre.*

If a man during a fast give flesh meat to his family\*, let him redeem, free or bond with his 'half-fang.'—T.]

‡ [*Healsfang, Halffang, Healfang, &c. Collestrigium vulgo pillorium*. A Sax. *haly*, id est, *collum*; et *ƿangen comprehendere supplicii machina quæ rei collum e pegmate sublata, inter duas tabulas comprehendit, populoque præbet in ignominiosum spectaculum*. Dicitur et ipsa mulcta pecuniaria, in commutationem hujusmodi pœnæ, regi vel domino jurisdictionis erogata quam nonnulli 10

*sol. fuisse asserunt*.—Glossarium Spelmani, p. 277. From this and other authorities we may conclude that *heals-fang* at first meant a kind of pillory, not a collar for a badge of perpetual slavery, as Mr. Johnson suggests in his second note on law 12. The punishment itself, which as we learn from this fifteenth law of King Wihtred was commuted as early as A. D. 696, afterwards, fell into disuse, and in the later laws the word always means a fine, which varied according to the degree of the offender. For the amount of the thane's and churl's *healsfang* respectively, see in Thorpe's Ancient Laws and Institutes, *Leges Regis Henrici Primi*, c. lxxvi. § 4 and 6. Also p. 17, note h, in the same book, and the Glossary at the end of it. For a description of a Saxon pillory, see Strutt's Antiquities of the English, vol. i. p. 40, plate 15, fig. 5.]

\* [heopum is the *hīpan*, *hīgan*, *hīan* of the later documents.—T.]

17. Let the bishop's word, and the king's, be valid, without an oath.

18. <sup>m</sup>Let the senior of a monastery vouch for himself, with the vouchment of a priest. Let the priest purge himself by his own veracity, by saying thus in his holy vestment, before the altar, "I say the truth in Christ, I lie not." Let the deacon purge himself in the same manner.

<sup>m</sup> By this it appears that all heads of monasteries were not priests. See Answers of Eggbright, DCCXL., 7, 11, &c.; and Canons of Cloves-hoo, DCCXLVII., 5. This is to be understood of heads of monasteries, and priests charged with any crime. See law 3, above.

19. Let the clerk purge himself with four of his equals, and one with his hand on the altar, the other standing by to <sup>n</sup>bow at the oath\*.

<sup>n</sup> Sax. *abyrgan*, *quari*, *abygan*, or *abugan*, they bowed, or stood in a devout posture, to shew that they joined in the oath.

20. Let the <sup>o</sup>earl† purge himself by his own oath on the altar, as likewise the king's thane.

<sup>o</sup> I have ventured here to put *gerþ* for *geþt*. Not but that guests, or strangers, were by other old laws permitted to purge themselves by their own oaths, but because the person to whom this privilege was granted, is here placed before the king's thane; whereas when the laws grant this privilege to strangers, the cause of it is hinted, viz., that they were poor and friendless.

21. Let the common man [purge] himself by four of his <sup>p</sup>equals, at the <sup>q</sup>altar, and let the oath of all these be valid. <sup>r</sup>Then is ecclesiastical vouchment right.

*heafod-gemacan*, Sir H. Spelman turns, here and law 19, *demisso capite*, by mistake.

<sup>q</sup> My reader will observe, that all these oaths of purgation were made by laying hands on the altar‡; they observed the like form in taking oaths

\* [Llþoc ceoppa sum hine clænre hir heafod gemacene, 7 ane hir hand on þrowode, oþþe æt 7tanben aþ abyrgan. Clericus quatuor compurgatoribus sui similibus se purget, et una manu ad altare, altera ad juramentum præstandum applicata.—W.]

Let a clerk clear himself with four of his fellows, and he alone with his hand on the altar, let the others stand by, make the oath.—T.]

† [*gerþ*, 'comea'—W. *geþt*, 'stranger'—T.]

‡ [In the Glossary to the Ancient Laws and Institutes, under the word 'Oath—Að,' is the following passage:—

"The expression, *jurare manu sexta, duodecima*, &c., has reference to the number of consecramentals, 'porrectis namque manibus jurabant, tentisque sacrosanctis evangeliiis, aut altari, aut etiam, quod frequentissimum erat,

concerning temporal matters of moment, and therefore even in their great-est courts of judicature, they did not always absolutely determine matters; but left them to be decided by the oaths to be taken at the altar of the bishop's church, or at some other great monastery. The church of Canterbury being the chief, therefore Gervasius Dorobernensis \* says that there the archbishop determined such controversies, as could not be decided in the king's court. See Somneri Glossarium, Suth-dure †; and Dissertatio Epistoliaris, p. 80 ‡; Sir H. Spelman's Councils, vol. i. pp. 334, 335 §. The

sanctorum reliquiis. Bignon. *nota ad* Form. Marculfi, lib. i. c. 38. This practice was general among the Germanic nations. Hoveden (anno 1194) mentions that the bishop of Ely, in his reconciliation with the Archbishop of York, was required to swear 'cum centesima manu sacerdotum'; and among the Welsh we find a purgation requiring three hundred consacramentals (trecentesima manu). See Spelman voce Assath." ]

\* ["Deinde sub medio longitudinis aulæ ipsius duæ turres erant prominentes ultra ecclesiæ alas. Quorum una quæ in austro erat honore beati Gregorii papæ altare in medio sui dedicatum habebat et in latere principale ostium ecclesiæ, quod antiquitus ab Anglis et nunc usque suthbure dicitur. Quod ostium in antiquorum legibus regum suo nomine exprimitur. In quibus etiam omnes querelas totius regni quæ in hundredis vel comitatibus, uno vel pluribus, vel certe in curia regis non possent legaliter diffiniri, finem inibi sicut in curia regis summi sortiri debere discernitur." Gervasius Dorobernensis de combustione et reparatione Dorobernensis ecclesiæ inter Scriptores X., p. 1292.]

† [Mr. Somner, after quoting the foregoing passage of Gervase, remarks, "Ad Ordaleum forte respicit, quod et Dei iudicium dictum, et in ecclesiæ semper absolutum. Amplius tamen inquirendum." Gul. Somneri Glossarium ad Script. X.]

‡ [Accedat charta autographa *Somersiana*, quam anno Christi dcccxxv., et indicatione secunda notatam, integram exhibeo, quum quod in antiquo Saxonico scripta est; tum quod nonnullorum, quæ solenniter acta sunt in concilio, vel synodo apud Cloueshous originalis commentarius est; — Ða geræhte Wulpreð arcebiſcop, 7 alle þa piotan þer 7e biſcop 7 þa hiſen moſten mið aþe geſcythan þer hit 7ua aræben pepe on Æpelbaldeſe baġe, 7 him maþe to ne fohte. And he þa 7ona 7e biſcop beþæbbade Eadpulfre 7æm alþorpen þær aþes biſopan

allum þæm piotum, 7 him mon þone gelæbbe 7ymb xxx næhta to þæm biſcop-7role æt Wigoeþna-Leartre.— Dissert. Epist., p. 80.]

§ [Synodale conciliabulum Cloueshovis celebratum 3 cal. Novembrium an. Dom. 824.—"Statuta autem atque decreta ab archiepiscopo et omni sancta synodo illa consentienti ut episcopus qui monasterium et agellum cum libris haberet, cum juramento Dei servorum presbyterorum, diaconorum et plurimorum monachorum sibi in propriam possessionem terram illam cum adjuratione adjurasset. Et ibi finita et proscripta illa contentione coram episcopo post 30 noctes illum juramentum to *Westmynstre* deductum est." Æt þam aþo þær æt perþmýnſcpe efen 7yrtæ meſſe Pſeoſta 7 io diacnaſ 7 ealpa oþra Pſeoſta 7yrtæ 7 hund teontæ. *Id est, ad præstationem istius juramenti Westmonasterii adfuerunt missales quinquaginta presbyteri, et decem diaconi, et presbyteri alii centum et sexaginta.*—Sir H. Spelman's Councils, vol. i. pp. 334, 5. According to Dr. Hickeys's emendation, (Dissert. Ep., p. 81, note,) *Westmynstre* is here put by mistake for *Wygoernaceastre*, that is Worcester. Sir H. Spelman adds (p. 336) the following note.

Hæc omnia (præter versiones quas nos dedimus) e veteri habes MS. codice Wigornensis Ecclesiæ. Aða autem (id est jusjurandum sive sacramentum) appellabant Saxones nostri, litium illud dirimendi genus, quo ex consacramentalium (uti vocant) assertionem, de litigatis cognoscebant et judicabant. Et fuit hoc quidem de more potius juris canonici, et ad compurgatorium similitudinem, quam juris nostri municipalis, duodecim viralium juratorum. Hinc in privilegiis Edmundi Regis, Glastoniensi Ecclesiæ datus; 'Concedo' (inquit inter cætera) 'Athas et Orde-las,' id est, potestatem decernendi lites per examen sacramentale et per ordalium, hoc est per ignitum ferrum, aquam calidam vel aquam frigidam. Sæpe ad hunc modum in antiquis legibus.]

privilege of giving such oaths was sometimes granted to monasteries by royal favour.

† Mr. Somner had restored these words to this law, whereas Sir H. Spelman prefixes them to the twenty-second; but Mr. Somner deletes what he had written to this purpose\*. [Doom 20, 21. There is a [Addenda.] transposition of the clauses of these laws in Textus Roffensis too odd to be clearly described in a few words. Sir H. Spelman has clearly set it right; and the MS. itself gives dark marks or items of the true series of the words. But it is to be observed, that there are no numberings nor breaks in the MS., (save one in the transposition,) therefore Sir H. Spelman used his own discretion in putting those words at the beginning of the twenty-second doom which I think to belong to the twenty-first.]

22. If a man impeach a servant of the bishop, or of the king, 'let him purge himself at the reeve's hand †; or let the reeve purge him, or deliver him to be scourged.

\* Mr. Somner translates this, *in manum præpositi eum deducat*; but *cænne* certainly signifies to vouch, or purge by oath, in all these laws; therefore either the reeve (that is, the steward) was to administer to the servant the oath of purgation, by causing the servant to swear with his hand laid upon his own, or, which is more probable, to be his compurgator, by laying his hand on the altar † together with the servant; though by what follows it appears, that the reeve's oath alone was sufficient. But by this and the twenty-fourth law, it should seem that servants were not allowed to be compurgators to each other. Here again Mr. Somner crosses out Sir H. Spelman's translation.

23. 'If one impeach a servant of God, being a man of their own convent, let his lord purge him upon his single oath, if he be a "communicant: if he be not a communicant, let him have another good voucher with him, at [taking] the oath: else let him deliver him to be scourged ‡.

† Mr. Somner read *Lober þeopne*, not *Leber þeupne*, as Sir H. Spelman. *mæþe* is to be read in *æþe*.

\* [Wilkins prefixes the words *Danne is cipican cænne puht, 'ecclesiasticum cognoscendi jus autem est,'* to law 22, but Thorpe appends them in the same sense as Johnson to law 21, which is probably their true place.]

† [*cænne hine an geþeran hand, 'ad manum præpositi eum ducat,'* W. 'Let him clear himself by the person of the reeve.'—T.]

‡ [See note †, p. 149, 50.]

§ [*Lif man Lober ðeopne eþne in heora gemange rihte, his ðpýhten hine his ane æþe geclænþne, gif he hurl genga 7e, gif he hurl genga nis, hæbbe him in æþe cþepne æþþan gob-*

*ne, obbe gelbe, obbe nelle to 7punganne. 'Si Dei servitio serviens in conventu accusetur, dominus ipsius eum uno juramento purget, si sacra eucharistia utatur; si sacra eucharistia non utatur, habeat in juramento alium fidejussorem bonum, vel solvat, vel tradat se flagellandum.'—W.*

"If any one make plaint against a priest's 'esne' in their congregation, let his lord clear him with his sole oath, if he be a communicant; if he be not a communicant, let him have with him in the oath another good 'æwda;' or let him pay, or give him up to be scourged."—T. Mr. Thorpe reads *Le-*

u Mr. Somner turns *hur1-genga*, *pater familias*: but he crossed it out again, when he was better informed. See the next note. *æpba* is used in the laws of Lothere and Eadric, for a voucher or compurgator\*.

24. If a common man's servant impeach the servant of an ecclesiastic, or an ecclesiastic's servant the servant of a common man, \*let his master purge him upon his oath.

\* It cannot be supposed that a servant should have the privilege of a priest, or a thane, that is, to be purged by his own oath; therefore I conceive it was the master's oath by which the servant was to be purged; and by parity of reason in the foregoing law, the monk, though a servant of God, was not to be purged upon his own oath, but by the oath of his abbot. And perhaps all abbots that were laymen were not communicants.

25. † If a layman be slain in [committing] theft, let him lie without a weregeld.

† Here I follow Mr. Somner, and the words seem incapable of any other sense.

26. If a freeman be taken with stolen goods upon him, then let the king command one of these three things; either that he be put to death, or sold beyond sea, or ransomed for his weregeld. Let him that takes and \*overpowers him, have half [the value of] him: if † he be killed, let seventy shillings be paid † them.

\* Mr. Somner read *geŋange*, but *geŋange* seems the most apposite word: yet the difference is not great †.

[Addenda.] [Textus Roffensis hath *geŋange*.]

\* *Comprehensor*, the thief-taker, says Mr. Somner.

† Viz., the surviving relations, or family of him that is slain.

27. If a slave steal, †he may be ransomed for seventy shillings, †or sold beyond sea, whithersoever the king will. If he be slain, let half [the value] of him be paid to the owner †.

*ber-þeupne*, but supposes the former of the two words to be a mistake for *Lober*.]

\* [See *Leges Anglo-Saxonice* p. 8, note b; and *Ancient Laws and Institutes*, p. 12, note a.]

† [*geŋange*, "comprehenderit," W. *geŋange*, "shall secure," T.]

‡ [*Lif þeup 7ele 7 hi man alyre* LXX. *ŋeall. 7pa þreþer 7pa cýning* *alle, 7y7 hine man acþelle, þam aŋen-*

*be hi man healyne aŋelbe.* "If a theow' steal, and he be redeemed, LXX. shillings as the king may choose; if any one slay him, let half his value be paid to the owner."—T.

"For hi," Mr. Thorpe says, "we no doubt ought to read hi, the contraction for hine." And adds, "It will be seen by the context that the transcriber has made an omission here, though there is no hiatus in the MS."]

° ȝ here seems perfectly superfluous, or else it may be turned, yet. Read twice *him mon*, for *human*.

ᵀ Sir H. Spelman hath omitted the following words in his text, viz., *oþþe oꝛen ȝæ rælle*, which Mr. Somner hath supplied.

28. If a far-comer or stranger go out of the road, and neither scream nor °blow a horn, he is to be 'condemned for a thief\*', either to be put to death, or ransomed †.

° Blape, Somner, not *blap*.

ᵀ Sax. *to pꝛoꝛian*, which Mr. Somner thus explains, *pro fure (id est ut furti suspectus) in quæstionem vocandus, vel furti arguendus est*; and deleting Sir H. Spelman's *relegandus*, (as he in justice did,) he instead thereof says, *redimendus, vid. leg. Ine 20, absolvendus liberandus, secundum negotii eventum, vel pro quæstionis exitu*. But I take the words of the law to be peremptory, that the traveller, for this omission, is to be proved, convicted, or condemned as a thief.

[I am confirmed in my opinion, that this law makes the person, that meets [Addenda.] the stranger in this case, his judge and executioner; because the parallel law of King Ine does so. The former part of Ine's law is the same with this, save that after *road* it adds *geonb pubu*, "through the woods." But the words of Ine's law after "put to death or ransomed," are as follows, "If a weregild be demanded for the party slain, he may answer that he killed him for a thief‡."] ]

N.B. This, and some other laws, are indeed merely temporal; but because the main of them were concerning the Church, and religion, therefore I was willing not to part these few civil laws from their old company, and have given my reader the whole body of them. And though I cannot answer for the exactness of the translation as to every punctilio; yet I may

\* ["*pro fure comprobatus est.*" W.]

† [*Lif ȝeoppan-cumen man, oþþe ȝꝛambe, bucan pege ȝange, ȝ he þonne napðen ne hpýme, ne he hopn ne blape, ȝop þeof he bið to pꝛoꝛianne, oþþe to ȝleaune oþþe to alýrenne.*]

"If a man come from afar, or a stranger, go out of the [high] way, and he then neither shout nor blow a horn, he is to be accounted a thief, either to be slain or to be redeemed."—T.]

‡ [The following is the parallel passage of King Ine's laws, as given and translated by Mr. Thorpe.

*lif to pꝛoꝛianne, oþþe to ȝleanne oþþe to alþeafanne.*

OF A MAN COMING FROM AFAR FOUND OUT OF THE HIGHWAY.

20. If a far-coming man, or a stranger, journey through a wood out of the highway, and neither shout nor blow his horn, he is to be held for a thief, either to be slain or redeemed.

BE SWA OFSLELENES  
WONNES WERE.

xxi. *Lif mon þæȝ oꝛlæȝenan peȝer biþbe, he moȝ ȝecýðan ꝥ he hine ȝop þeof oꝛlæȝe.*—

OF A MAN'S 'WĒR' THUS SLAIN.

21. If a man demand the 'wēr' of the slain, he must declare that he slew him for a thief.—See *Ancient Laws and Institutes*, p. 50.]

BE FEORRAN LUMENUW DEN  
BUTAN WELE LEWETTON.

xx. *Lif ȝeopcund mon oþþe ȝꝛembe bucan pege ȝeonb pubu ȝonge, ȝ ne bꝛieme ne hopne blape, ȝop þeof he*

dare presume to say, that as to the main, the reader has the sense of the law-makers. Our countryman Mr. Lambard, who first published the other Saxon laws, yet never attempted the most ancient of them, and those which were first made for the government of his own native province, and *quondam* kingdom; or if he did attempt it, yet never perfected his enterprise. Sir H. Spelman published these laws of Wihtred, and three of King Ethelbert's. Laet of Antwerp translated all the eighty-nine laws of Ethelbert, and the sixteen of Lothere and Eadric, which were published by Dr. Hickes, in his *Dissertatio Epistolaris*, from a copy belonging to the right reverend the present bishop of Lincoln\*. I wish the possessor of them would give us a more perfect translation than that of Laet: no man can do it better. I thought fit to give these laws of Wihtred an English version, and insert them in this place, as being a very notable specimen of the piety of our ancestors, when they were first growing into civil life.

\* [Edmund Gibson, D.D., bishop of Lincoln A.D. 1715—1720, and bishop of London A.D. 1720—1748.]



A.D. DCCXXV.

LAWS OF SATISFACTION, FOR VIOLATION OF ORDERS.

PREFACE.

AFTER the laws of Wihtred, in the *Textus Roffensis* stand these rules for satisfaction, to be made by those who violated holy orders, by killing or laying violent hands on clergymen; by which it seems probable that Ernulf, who was the compiler of that *Textus*, took it for a work of this age. I am sensible that John Brompton, and others, place these rules after the laws of King Ethelstan, in the tenth century: and it is probable that they might then be re-enacted, and that they were the English law in cases relating to this subject, till the pope took the affair into his own hands, in the tenth or the eleventh century. They might be made in the council of Berghamsted, though not perhaps on the same day or session that the other were; or they might be made in some of the following years of Wihtred's reign, and afterwards be received in other of the English-Saxon kingdoms, by the influence of Brihtwald, or his successors in the see of Canterbury, and at last by the whole united kingdom of England. However, for want of a certain date, and to distinguish them from all other laws and constitutions, I place them in the last year of King Wihtred.

A.D. DCCXXV.

Saxon.  
Sir H.  
Spelman,  
vol. i. p.  
206.  
[Wilkins,  
vol. i. p.  
62.  
Thorpe,  
p. 393.]

THE gifts of the Holy Spirit are sevenfold, and there are seven steps of ecclesiastical degrees, or of holy orders, and God's servants ought seven times every day to praise God in the Church, and earnestly to intercede for all Christian people, and it does in strict justice<sup>a</sup> concern all the friends of God, that <sup>b</sup> they love and honour God's Church, and to give peace and protection to God's servants; and let him <sup>c</sup> who hurts them in word or deed, with diligence make satisfaction sevenfold, in proportion to the deed, and according to the order [of the injured person] if he desires to merit God's mercy.

<sup>a</sup> Mr. Somner here expressly alleges the *Textus Roffensis*, and corrects *gebpugeþ*, by writing *gebipeþ*.

[All Mr. Somner's emendations of these laws or rules, to the best of my observation, agree with the *Textus Roffensis*, save that in the last clause but one the *Textus* hath *mebemunge*, not —*mige*.]

<sup>b</sup> *hý*, not *bý*.

<sup>c</sup> *þe*, not *pe*.

1. For whatever is consecrated, orders, <sup>d</sup> and God's hallowed house, ought diligently to be honoured, for the fear of God <sup>e</sup>. And if there be <sup>e</sup> loss of life, then let satisfaction be made with one pound, for [the violation of] orders in the first degree, over and above the weregeld [of the person murdered], and let the matter be compounded with religious satisfaction †.

<sup>d</sup> Sir H. Spelman puts the foregoing words of this paragraph to the end of the former: Mr. Somner rectifies this, and for *anan*, read *man* †.

<sup>e</sup> It is to be observed, that the weregeld for the priest, or clerk, was originally according to his birth, without any regard to his order; now to make some difference between the murder of one in orders, and of a common man, these rules were provided:

<sup>e</sup> [The whole sentence is placed by Mr. Thorpe at the end of the preface or first paragraph, to which it naturally belongs, so as to make this law begin, like the seven that follow it in the Saxon text, with the words,

*And to habbove*,—And for order

<sup>e</sup> *böt*,—(Et ad compensationem ordinis violati.—W.) See *Ancient Laws*, p. 393.]

† [ *7 mib gobne bore ðinge geopne*, et cum pia satisfactione veniam ille exoret sedulo.—W.]

‡ [a man.—T.]

1. The first order was that of the ostiary: £1 over and above the weregeld was to be paid for the murder of him.

2. And let two pounds be paid as satisfaction for violating orders in the second degree, if there be loss of ' life, over and above the <sup>8</sup> weregeld, together with religious shrift.

2. The second order was that of the lector: £2 was to be paid for his murder, over and above the weregeld.

' Mr. Somner read *reoph*, not *reopþ*.

<sup>8</sup> And *pepe æt þam*, not *æt pepe þam*.

3. And if it be a full violation of orders in the third degree, let the satisfaction be three pound over and above the weregeld, beside <sup>h</sup> religious shrift.

3. The third order was that of the exorcist: £3 was to be paid for his murder over and above his weregeld.

<sup>h</sup> Mr. Somner read *mib gobcunban*, not *ungobcunban*.

4. And if it be a full violation of orders in the fourth degree, four pound over and above the weregeld, <sup>1</sup> [beside religious shrift.]

4. The fourth order was that of the acolyth, for whose murder £4 was to be paid, &c.

<sup>1</sup> This is omitted in the Saxon, but is in the Latin, and analogy requires it \*.

5. And if it be a full violation of orders in the fifth degree, five pound, [over and above the weregeld,] beside religious [Ed.] shrift.

5. The fifth order was that of the sub-deacon: for whose murder £5, &c.

6. And if it be a full violation of orders in the sixth degree, let it be six pound satisfaction, [over and above [Ed.] the weregeld,] beside religious shrift.

6. The sixth order was that of the deacon, for whom £6, &c.

7. And if it be a full violation of orders in the seventh degree, let it be seven pound satisfaction, [over and above [Ed.] the weregeld,] beside religious shrift.

7. The seventh order was that of the priest: for whom £7, &c. If a bishop were murdered, the case was singular, and the mulct, penance, or other punishment, was determined by public consultation.

\* [ *mib gobcunban reþyre*, W. T. 'with ecclesiastical shrift.'—T.]

And when orders are violated in part only\*, let diligent satisfaction be made in proportion to the fact. Just doom must be according to the fact, and <sup>k</sup> moderation, according to the condition [of the offender †] <sup>l</sup> both in regard to God and the world ‡.

\* For mebenunge, Somner read mebemige.

<sup>l</sup> Both in regard to God, and the world, is a phrase frequently used in the Saxon laws and monuments, and signifies, both in regard to the spiritual or ecclesiastical, and the secular or temporal jurisdiction. And for most crimes men were answerable to both.

One share of satisfaction made for [violation of] orders, belongs to the bishop, a second to the <sup>m</sup> altar, a third to the <sup>n</sup> fraternity.

<sup>m</sup> For the support, adornment, and furnishing of all things for the service of that altar, at which the murdered clergyman attended. But certainly it was contrary to primitive custom to apply the price of blood to such uses.

<sup>n</sup> Whether voluntary gilds or fraternities were yet in use, I dare not say; but in after ages, if not now, clergymen combined with clergymen, monks with monks, and many monasteries entered into mutual assurances with each other to promote the spiritual and temporal good of every single member, both living and dead, and for this purpose held frequent assemblies; nay, clergymen and laymen of all ranks entered into associations for the same purpose, and this continued after the Conquest. If there were now no such fraternities, then this rule must be understood of the bishop's family, the monastery, college, or lesser church to which the murdered clerk belonged: and I conceive there were few churches but what had a number of clerks, if not of priests, attending in it in this age §. See the year DCCCCXL.

\* [That is, when injury is done to a person in orders short of loss of life.]

† [mebemung be mæpe, moderandum juxta dignitatem.—W. Mitigation according to the degree.—T.]

‡ [Mr. Thorpe here adds from a MS., supposed to be of the eleventh century, a paragraph which he thus translates, "And wise were those secular 'witan' who to the divine laws of right, first added these laws, for a guide to the people; and revered, for love of God, sanctity and holy orders; and

God's houses and God's servants firmly protected."—Ancient Laws, &c., p. 394.]

§ [This explanation is confirmed by the use of the word *geferncipe*, 'fraternity,' in King Alfred's translation of Bede. *Adsumperunt cum electione et consensu sanctæ Ecclesiæ gentis Anglorum, virum bonum et aptum episcopatu presbyterum nomine Vighardum, de clero Deusdedit episcopi;—of geferncipe ƿær byrceoper Deorbedit.*—Hist. Eccl., lib. iii. c. xxix. pp. 138, 561.]

A.D. DCCXXXIV.

A SUCCINCT DIALOGUE OF ECCLESIASTICAL INSTITUTIONS,  
BY THE LORD ECGBRIHT, ARCHBISHOP OF YORK.

PREFACE.

PAULINUS converted the Northumbrians, and became the first archbishop of York, A.D. 625 ; but upon the death of his patron, King Edwin, in the year 633, he was forced into Kent, by the invasion of neighbouring princes, and contented himself with the bishopric of Rochester, for the eleven remaining years of his life. After him there was a succession of eight bishops of York, who enjoyed not the dignity of metropolitans, nor received any pall from Rome. In the year 734 Ecgbriht was consecrated to this see, and procured the pall, though not without considerable difficulty, and exercised the authority of a metropolitan for above thirty years together. [Therefore from this <sup>[Addenda.]</sup> time forward the kingdom of Northumberland is to be esteemed a distinct province from that of Canterbury.] His brother Eadbyrht reigned king of Northumberland during a considerable part of this time. Yet there is reason to believe that his superiority in knowledge gave him a greater reputation than the eminence of his birth. Bede, indeed, though but a monk and priest, very much exceeded him in this respect ; but he died soon after Ecgbriht's accession to the see of York, though he lived long enough to write him a letter of advice\* upon his advancement to the metropolitanical chair ; and then there was none, probably, in England, that equalled him in learning. And indeed all orders of men were scandalously illiterate ; which made Ecgbriht seem a prodigy. Alcuin, one of the greatest men

\* [Venerabilis Bedæ epistola ad Ecgberctum antistitem.—Smith's Bede, pp. 305—12. In Wilkins' Concilia the

above preface is quoted from, " In the year 734," to the word " transcribers." ]

in the next age, calls him his master, and desires Charles the Great, then emperor, to send young men to York to transcribe the manuscripts left there by him.

It cannot with any certainty be said what was the occasion of his writing and publishing the following dialogue: what seems most probable is, that some one or more bishops had drawn up the questions, with a design to propose them to a provincial synod, or rather to a national one, as one would think by the last question: these were put into Ecgbriht's hands, to the end that he might procure a public authoritative answer to them, in a council assembled for this purpose: but he either not being able to obtain a council, or thinking it to little purpose to ask the advice of other bishops, in points which they so little understood, resolves to answer them himself, and returned the answers, with the questions prefixed, to the hands from which he had received the enquiries: and this he did, probably, before he had obtained his pall from Rome, for he does not speak with the authority of a primate, for which reason I place them in the first year of his consecration. If these questions had actually been laid before a synod, there is little reason to doubt but the answers would have been much the same with these of Ecgbriht: for one or two such extraordinary persons carried all as they pleased in the ecclesiastical assemblies of this age; therefore I look on this dialogue and his excerpts to be of little less authority than if they had received a synodical sanction. However, the answers will give us considerable light into the notions and practices of a very dark age: and we have no reason to doubt but that they are genuine, though they have suffered much through the injuries of time and transcribers. They were first published at Dublin, by Sir James Ware, in the year 1664, inter opuscula Bedæ\*.

\* [Venerabilis Bedæ Epistolæ duæ, necnon Vitæ Abbatum Wiremuthensium et Girwiensium. Accessit Egberti Archiepiscopi Eboracensis Bedæ æqualis Dialogus de Ecclesiastica Institutione. In lucem emisit et illustravit Jacobus Waræus Eques Auratus. Dublini, A.D. MDC LXIV. See pp. 91—114. Sir James Ware published the Dia-

logue of Archbishop Ecgbriht from MS. Cotton. Vitellius A. xii. 1; the same copy which was used by Wilkins, Concilia, vol. i. pp. 82—6; and Thorpe, Ancient Laws, &c., 320—5. Johnson's translation has been compared with the two last-named editions, and the variations are stated in the notes.]

A.D. DCCXXXIV.

ANSWERS OF ECGBRIHT.

PREFACE TO ECGBRIHT'S ANSWERS.

IN the front of this writing, we beseech your venerable sanctity to receive with a grateful mind and an edifying charity, whatever directions, attested by sacred books, we give you in relation to the pontifical care; and if any of them are acceptable to you, let them be confirmed with the hand-writing of you, my brother. But if any of them seem disagreeable to you, do you, as a discerning reader, insert what you think more to the purpose. And after the information, which we now send you in writing, we desire the advice of your beatitude's letters; that by thus exchanging of parchments, we may be knit together in charity, and in the same sentiments: and that you, my brother, may make a more certain judgment, we lay before you at once the questions and the answers.

LATIN.  
[Wilkins,  
vol. i. p. 82.  
Thorpe, p.  
320.]

I. QUESTION.

Of what availment is the oath of a bishop, priest, deacon, or monk, in case of necessity?

ANSWER.

Let the orders aforesaid have the privilege of verifying matters upon oath, according to the degree of their dignity; the priest after the rate of one hundred and twenty ploughlands; the deacon after the rate of sixty; the monk after the rate of thirty: but this is [meant] of criminous cases. Further, when a dispute arises concerning the bounds of lands, the priest, by his own attestation upon oath, may convey to the right of the Church one plough-land; the same is allowed to two deacons; and the testimony of three monks is sufficient to the same purpose.

\* *Tributarius* and *manens* signified the tenant to a plough-land, or the plough-land itself. Bede uses *familia* in the same sense, as where he says the Isle of Thanet contained six hundred *familia*\*; we must exclude Stonar, as then under water. If the remaining seven parishes have four thousand acres each, yet this will make but five hundred and ninety-five *familia*, at fifty acres *per familiam*. But I take it to have been little more than half this, while the marshes were under water; and that therefore a plough-land was then under thirty acres, one hundred and twenty of these was then the greatest rate at which any subject was laid.

## II. QUESTION.

Whether a priest [or] deacon may be witnesses of the last words of dying men, concerning their estates?

### ANSWER.

Let him take with him the two or three, by whose testimony every word may be established; lest the kindred of the deceased, out of covetousness, contradict what is said by the ecclesiastics, if a priest or deacon should only give his testimony.

## III. QUESTION.

If a priest, deacon, or monk is impeached for some nefarious crime, without any evident proof, by what means shall they be purged, if they are innocent?

### ANSWER.

Since the testimony of two or three witnesses is to be relied upon, lest we should oppress him that is without sin, by too severe a sentence, and innocence should be crushed by our making a difficulty in relation to the witnesses, let it be allowed to every one who is under the [ecclesiastical] rule, to produce witnesses of the degrees of priest, deacon, or monk, for the purgation of himself, when he is accused. Two or three of these, such as he can procure, are abundantly sufficient. Let him that wants compurgators, through \_\_\_\_\_ or † the fear of the accusers, be sufficient of himself

\* [Est autem ad orientalem Cantiam plagam Tanatos insula non modica, id est magnitudinis juxta consuetudinem aestimationis Anglorum familiarum sexcentarum.—Bede, Hist. Eccl., lib. i.

c. xxv. p. 60.]

† [No hiatus is marked in the editions of Ware, Wilkins or Thorpe; probably 'vel' in the original is redundant.]



alone, for the defence of his own innocence, if the eyesight of the witnesses, or children born do not prove him guilty; for it is scandalous that either the wickedness of priests should increase through neglect, or that innocence should be oppressed through defect of the law; therefore we ordain, that he who is impeached for any crime, do put the Lord's <sup>b</sup>cross on his head, and testify by Him that liveth for ever, who suffered upon the cross, that he is clear from that crime; and thus all things are to be left to the divine judgment.

<sup>b</sup> It appears, that in the province of Canterbury, the oath of purgation was to be made by laying the hand on the altar. See Wihfred's 19th law. Yet it is probable that Theodore used to swear men on the cross, for Burchard cites his Penitential to this effect, viz., "He who forswears himself by the hand of the bishop, or by a consecrated cross, is to do three years' penance; he that forswears himself by an unconsecrated cross, one year's." See Petit's Theod. Penit., p. 77\*.

#### IV. QUESTION.

If a priest or deacon, upon examination, be found guilty, what cautionary means must diligent pastors use, that when they are removed from their office, they may not presume to minister in another diocese, to the scandal of some?

#### ANSWER.

If a priest or deacon, being <sup>c</sup>ejected<sup>†</sup> by his proper bishop for his manifest crimes, presume to minister in another church, let him be expelled by the bishop of that diocese, as soon as it is known; and so<sup>‡</sup> let him not be settled in any mansion of the churches, but be always a wanderer and vagrant, till, being humbled by long affliction, he returns to undergo the law of the Church.

<sup>c</sup> I read *ejectus*, not *electus*.

#### V. QUESTION.

What have we to say concerning sacred ministrations, per-

\* [Qui pejerat se in manu Episcopi, aut in cruce consecrata 3 annos pœniteat. Si vero in cruce non consecrata, annum unum pœniteat.—Theod. Penit. ed. J. Petit, p. 77.]

† [ejectus. MS. *legit electus*, W. T.]

‡ [Et sic per omnes sedes ecclesiarum nunquam stabilis, semper vagus et profugus versetur.—W. T.]

formed by a corrupt priest<sup>d</sup> before he is convicted; or which he unduly performs by usurpation, after he has been convicted?

[Addenda.] <sup>d</sup> [By "a corrupt priest" we are here to understand such an one as was afterwards called "irregular," that is, who took orders while he was under some canonical impediment; as, for instance, if he had before done public penance; if he had entered into a forbidden marriage; if there were any defect in his body or in his birth.]

#### ANSWER.

We believe the ministrations which he, being unordained, performed, by usurpation of the priesthood, among people who were ignorant of it, ought not to be set aside. While his guilt was known to himself alone, he did not hurt others by badly administering good offices. But how can any benefit, which was not his to bestow, be imparted to him who knew the impediments, and that they were not all wiped off \_\_\_\_\_<sup>e</sup>: he gives, by his depraved offices, what he has, that is, that he who partakes with him should incur the same sentence of excommunication. But this ought not to be understood of baptism, which ought not to be repeated; but other ministrations performed by an unworthy man, seem not to be valid\*.

\* The following words here omitted, as unintelligible, are, *Quam ipse accipere potest damnationem, utique qui per.*

#### VI. QUESTION.

Whether a priest or deacon, going away without consent of his prior<sup>f</sup>, may minister in another diocese?

<sup>f</sup> This word here seems to denote any head of a monastery, and it seems probable that they had few or no priests, or clergymen, in Northumberland, in this age, but monastics.

\* [Ministeria vero, quæ usurpato nomine sacerdotis non dicatus ignorante populo peregit, minime credimus abjicienda. Nam male bona ministrando ipse sibi reus, aliis non nocuit. Scienti autem causas minime detersas, et qui tamen particeps factus est damnati, quomodo tribuitur ei perfectio, quæ in dante non erat, quam ipse ac-

cipere potest damnationem, utique qui per quod habuit per prava officia dedit, ut ejus particeps similem sortiatur excommunicationis sententiam. Sed hoc de baptismo accipi fas non est, quod iterari non debeat. Reliqua vero ministeria per indignum data, minus firma videntur.—W. T.]

## ANSWER.

We look on a deserter of his own church as forbidden to minister in another; and that he who does so minister, should be removed from his office till he be reconciled to his own church.

## VII. QUESTION.

If one of any dignity whatsoever do wickedly dare to receive a runagate clerk or monk, what, beloved brethren, do ye decree in relation to such?

## ANSWER.

Whatever brother, contrary to the prohibition of the venerable canons, receives a runagate clerk or monk, without pacific letters, and when convened obstinately persists in it, let him pay what is appointed<sup>s</sup>, viz., thirty sicles<sup>b</sup>; fifteen to the bishop, fifteen to the abbot whose monk he received without consent of his own prior. Let him dismiss the runagate, or be excommunicate, and run the risk of paying more. Whoever of those laymen<sup>1</sup> who are known to preside over monasteries, receives such a runagate, that does not belong to him, let him pay the appointed dues, that is, ten sicles to the king, [ten to the bishop\*,] ten to the [Ed.] abbot whose domestic he had received without consent of the Church; and let him abandon the runagate, or else pay as much as he did before, and afterwards let him be excommunicated till satisfaction be made; that so obstinate men, who fear not God, and despise the sentence of excommunication, being condemned to the loss of part of what they have, may not attempt things contrary to the statutes. Let these determinations be in force against those monasteries of virgins which are under the rule.

<sup>s</sup> *Quod statutum est.* This plainly implies that laws had been made, and particularly in the province and kingdom of Northumberland, whereby mulcts were laid upon such as were delinquent in this case; yet Bede takes no notice of any public, civil, or ecclesiastical assembly, in which a law of this kind could be made.

<sup>b</sup> See note on the next answer.

• [X. vero episcopo loci, W. T.]

<sup>1</sup> It is evident from this and other evidences, that monasteries were grown so rich, that great seculars thought them too good for ecclesiastics, and therefore usurped them to themselves, either as being heirs to the donors or founders, and so pretending it belonged to them to see that the estates were not misapplied, or by the prevalence of the temporal powers, or by direct temporal right, as one would think by Answer XI. Bede, in his letter to Egbriht, laments the profuseness of kings and others, in their over liberal endowments of monasteries, and plainly saw the ill effects of it. He advised Egbriht to convert these abbeys into bishoprics; for he complains of the too small number of bishops\*.

### VIII. QUESTION.

Now let us further enquire whether the punishment<sup>1</sup> of a monk who hath defiled himself with a sacrilegious mixture, belong to those laymen who are nearly related to them?

<sup>1</sup> That is, probably, the weregeld, or other fine.

### ANSWER.

The punishment of them who offend, more or less, in the Church, belongs not to them who are without, especially since the Apostle<sup>2</sup> says that all Church causes ought to be decided by the priests. <sup>1</sup>But if any ecclesiastics have committed any crime among laymen, as murder, fornication, theft, it is thought fit that they be by all means seized by the seculars, against whom they have offended, unless the Church be pleased to make satisfaction for them. But not laymen, who have sacrilegiously mingled themselves with veiled women, be punished as the law has decreed fornicators to be punished, but doubly, that is, we will that the adulterers<sup>3</sup> pay thirty sicles<sup>4</sup>, or sixty pieces of silver to the Church; because grievous crimes require more heavy and sharp penalties.

<sup>2</sup> So 1 Cor. vi. 1, &c., was then understood.

<sup>1</sup> Happy had it been, if prelates in after ages had retained the moderation of Egbriht in this point.

<sup>3</sup> By adulterers is meant such as deflowered nuns.

<sup>4</sup> By this it is evident that the sicle was two-pence; for it is, I conceive, agreed among the best antiquarians, that the English had but one silver piece in these ages, and that was the penny.

\* [See Smith's Bede, pp. 308—310.]

## IX. QUESTION.

Whether foreign priests, or those of our own country, may be permitted to minister any where, especially under laymen, without the privity of the bishop of the place, in whose diocese<sup>o</sup> they sojourn, while they are vagrants, not settled in the place, or not by pontifical authority?

\* Diocese here seems to signify the remote part of the bishop's parish, where such vagrants chose to officiate, far distant from the bishops. See Can. Afr. 53, 56\*, second part of *Vade-mecum*.

## ANSWER.

We permit not foreign priests, or such as were ordained at large, and go up and down in the provinces without commendatory letters, to minister or give the sacraments any where, without the privity of the bishop of the place. Yet what is necessary may be administered by them; but we are not willing that they should be admitted to the ministration of sacred offices without discretion †.

## X. QUESTION.

If any brother or sister<sup>p</sup> do sue for any thing which they esteem their own, any where but in the ecclesiastical judicature of the prelates, that it may peaceably be restored to them; and in contempt of their bishop, make haste to obtain what they claim in an unreasonable manner, by right or wrong, what say ye to this?

<sup>p</sup> Abbess, or nun.

## ANSWER.

Whatever<sup>a</sup> brother or sister sues for what they esteem their own, but not in the judicature of the priests of the churches, but so as to obtain it by violence of the external powers, let them lose what they have gotten by violence, or else be expelled out of the churches. Yet we intend no prejudice to their church. But when they after their death have been anathematized ‡, let all things remain in their former

\* [Concil., tom. iii. pp. 742, D. 747, D.]

† [Sed post obitum anathematizati, W. T. Rather, "But after the death of the anathematized person."]

‡ [sine grandi discretionē, W. T.]

state, and both parties being convened, let a diligent enquiry be made what the most ancient and veracious say; and so let all be left to the judgment of the bishops.

¶ By this it should appear that the Northumbrian bishops had courts distinct from the temporal, and that the ecclesiastical judicature in this province took the liberty of reversing sentences passed in the temporal court. It appears that the jurisdictions in Northumberland remained distinct in after ages. See Law of North. Priest. DCCCCL. 5. This will not prove that the bishops did not in this province sit in the temporal courts; for the bishops in the other province had likewise distinct courts. See Law of Edgar, DCCCCLX., Number 7.

### XI. QUESTION.

What say ye to this, that some<sup>r</sup> having monasteries of their own, do so unadvisedly dispose of them, that two together have possession of a monastery of the same sex, or do equally divide it, if they cannot agree to hold it between them?

¶ See Answer 7. It was not only by temporal means, but by mutual consent of the monks and abbots, that there were sometimes several abbots to the same monastery, or one abbot to several monasteries. See Bede's *Vita quinque Abbatum*, &c. \*, published together with these Questions and Answers. By those who had monasteries of their own, he means either such as by their piety or management, had founded monasteries by procuring endowments from others, or such as had founded monasteries out of their own estates. For such as these did claim a right in the abbey, the former as well as the latter; but Ecgbricht here attempts to bring them under the regulation of the bishop.

### ANSWER.

Let the venerable congregation choose one of the two, whom they desire, to preside over them; and let him be appointed abbot, with the advice of the bishop of the place; and when he who was preferred is dead, let the second, who was co-heir at the first, take the government of the whole monastery, which was before granted to him, not in whole but in part; but on condition still, that he be found worthy in the judgment of the bishop, but if not, let such election be null and void; and let him who made it, consented to it, or accepted of it, be anathema.

\* [Epist. ad Ecgbertum, Bede, ed. Smith, p. 309.]

## XII. QUESTION.

If a layman kill a clergyman or monk, would it please you unanimously to decree, whether the price of his blood be to be paid according to the law of birth-right, to his near relations, or whether satisfaction be to be made to his [ecclesiastical] seniors with a larger sum?

## ANSWER.

Whatever layman kills a bishop, priest, or monk, let him do penance<sup>a</sup> according to the established measures, and pay the price of his blood to the church to which he belonged; for the bishop, according to the [decree] of general<sup>t</sup> council, for a priest<sup>u</sup> eight hundred sicles, for a deacon<sup>x</sup> six hundred, for a monk four hundred pieces of silver, unless the dignity of his birth or the nobility of his stock require a greater price; for it is not just that the serving of the holy profession in a superior degree should forfeit what they who live without, in a lay habit, do notoriously claim, by right of parentage. But he who has not wherewithal to redeem himself for the murder committed by him, is to be left to the king to be punished, lest the murderers of the servants of God should think that they may sin with impunity. And let this punishment which we have inflicted on the murderers of priests be in force in relation to them that are abbots without orders; unless a synodal college, upon more mature advice, shall lay any of them at a higher or lower rate.

<sup>a</sup> The penance to be done for such murder is seven years' fasting, three days in every week, besides Lent and vigils; according to Bede, *De Remediis peccatorum*<sup>\*</sup>; which is rather believed to be our Egabriht's.

<sup>t</sup> Whether he mean a general, that is, a national council, formerly held, which had assigned some certain mulct to the murderer of a bishop, or that a council ought to be called on such an occasion to assign it, *toties quoties*, is uncertain; but if any general council had assigned it, the constitutions of it are lost.

<sup>u</sup> By the laws of satisfactions annexed to the dooms of King Wihtrud, seven pound is the mulct for killing a priest. Now eight hundred sicles wants but eighty pence of seven pound, reckoning the sicle two-pence, so that ten sicles make an ounce, and one hundred and twenty sicles, or twelve

<sup>\*</sup> [Qui occiderit monachum aut clericum arma relinquat et Deo serviat, vel 7 annos peniteat. De Rem. pecc., c. 3.—Sir H. Spelman, vol. i. p. 286.]

ounces, make one pound. It is not to be wondered if money were then, as well as ever since, of somewhat less intrinsic value in the south than in the north, and this being considered, those laws of Wihtréd, and these answers of Egbriht, do mutually support each other's authority.

\* The mulct for killing a deacon was six pound, by the laws of Wihtréd; six hundred sicles, at the rates aforesaid, make five pound; and it is probable one in six was the least of the disproportion between the value of money in the north and south; therefore they in the north taxed the murder of the priest higher than those in the south, for they abated but eighty pence of the sum paid in Kent, and eighty pence was but the third part of a pound.

### XIII. QUESTION.

If a lawful marriage be dissolved, by consent of both parties, on account of the impotency of the man or woman, is it lawful for the sound party (being incontinent) to marry, the impotent party giving consent, and promising to live in perpetual continency? What does your sanctity judge of this case?

### ANSWER.

No one acts against the Gospel or the 'Apostle without punishment, therefore we give no consent to \*adultery\*. Yet we lay burdens on no man, which cannot be borne without danger, but confidently enjoin the commandments of God; but we reserve him unpunished† for the just judgment of God, whose infirmity hinders him from fulfilling [them.] Therefore lest we should seem to connive at adulterers, or that the devil, who deceives adulterers, should rejoice at \*adultery\*, hear further‡, "that which God hath joined, let no man separate;" and also, "he that is able to receive it, let him receive it;" for necessity often breaks a law, by reason of the change of times; for what did David do when he was hungry? and yet he was without sin; therefore sentence is not to be given in doubtful points. But there is a necessity of risking counsels\* for the salvation of others; upon this express condition, that it be by no means allowed to one that hath vowed continency, to contract a second marriage, the former [wife or husband] living.

¶ I read *apostolum*, not *apostolorum*§. He speaks in the primitive

\* [adulteris, W. T.]

vamus iudicio Dei, W. T.]

† [Quem autem infirmitas implendi præpedit, uno profecto multum reser-

‡ [MS. ultoribus. ulterius, W. T.]

§ [apostolum, W. T.]

[Mat. xix.  
6, 12.]



style, for the ancients called all the Epistles of St. Paul and St. Peter, the Apostle.

• I read *adulterio*, not *adulteris*, in both these places; and *ulterius*, not *ultoribus*, *inultum*, not *multum*.

• He seems to suppose that the law of not separating parties married, was not a commandment absolutely binding, under pain of damnation, in all cases, but a counsel, in the sense of the schoolmen; that is, not necessary to salvation, but to perfection. Theodore was also very loose as to the point of matrimony.

[The reader is to observe, that the impotence here spoken of, is such [Addenda.] as is not natural, but accidental, proceeding from some present bodily disease, and from which the party might afterwards recover. If the impotence were natural, that had been no occasion for the party in this case to promise continence; nor had Egabriht shewed himself less strict in this point than other casuists; for natural impotence certainly dissolves marriage, as to the bond as well as bed, or rather proves it null from the beginning.]

#### XIV. QUESTION.

If any layman declare a clergyman or monk to be under some blemishes, which he formerly contracted while he was under a lay habit, and to which he has not yet put an end, either because he was not able, or because he formerly, and to this very day, hath dissembled and concealed it; and if he now sticks by the Church with great solicitousness and importunity\*, what say ye to this?

#### ANSWER.

Whatever secular man desires to undertake the service of the holy profession, and answers, when he is asked, that he is not of a servile condition, that he has not committed<sup>b</sup> murder publicly, without having made satisfaction for it, and that he is possessed of nothing which does of right belong to another, let him [be sure] that he owes nothing to any one but God, whose servant he is, for the guilt of former sin. But if he deceived the Church, and fraudulently concealed his crime, it is resolved, that the Church have power to dismiss him, or if she please, to make satisfaction for his crime. But we desire that they who are in this condition be torn<sup>c</sup> from the church-doors by force, and that no time,

• [Et modo ecclesie molestus et importunus insistit? W. T.]

[1 Kings  
viii]

for the future, be allowed to the Church to abscond such as are guilty, after the day of trial. But they are to be dismissed without hurt or <sup>d</sup>blows, that reverence may be paid to God; for the temple is a house of propitiation, not a den of thieves. (Read the dedication of Solomon's temple.) But if he had offered any things to the Church, let the priest restore them, that he may have wherewithal to redeem himself.

\* This must be meant only of monks, for murderers might take that habit, because it was said their whole life was one continued penance; but no criminal was ever allowed to be ordained.

• This is to be understood, upon condition that the Church will not satisfy for their crimes. But how could monks be torn from the church, when that was a sanctuary for all criminals? I answer, it was a sanctuary for such as acknowledged their crimes only; and therefore came to the church as criminals, not as devotees, as the monks in this case are supposed to have done. Happy had it been, if Becket, and other great prelates in after ages, had not absolutely refused that power of punishing criminous monks and clerks to the civil magistrate, which Ecgbriht, with a true Christian and priestly spirit, not only allows, but desires that it might be exercised.

• I read *verberibus*, not *verius*\*.

#### XV. QUESTION.

What are the crimes, for which no man can be made priest, and for which he who has formerly been ordained is to be deposed?

#### ANSWER.

The ordination of a bishop, priest, or deacon, shall be accounted valid, in case he prove clear of all grievous crimes; if he have not had a second wife, nor one deserted by her husband; if he never did public penance, and be not maimed in any part of his body; if he be not of a servile condition, and disengaged from all obligations of bearing civil offices; and if he be literate, such an one we choose to be promoted to the priesthood. It is unlawful to ordain any man on the account of these blemishes<sup>1</sup>; and for these we declare that those already promoted are to be deposed; that is, worshipping of idols, giving one's self captive to the devil, being conjurers, diviners, enchanterst, violating faith by false

<sup>1</sup> [crimini-  
bus.]

\* [veriusque, W. T.]

† [Per aruspices [et divinos atque]

testimony, defiling one's self with murder, fornication, committing thefts, violating the holy name by presumptuous perjury; and they ought not to obtain the favour of [lay] communion without public penance, nor to recover their former dignity [by doing penance;] for it is not allowed by the Church that [public] penitents should minister sacred offices, as having formerly been vessels of vice.

## XVI. QUESTION.

### OF THE FOUR EMBER-WEEKS.

Do<sup>e</sup> ye explain to us, by an unanimous sentence, whether the established fasts of the first, fourth, seventh, and tenth month, are to be celebrated in the beginning of those months, or at other times; and by whose authority, and in what manner, and for what causes they were instituted, that so they may be uniformly kept in every one of your sees, and in the Church of the English?

• There is a great uncertainty as to the precise weeks when the Ember days were observed of old. The forged epistle of Calixtus mentions three fasting times observed of old, and adds a fourth, to be observed for the future; but mentions not the certain weeks when they were to be kept\*. Our council of Cloves-hoo seems to say that Gregory the Great enjoined but only the fast of the fourth, seventh and tenth month, c. 18†; yet Ecgbriht, Art. 1, says that he did direct the Lenten-Ember to be observed. Pope Leo, A.D. 442, speaks of four, but mentions not the certain weeks, except Pentecost only. Distinc. 76. c. 6‡. Gelasius, A.D. 492, mentions the fast of the fourth, seventh, and tenth month, another at the beginning of Lent,

incantatores captivos se diabolo tradentes, T. Wilkins gives the same reading without the brackets.]

\* [Epist. Callisti P. I. ad Benedictum Episc. A.D. 221. Jejunium, quod ter in anno apud nos celebrare didicisti, convenientius nunc per quatuor tempora fieri decernimus, ut sicut annus per quatuor volvitur tempora, sic et nos quaternum solenne agamus jejunium, per anni quatuor tempora. Et sicut replemur frumento, vino et oleo ad alenda corpora, sic repleamur jejunio ad alendas animas, juxta prophetæ Zachariæ vocem, qui ait, &c. (Zach. viii. 14—20.)—Concil., tom. i. p. 737; Gratiani Decretum, Dist. lxxvi. c. 1.]

† [See below, A.D. 747, canon 18.]

‡ [Leo Papa sermone octavo de je-

junio decimi mensis. Hujus observantiæ utilitas, dilectissimi, in Ecclesiasticis præcipue est constituta jejunii: quæ ex doctrina Sancti Spiritus ita per totius anni circulum distributa sunt, ut lex abstinentiæ omnibus sit adscripta temporibus. Si quidem jejunium verum in Quadragesima, æstivum in Pentecoste, autumnale in mensi septimo, hiemale autem in hoc, qui est decimus, celebramus, intelligentes divinis nihil vacuum esse præceptis, et verbo Dei ad eruditionem nostram omnia elementa servire, dum per ipsius mundi cardines, quasi per quatuor Evangelia incessabili tuba [incessabiliter] discimus, quod et prædicemus et agamus.—Grat. Decret., Dist. lxxvi. c. 6; S. Leo, Op., tom. i. col. 59.]

and in the middle of Lent\*. The council of Mentz, A.D. 813, orders the first to be kept in the first week of March, the second in the second week of June, the third in the third week of September, the fourth in the fourth week of December †. Durandus mentions this practice, lib. vi. c. 134 ‡. The council of Saiegunstadt, in the same diocese, A.D. 1022, directs the fast to be kept the second week in March, if the first day fall on any day of the week after Wednesday; if on Wednesday, or on any day before, then in the first week §; and the second fast on the second week of June, if the first day of June fall on a Wednesday, or any day in the week before Wednesday, else in the third week; but if Whitsun-eve fall in this week, then the next to be the Ember-week: and the third fast in September to be on the third week of that month, if the first day of September fell on Wednesday or before, else on the fourth week: and that the fourth fast be kept so that the Ember-Saturday be the Saturday before Christmas-eve ¶. The council

\* [Gelasius ad episcopos per Lucaniam, epist. i. c. 13. Ordinationes presbyterorum, et diaconorum nisi certis temporibus et diebus exerceri non debent, id est quarti mensis jejuniis, septimi, et decimi, sed et etiam quadragesimalis initii, ac medianæ hebdomadæ, et sabbati jejuniis circa vesperam noverint celebrandas: nec cujuslibet utilitatis causa, seu presbyterum, seu diaconum his præferre, qui ante ipsos fuerint ordinati.—Grat. Decret. Dist. lxxv. c. 7; Concil., tom. viii. p. 40.]

† [Ex concilio Moguntino primo, cap. 34. (sed ibi fusius hic summatim.) Constituimus, ut quatuor tempora anni ab omnibus cum jejuniis observentur: id est in mense Martii, hebdomada prima, in Junio, secunda, in Septembri, tertia, in Decembri, quarta. Auctor Micrologi c. 24 et 25 de hoc ipso Moguntini concilii canone disputans aperte ait hoc ex ignorantia traditionis Ecclesiasticae fuisse profectum. Unde Leo Papa ait Hujus observatione &c. quod refertur infra eadem d. st. c. 6. Et ne quis occasione horum conciliorum Germanicorum deciperetur, Gregorius septimus (quod in eodem Micrologo narratur) veterem Romanæ Ecclesiæ consuetudinem renovavit De qua re in concilio Claremontensi Urbani secundi, canone primo sic statuitur. Primum jejunium quatuor temporum semper fiet prima hebdomada quadragesimæ, secundum in hebdomada Pentecostes, absque genuum flexione, cum alleluia, et gloria in excelsis Deo, et vestibus solennibus fiet, tertium plena hebdomada ante æquinoctium autumnale: quartum plena hebdomada ante natale Domini, vigilia ejusdem excepta. Et idem repetitur in altero concilio postea habito, quod est in Bibliotheca Vati-

cana, et citatur infra eadem c. Statuimus.—Grat. Decret., Dist. lxxvi. c. 2. et annot. p. 457; Concil., tom. xiv. p. 73.]

‡ [Olim instituta fuere jejunia in prima hebdomada Martii, in secunda Junii, in tertia Septembris, in quarta Decembris.—Nunc autem jejunia ex causis præmissis aliter ordinantur, ut dictum est sub quarta feria tertiæ hebdomadæ Adventus. Et memento, quod Apostolici usque ad Simplicium Papam in Decembri semper ordines celebrabant, ut ordinandos cooptarent generationi Jesu-Christi. Simplicius vero addidit ordines in Februario tribuendos, ut ordinandos vicinior incorporaret corpori Jesu-Christi.—Durandi Rationale, lib. vi. c. 134; cf. lib. vi. c. 6, lib. viii. c. 3. n. 22.]

§ [The words in the first edition are, "The fast to be kept the second week in March, if the first day fall on any day of the week after Wednesday, or on Wednesday; if on any day before, then in the first week; if on Thursday, Friday, or Saturday, then on the third week." The statements are obviously inconsistent and contrary to the canon.]

¶ [De jejuniis autem incerto quatuor temporum hanc certitudinem statuimus, ut si calendæ Martiæ in quarta feria, sive antea evenerint, eadem hebdomada jejunium celebretur. Si autem Calendæ Martiæ in quintam feriam, aut sextam, aut Sabbatum distendantur, in sequentem hebdomadam jejunium deferatur. Simili quoque modo, si Calendæ Junii in quarta feria, aut antea evenerint, in subsequenti hebdomada jejunium celebretur, et si in quinta, aut sexta feria, aut sabbato contigerint, jejunium in tertiam hebdomadam reservetur. Et hoc sciendum est, quod si

of Clermont, A.D. 1095, ordered the first to be on the first week of Lent, the second in Whitsun-week, the third in the entire week next before the autumnal equinox, the fourth in the entire week next before Christmas \*; and they must mean the same, who speak of the fourth week in December, as Eggbriht here does, Art. 4; or else they must mean the fourth week in Advent, and even then there will be no fourth week, but that the Saturday will fall on Christmas-eve, and this is contrary to rule.

But it is observable, that none of these popes or councils take notice of the Ember-weeks as times of ordination, except Gelasius; nor does Eggbriht in his answer mention them as such. It is said in the Life of Anferus, in the Liber Pontificalis, that December was of old the only time for this purpose †; and I cannot discover when the Ember-weeks were first settled in the present course. Alexander III. Decretal., lib. i. tit. ii. c. 2, mentions the Ember-weeks as times of ordination, but does not settle the weeks ‡. See the assument which I have added to these Answers.

quando jejuniū mensis Junii in vigilia Pentecostes secundum prædictam regulam venerit, non ibi celebrandum erit, sed in ipsa hebdomada solenni Pentecostes: et tunc, propter solennitatem Spiritus Sancti, diaconi dalmaticis induantur, et alleluia cantetur; et flectamus genua, non dicatur. Eodem modo de Septembris jejuniū constitutum est, ut si Calendæ Septembris, in quarta feria venerint aut antea, jejuniū in tertia hebdomada celebretur, et si in quinta aut sexta aut sabbato contigerint in quarta hebdomada jejunandum erit. In Decembri vero illud observandum erit ut proximo sabbato ante vigiliam natalis Domini celebretur jejuniū quia si vigilia in sabbato venerit simul vigiliam et jejuniū celebrare non convenit. *Ex concilio Salegnatæ habito, cap. 2.*—Grat. Decret. Dist. lxxvi. c. 3; cf. Concil., tom. xix. p. 396.]

\* [This statement seems to be taken from the note in Gratian, Dist. lxxvi. c. 2, already quoted, (note †, p. 174,) but the only canons of the council of Clermont, A.D. 1095, (temp. Urbani II.,) bearing on the subject, are,

XXIV. Ne fiant ordines, nisi quatuor certis temporibus, et sabbato mediante quadragesima: et tunc protrahatur jejuniū usque ad vespas, et si fieri potest, usque ad crastinum, ut magis appareat in die dominico ordines fieri.

XXVII. Ut semper fiat jejuniū veris in prima hebdomada quadragesimæ: jejuniū vero æstatis infra hebdomadam pentecostea.—Concil., tom. xx. p. 818 C.]

† [Hic fecit ordinationem unam per mensem Decembris episcopum unum.

—Anastasius de Vitis R. Pontificum, Anferus, A.D. 237, tom. ii. p. 183.]

‡ [Alex. III. *episcopo Herefordensi.* Sane super eo quod moris esse dixisti in ecclesiis quibusdam Scotiæ et Valliæ, in dedicationibus ecclesiarum vel altarium extra jejunia quatuor temporum, clericos ad sacros ordines promovere. Significamus quod consuetudo illa (ut pote insitutioni ecclesiasticæ inimica) est penitus improbanda; et nisi multitudo et antiqua consuetudo terræ esset, taliter ordinati non deberent permitti in susceptis ordinibus ministrare. Nam apud nos sic ordinati deponerentur: et ordinantes privarentur auctoritate ordinandi.—Minores ordines conferri possunt diebus festis. Sacri vero conferri debent in quatuor temporibus, vel sabbato sancto, vel sabbato de passione.—Decretales Greg. IX., lib. i. c. 2.

The above note upon the ancient observation of the Ember days leaves the question in greater uncertainty than properly belongs to it. There can be no doubt that Gregory the Great recognised four Ember fasts, the first of which, "the fast of the first month," (March,) he enjoined to be kept in the first week of Lent; and the second, "the fast of the fourth month," (June,) in Pentecost week. The seeming difficulty in the statement of the council of Cloves-hoo is explained by Johnson himself below, A.D. 747, c. 18. *note.* The very name "Jejunia quatuor temporum," used in the title of this sixteenth question, implies fasts at the four seasons; and scarcely less so, the English name Ember, which is beyond all doubt a slight alteration of the Anglo-

## ANSWER.

Because the world consists of four quarters, east, west, south and north; and man is compounded of four elements, fire, air, water, and earth; and the mind is governed by four virtues, prudence, temperance, fortitude and justice; and the four rivers of paradise, as types of the four Gospels, water the whole earth; and the year turns on the four seasons, spring, summer, autumn and winter; and this number, four, is on all hands acknowledged to be the number of perfection; therefore the old fathers instituted the four Ember-weeks, according to God's law; as also holy men and apostolical doctors have done now under the New Testament.

## I. ARTICLE.

[Exodus  
xii. 2.] The Lord said unto Moses, concerning the first month, "This month shall be unto you the beginning of the months of the year;" and again the Lord said unto Moses, "Observe the month of first-fruits, when ye came up out of the land of Egypt, as an ordinance in your generations:" which fast the holy fathers appointed to be observed in the first week of the first month, on the Wednesday, Friday, and Saturday [only], unless it be in the Lenten days; but we, in the Church of the English, do commonly keep this fast of the first month in the first week of Lent, as our master, the blessed Gregory, transmitted his ordinance to us, in his

Saxon 'ymbren,' compounded of 'ymb' round, and 'ren,' run, and so equivalent to circum-cursus, peri-od, circu-it. Our Saxon forefathers called these fasts ymbpenræten, 'Ember fasts,' ymbpen puca, 'Ember weeks,' ymbpen dagar, 'Ember days,' because, according to the words of Leo (A.D. 442) already quoted, "ita per totius anni circulum distributa sunt ut lex abstinentiæ omnibus sit adscripta temporibus." See Mareschall's Anglo-Saxon Gospels, annot., pp. 528, 9; Laws of K. Ethelred, c. xxiii., Thorpe, p. 157; Johnson's Vade-Mecum, vol. i. p. 58. The practice implied in the Liber Sacramentorum of Gregory the Great, and restored by Gregory the Seventh, is affirmed, as below, by the council of Placentia, A.D. 1095, which is quoted by Wheatley (p. 210) as the time when

the Ember-weeks were settled in their present course. "Statuimus etiam, ut jejunia quatuor temporum hoc ordine celebrentur: primum in initio Quadragesimæ: secundum in hebdomada Pentecostes: tertium vero in Septembri: quartum in Decembri more solito fiat." —Placent. c. 14; Gratian. Dist. lxxvi. c. 4; Conc., tom. xx. p. 806. Some variety may still have existed even in England, rather through ignorance of the rule of Gregory the Great than in opposition to it, but the passage (Concil., tom. xxii. p. 1153—4) commonly quoted as Conc. Oxon. c. 8. A.D. 1222, not being found in the English editions (cf. Spelman, vol. ii. p. 183; Wilkins, vol. i. p. 586) is of little weight.

For further illustration of this point see Micrologus, c. 24—27; Durandus, lib. vi. c. 6; lib. viii. c. 3. n. 22.]

own antiphonary and mass-book, by our pedagogue, the blessed Augustin\*.

† Ecgbriht's application of the texts of the Pentateuch here, are very surprising and extraordinary, but especially in the second and fourth Art.

‡ It can, I conceive, no longer be a dispute with them who consider what Ecgbriht says here, and again in the second Article, whether the Roman or Gallican missal was here used. Ecgbriht is a peremptory evidence that Gregory enjoined his own missal and antiphonary: he must have been born within a hundred years after Augustin's coming hither, and conversed familiarly with Bede. This was long before Charles the Great used his power and interest for introducing the Roman missal in other parts.

## II. ARTICLE.

The second fast, of the fourth month, took its rise from the Old Testament, when the Law was given to Moses in mount Sinai, it was commanded of the Lord that the people should be ready "to hear His voice on the third day, and not come near their wives;" and again said the Lord to Moses, "Ye shall take of the first-fruits, and offer them to the Lord your God;" which was also ordained under the New Testament, according to what the Lord says, "The children of the bride-chamber cannot fast, so long as the Bridegroom is with them, but the time cometh when the Bridegroom shall be taken away from them, and then shall they fast in those days." For according to the analogy of times, after the ascension of our Lord into heaven, when His bodily presence was withdrawn, then was the fast of the fourth month enjoined in the second week. And the same blessed Gregory, by his said legate, appointed the same to be celebrated by the Church of the English, on the entire<sup>1</sup> week after Pentecost; which not only our antiphonaries, but those which we perused, together with his mass-book, at the thresholds of the Apostles Peter and Paul, do testify †.

## III. ARTICLE.

The third fast of the seventh month was enjoined of God by Moses, saying, "Speak unto the children of Israel, [Lev. xxiii. 27.]

\* [This ordinance is implied by the arrangement of the services in these books, but they do not contain express directions on the subject. *Liber Sacramentorum*, p. 41; *Antiphonarius*,

p. 671; *S. Greg. P. I. Op.*, tom. iii.; *Micrologus*, c. 24.]

† [*Liber Sacramentorum S. Gregorii*, pp. 101, 105; *Antiphonarius*, p. 698; cf. *Microlog.*, c. 25, 8.]

and thou shalt say unto them, the tenth day of the seventh month shall be called holy, ye shall humble your souls in fasting; every soul that is not afflicted on this day shall perish from among his people." Therefore this fast is celebrated in the Church according to ancient custom: or because the days decrease, the nights increase; for by the defect of the sun and the growth of the night, our life appears<sup>1</sup> to decline by the approaches of death; which death, at the judgment and resurrection, shall be retrieved to life. And if the end of our life be intimated by the lessening of the days, and the approach of death by the increase of night, we think it necessary for the remembrance of so great a mystery, that we afflict our souls, every year, as we read the children of Israel did at this time, by fasting, not only from meat, but from all contagion of vice, attending to the doctrine of the Gospel, "Walk, while ye have the light, lest the darkness overtake you, and the night come, when no man can work." The Church of the English uses to celebrate this [fast] in the entire week before the equinox,<sup>b</sup> without any regard to the computation of the third week.

[Lev. xxiii. 29.]

<sup>1</sup> [ostenditur.]

[John xii. 35; ix. 4.]

<sup>b</sup> See note the first, on question to this answer.

#### IV. ARTICLE.

The fourth fast was kept by them of old in the month of November, according to the precept of the Lord by Jeremiah, saying, "Take the volume of the book, and write therein all the words which I have spoken against Israel and Judah, and it came to pass in the ninth month, they proclaimed a fast before the Lord, to all the people of Jerusalem." Therefore by this authority of the divine Scriptures, the Catholic Church has taken a custom to celebrate a fast in the tenth month, in the fourth week, on account of the approach of the venerable solemnity of our Lord Jesus Christ, before which, continency of the flesh and fasting is to be observed for several days\*. (That every faithful man may prepare himself for the receiving the communion of the Body and Blood of Christ with devotion,) which the nation of the English hath been always used [to do] in the entire week before

chap. xxxvi. 2, 9.

\* [The punctuation of the first edition is here followed, but see in the next note the whole passage according to Wilkins.]



the nativity of our Lord. It<sup>1</sup> is said, she kept a stated fast, not only on Wednesday, Friday, and Saturday, but for twelve days together, in abstinence, watching, prayer, and giving of alms, both in monasteries and among the common people, before the nativity of our Lord\*. For this custom (thanks be to God) grew up in the Church of the English, and was holden from the times of Vitalian the pope, and Theodore, archbishop of Canterbury, that not only clerks in the monasteries, but also laymen, with their wives and families, went to their confessors, and cleansed themselves with tears and [abstinence] from all indulgence of carnal lust, and with giving of alms, on these twelve days, that so they might with the greater purity be partakers of the communion of the Lord on His nativity. For<sup>k</sup> beside these established fasts, very many fasted [every] Wednesday and Friday, on account of Christ's passion, and every Saturday, for that He on that day lay in the grave.

<sup>1</sup> This is a very perplexed sentence. I make a full stop at *consuevit*<sup>l</sup>.

<sup>k</sup> I suppose these words explain what he had said before, concerning the fast on Wednesday, Friday, and Saturday throughout the year.

I thought it seasonable here to subjoin a much more clear account of the Ember-weeks, which Ecgbriht himself (I conceive) gives in his chapter *De jejuniis quatuor temporum*, among the *Formulae veteres*, which follow after his Excerptions, in the Cotton MS. He begins by observing that there are four seasons of the year, in every one of which a certain week is set apart for fasting, by the Church; and he there also derives this custom from the Mosaical law, and then proceeds in this manner.

The authority of Rome enjoins these times thus to be observed, that in the first month, called March, the Wednesday, Friday, and Sabbath-day of the first week be fasted; that in the fourth month, called June, it is decreed to fast in the same manner, in the second week; and that the same be done in the third week of the seventh month, called Sep-

LATIN.

\* [The two foregoing sentences in the Latin are less involved than might be supposed from the translation.

Hac ergo auctoritate divinarum scripturarum ecclesia catholica morem obtinet, et jejunium atque observationem mense celebrat decimo, sabbato quarto propter advenientem venerabilem solennitatem Domini nostri Jesu Christi; ubi ante plures dies et continentia carnis et jejunia exhibenda sunt, ut unusquisque fidelis præparet

se ad communionem corporis et sanguinis Christi cum devotione sumendam. Quod et gens Anglorum semper in plena hebdomada ante natale Domini<sup>l</sup> consuevit non solum quarta et sexta feria, et sabbato; sed et juges xii. dies in jejuniis, et vigiliis; et orationibus, et eleemosynarum largitionibus et in monasteriis et in plebibus, ante natale Domini quasi legitimum jejunium exercuisse perhibetur.—W.]

tember. It is in the same manner decreed in relation to the tenth month, in that same week which is next before the nativity of our Lord. But<sup>1</sup> St. Gregory enjoined these fasts thus to be published to the nation of the English: The first fast is in the first week of Lent. The second fast is in Pentecost week. The third fast is in the full week before the autumnal equinox. The fourth fast is in the full week before our Lord's nativity\*. On these Sabbaths, when all the people are met at church, the ordinations of clerks ought to be performed, that while their ordination is done before the people, their reputation may be examined under the testimony of all; and I beseech you, brethren, devoutly to observe these fasts; and know, that not only these fasts are to be observed, but all the days going before the vigils of the famous festivals are to be kept with fasting; and in the days of your fasts, dearest brethren, do not stir up strife, dispute, scandals.

<sup>1</sup> These words seem plainly to be understood of Gregory the Great, and of the provision which he made on this head, for the English Church. I know Gregory the Seventh regulated the Ember-weeks, but he is said only to have restored the just observance of these times; and he was no saint,

\* The following words seem to be Ecgbriht's, or to have been added by some of his successors†.

† The vigils are not here supposed to begin till the even-tide.

\* [This extract from the *Formulae veteres* in the Cotton MS. (Nero, A. 1.), not being part either of the Answers or Excerptions of Ecgbriht, is not given by Wilkins or Thorpe, but is of much value as presenting in a few words a clear statement of the points in Ecgbriht's sixteenth answer. The two rules here set down are types to one or other of which may be referred all the variations in the observations of the Ember fasts. The one as it would seem (p. 173, note †) sanctioned by Pope Leo, A. D. 442, and certainly by Gregory the Great, was enjoined by the canons of Eanham, A. D. MIX. c. 16 (the same as law of K. Ethelred, xxiii., Thorpe, p. 137), followed in the rubrics of the Anglo-Saxon Gospels, and restored in the last year of Pope Gregory the Seventh, A. D. 1085, at the council of Quidlinburg in Saxony, (c. vi. "Item ut vernum jejuniun in prima hebdomada quadragesimæ, æstivum in pentecoste semper celebretur.")—Concil., tom. xx. p. 608 C.) This rule was generally received by the Latin Church, A. D. 1095, at the councils of Claremont (c. xxvii., quoted p. 175, note \*) and Placentia (c. xiv. p. 176 note,) and is that of our Book of Common Prayer. The other ruder and, it may be, older practice, seems to have existed even at this time in England, is found in Anglo-Saxon in MS. Bodl. 482, (F. 17 in Wanley,) f. 27 b, as in Thorpe's Ancient Laws, &c., p. 391, and being followed by the council of Mentz, A. D. 813, would become more prevalent in this country, and on the continent be for a time the general rule. The canon ascribed to Gregory the Great is quoted below in illustration of canons of Eanham, A. D. MIX. c. 16-7.]

† [Rather the whole sentence is Ecgbriht's, the former part being the same as his excerption, A. D. 740, c. 97, (99, Wilkins,) which is not quoted as a rule of St. Gregory.]

## A.D. DCCXL.

### ECGBRIHT'S EXCERPTIONS.

#### PREFACE.

THE following canons are called the Excerptions of Ecgbriht; and I see no room to doubt of his being the first founder of this work; and though great alterations have been made in it, yet they seem to have been made not long after the age of Ecgbriht. In truth, this collection looks like a code of canons for the province of York, which the successors of Ecgbriht, or others, augmented, curtailed, and transposed at discretion. It is well known that John of Antioch\* made a collection of canons for his own patriarchate; Martin†, archbishop of Braga, for his own province; Crisconius‡, an African bishop, for his own diocese; and these have come down to us without any notable corruptions. But that composed by Isidore of Seville§ hath been worse contaminated than this of Ecgbriht; for the forger of the ancient pope's decretal epistles inserted them into this Isidore's work; even abbots, simple priests, and deacons, have compiled such systems of canons with approbation; and Bale says, that this collection, under the name of Ecgbriht, was made by Hucarius the Levite, (deacon I suppose,) who was Ecgbriht's amanuensis ¶.

I follow Sir H. Spelman's edition so far as he goes, excepting some necessary emendations. The numbers are not in the MS., but were added by Sir Henry; I have followed him

\* [Johannis Antiocheni Patriarchæ Constantinopolitani Nomocanon, (A.D. 564,) Bib. Jur. Can. Vet. per Voellum et Justellum, tom. ii. p. 603.]

† [S. Martini, Ep. Brac. Collectio Canonum, (A.D. 560,) *ibid.*, tom. i. App., p. vii.]

‡ [Cresconii Ep. Afr. Liber Canonum, (A.D. 690,) *ibid.*, p. xxxiii.]

§ [Of the Collection of Councils, &c., by Isidore bishop of Seville, A.D. 595, see Cave, *Hist. Lit.*, vol. i. pp. 548-9.]

¶ [Hucarius, deacon of St. German's in Cornwall, is not said, either by Bale or Spelman, to have been the amanuensis of Ecgbriht. "Scripsit Hucarius ex libro constitutionum ecclesiasticarum Egberti archiepiscopi Eboracensis, præceptoris Albini, exceptiones quasdam, lib. i. Claruisse fertur Anno Domini 1040, sub Haraldo primo Anglorum rege." Balei Script. Brit. Catalogus. Cent. ii. c. xlvii. pp. 152-3; cf. Lealand, *De Script. Brit.*, c. 85, 131.]

in these too, to canon 141, which I divide into two, and so am one before him, in the four following canons, which are the last in his edition. Sir Henry mentions a MS. copy of these Excerptions in the Cotton Library; but a learned friend of mine can find no copy there, but that from which Sir Henry published his impression in the book, (Nero, A. 1,) nor does Mr. Wanly mention any other there\*. Sir Henry intimates his suspicion that he was imposed upon in this point, and it seems evident he was so. This MS. has an inscription, intimating that Spelman made his imperfect publication from this book. It would be much for the credit of his edition, if there had been another MS. in that, or any other library, so nearly resembling that which he published, and which he published from a book which he calls his own, though it be now in that public repository.

The reader will not wonder to see several canons upon the same head, in this collection, and these sometimes scarcely consistent with each other, when he considers that the same thing is done very often in the *Corpus Juris Canonici*. Old laws or canons give light to the new, even when contrary to them; so the right reverend the bishop of Lincoln hath in his code published the old obsolete laws and canons, in order to give his reader the true aim and intent of those now in force †. And further, in Ecgbriht's age, primates had a very great latitude left to them in most points relating to discipline and jurisdiction, and, in effect, acted at discretion. It was the pope's canon law that first laid primates, and all bishops in this nation, under precise restrictions; and this was not compiled till about four hundred years after this time. Therefore, though it was most reputable to act by stated rules, yet in cases where there were different rules, the primates, and even bishops, were to choose by which they would act, according to the various circumstances of the persons and causes which were brought before them.

\* [See Wanley's Catalogue in Hickeys's Thesaurus, vol. ii. p. 216. The excerpts of Ecgbriht are printed from the same MS. in the Cotton Library, now in the British Museum, (Nero A. 1. f. 131 b.) by Wilkins, *Concilia*, vol. i. p. 110-12; and Thorpe, *Ancient Laws, &c.*, p. 326-42. With both these

editions, as well as with that of Spelman, Johnson's translation has been compared and all important variations or confirmations of doubtful points are stated in the notes.]

† [Codex Juris Ecclesiastici Anglicani, by Edmund Gibson, D.D. See Preface, p. v.]

Though I have rarely elsewhere put the titles of the canons into my translation; yet here I have, because of the very singular manner of them; they seldom mention the matter of the following canon, but often the sacred writer, council, father, or other author of them, and in this too there are frequent mistakes committed, more (probably) than I have advertised in my notes. For I did not think it worth the while to take much pains in discovering such harmless errors. But by this we may see, that they who drew them were willing to act by an appearance of antiquity and authority; but they often took things upon domestic tradition or conjecture, without troubling themselves to look into originals. I have not placed the titles in lines, or paragraphs distinct from the body of the canons, but immediately after the number. And the first full point in every canon shews not the end of a period, but of the title; for I was willing to give my reader the whole in as small a compass as possible.

Sir H. Spelman dates the Excerptions of Ecgbriht, 750. Not that he had any greater reason or authority for placing them in that year, than in any other of the thirty-two of his administration, (viz., from 734 to 766,) but because it was his rule, when the date was uncertain, to take the middle year, and that was 750. But I conceive that Ecgbriht was fully settled in his primacy, and had time to lay down rules for his own, and his suffragans' and clergy's conduct, in six years; and further, I was willing to put his Answers and Excerptions as near to each other as I could; and since there was no ground for placing Cuthbert of Canterbury's Canons before these Excerptions of Ecgbriht, therefore I chose to put all this great Northumbrian prelate's canonical works together, and therefore crave leave to ascribe to them the date of A.D. DCCXL.

A.D. DCCXL.

THE EXCERPTIONS OF THE LORD EGBRIHT, ARCHBISHOP  
OF YORK: COLLECTED OUT OF THE SAYINGS AND CANONS  
OF THE HOLY FATHERS.

THE PREFACE WHICH BEGINS THE CANONS.

LATIN.  
[Sir H.  
Spelman,  
vol. ii. p.  
258.  
Wilkins,  
vol. i. p.  
101.  
Thorpe,  
p. 326.]

WE call those rules which the holy<sup>a</sup> fathers ordained, and wherein is contained in writing how canonics, that is, regular clergymen, should live, canons.

<sup>a</sup> Augustinus Aureliensis the bishop, says,

<sup>a</sup> It seems probable, that he who first inserted the following paragraph would have these words esteemed a citation from the great St. Augustin of Hippo, whose true name was Aurelius Augustinus. But the words must be of a more modern age.

That no priest may be ignorant of his canons, nor do any thing that may clash with the rules of the fathers; and that no excuse may be made on account of ignorance, nor any thing be omitted through forgetfulness, let this book be used as a place of prospect, from whence a view may be taken of canonical determinations\*. Yet not all clerks, but priests only are to <sup>b</sup> put in use, and <sup>c</sup> read canonical constitutions. For as none but bishops and priests ought to offer the sacrifice, so neither should others put in use these dooms.

<sup>b</sup> Lat. *usurpare*.

<sup>c</sup> Sure the meaning of this writer could not be, that it was unlawful for any clergyman to read canons for his private information; but rather to read them publicly as a professor, and then it must be owned, that this paragraph was of a much later date than the canons themselves.

\* [Frequenter in hoc libello, quasi in speculo prospiciant, quod canonum est regulis definitum.—W. T.]

HERE BEGIN THE EXCEPTIONS OF THE LORD ECGBRIHT, ARCHBISHOP  
OF THE CITY OF YORK, CONCERNING THE <sup>4</sup>DUTY OF PRIESTS.

<sup>4</sup> Lat. *De jure sacerdotali*. It is a Saxonism. Riht signifies office, or duty, as well as right. Ecgbriht is said to have translated his Exceptions into the Saxon tongue, and there are still said to be some fragments of them remaining. From this it is not improbable that he published them first in that tongue, and that this is a Latin translation of them.

THE DUTY OF PRIESTS.

1. • An item. Let every <sup>f</sup>priest build his own church with all diligence, and preserve the relics of the saints with the greatest care, watching over them by night, and performing divine offices.

• The first twenty-eight canons have no title but item: my reader will pardon me that I have transcribed it but once. The CCCC MS. puts these twenty-one canons before the paragraph of Augustinus Aureliensis, and without any title or division; in the Oxford MS.\*, says Sir H. Spelman, they are placed before Ecgbriht's Penitential.

<sup>f</sup> From this it should seem that parish churches began now to be built apace in this province†.

2. That all priests, at the proper hours of the day and night, toll the bells of their churches, and then perform their sacred offices to God; and instruct the people how, and at what hours, God is to be worshipped.

3. That on all feasts and Lord's days, every priest preach Christ's gospel to the people.

4. That every priest teach all that belong to him to know how they are to offer the tithes of all their substance in a due manner, to the churches of God.

5. That the priests themselves receive the tithes from the people, and keep a written account of the names of all that have paid them; and divide them in the presence of such as fear [God], according to canonical authority, and <sup>s</sup>choose the first part for the ornament of the church, and distribute the second part to the use of the poor and strangers, with

\* [MS. Bodl. 718.]

† ["See Def. of Pluralities, p. 83," (Wharton). MS. note, Wrangham.]

their own hands, with mercy, and all humility: and let the priests reserve the third part to themselves.

\* By this it should seem that the Northumbrian episcopal sees were well endowed: I mean, because there is no quota of the tithes reserved for the bishops, as was in some places, many ages after this. Yet Boniface says the bishops received tithes. Question, Whether this canon was not afterwards added?

6. That every priest do with great exactness instil the Lord's prayer and creed into the people committed to him, and shew them to endeavour after the knowledge of the whole of religion, and the practice of Christianity.

7. That all priests pray assiduously for the life and empire of our <sup>b</sup> lord the emperor, and for the health of his sons and daughters.

<sup>b</sup> This was plainly transcribed from some foreign council or decree, without making proper alterations.

8. That every priest assist at the daily prayers for the pontiff by whom he is governed.

9. That no priest presume to celebrate mass in houses, nor in any other places, but consecrated churches.

10. That the <sup>1</sup> rite, and time of baptizing at proper seasons, according to the institution of canons, be most cautiously observed by all priests.

<sup>1</sup> Lat. *jus*. Anglo-Sax. *riht*, as the Lat. *ritus*. The seasons of baptizing were, Easter, Pentecost, and in some places Epiphany.

11. That all priests diligently give baptism to all that want it, in case of infirmity, at any times whatsoever.

12. That no priest presume to sell a sacred office, or the sacrament of baptism, or any spiritual gift at any price, lest they be <sup>b</sup> like them who sold and bought doves in the temple. And let them not desire earthly pay for what they have obtained by divine grace; but only merit to receive the glory of the heavenly kingdom.

<sup>b</sup> *Imitemur*, Sir H. Spelman and Cotton MS. *Imitentur*, CCC MS.\*

13. That no priest go from the <sup>1</sup> see of the holy Church, under whose title he was ordained, in order to remove to a

\* [*Imitentur*, W. T.]



strange church; but there devoutly remain to the end of his life\*.

<sup>1</sup> *Sede propria*, Sir H. Spelman. But *propria* is not in the MS. in the Cotton Library.

14. That none who is numbered among the priests cherish the vice of drunkenness, nor force others to be drunk by his importunity.

15. That no priest contract familiarity with women not related to him, nor ever permit any woman to dwell with him in his own house.

16. That no priest be surety for another man, nor sue in the secular courts, relinquishing <sup>m</sup> his own law.

<sup>m</sup> That is, the bishop's, or ecclesiastical court.

17. That none who is numbered among the priests bear military arms, nor stir up strife against his neighbour.

18. That no priest go to eat or drink in taverns.

19. That no priest <sup>n</sup> swear an oath, but speak all things simply, purely, truly.

<sup>n</sup> *Quicquam juramento juret* †, CCCO MS.

20. That all priests <sup>o</sup> enjoin fit penance to all who confess their crimes to them, with the utmost circumspection; and with compassion give the viaticum, and the communion of the Body of Christ, to all sick people, before the end of their life.

<sup>o</sup> *Indicent*, Sir H. Spelman: *judicent*, Cott. and CCCO MS. †

21. That, according to the direction of the holy fathers, if any one be sick, he be anointed by the priests with consecrated oil, together with prayer.

22. That priests have the eucharist always ready for the sick, lest they die without the communion.

\* The text in the Cotton MS. is, "Ut nullus presbiter a sede sancte ecclesie sub cuius titulo ordinatus fuit, ammonitionis causa ad alienam pergat ecclesiam, sed ibidem devotus usque ad vite permaneat exitum."—T. The Oxford MS., as Spelman, reads 'a sede propria,' and 'ammonitionis causa,'

that is, because of admonition or reprimand; Johnson translates as if the word were 'amotionis'; Wilkins and Thorpe suggest 'ambitionis,' which is unnecessary.]

† [ut nullus sacerdos quicquam cum juramento juret.—W. T.]

‡ [judicent, W. T.]

23. That priests be neither constituted in any churches, nor ejected from them, without the authority and consent of the bishops.

24. That churches founded of old be not deprived of their tithes, or any other possessions, in order to give them to new oratories.

‡ Here some churches are supposed to be endowed with tithes long before this age.

25. Let one entire manse be given to every church, without other service: for the tithes, oblations of the faithful, houses, † churchyards, gardens near the church, and for the manse before mentioned, let the priests constituted in them do no † service but ecclesiastical. If they have any thing more, let them pay due services for it to their seniors, according to the custom of the country.

† Probably there is not any mention of churchyards earlier than this in the English antiquities; and here the word *atriis* is used; which may signify any of the avenues, out-buildings, or porticos of a church. However, one may dare say that churchyards were not used as burying-places in the province of York. Outhbert was scarce archbishop of Canterbury when these Excerptions were first made, and he is said first to have introduced the use of churchyards as burying-places into this nation.

‡ The service here meant was undoubtedly temporal, and therefore the seniors were temporal lords.

26. That bishops and priests have an † house for the entertainment of strangers, not far from the church\*.

\* *Lat. Hospitiolum.* The districts of the priests, since called parishes, were at first very large; insomuch that by the Confessor's, or at farthest, by the Conqueror's time, three or four parishes were made out of one of the old ones. While parishes were so large, no wonder that the rectors had houses of entertainment for strangers; these were distant from the manses of the priest, to avoid infection, often brought by strangers, beside other inconveniences.

27. That the bishop, in the church, sit elevated above the † bench of priests, but in the house let him know himself to be a colleague of the priests.

† *Consessu*, as the OCCC MS., not *consensu*, as Sir H. Spelman and his MS. †

\* [cf. iv. Carthag., A.D. 398, c. xiv. p. 952 C.]

† *Ut episcopus non longe ab ecclesia hospitium habeat.* Concil., tom. iii. † [*consessu*, W. T.]

28. Let every bishop take great care that the churches of God within his parish be well built, repaired, and adorned, as well in the <sup>a</sup> edifice and lights, as in the other furniture, and that the servants of God do every one according to the degree of his order, regularly <sup>a</sup> give his help [toward it]; especially let it be the bishop's care; and let him look to it, that they celebrate the canonical hours together, at the appointed season. The holy fathers ordained the synaxes to be sung, which the clergy ought to sing every day at proper <sup>\*</sup> hours. <sup>†</sup> The first is the nocturnal synaxis, the second is at the first hour of the day, the third is at what we call the third hour, the fourth at the sixth, the fifth at the ninth, the sixth synaxis is in the evening, the seventh synaxis we call compline. These seven synaxes we ought daily to offer to God with great concern for ourselves, and for all Christian people, (as the Psalmist testifies when he says, "seven times a day will I praise Thee, because of Thy righteous judgments,") and not to omit [to celebrate] masses as the holy fathers did, whom we call confessors, that is, bishops and priests, who served God in chastity. [Ps. cxix. 164.]

<sup>a</sup> I read *œdificio*, not *officio* †.

<sup>\*</sup> *Juvant*, Sir H. Spelman, but the MS. has *vivant*; and this, indeed, best fits the syntax, and agrees well with the rest of the canon, viz., that the servants of God, that is, the monks, † live regularly, &c.

<sup>†</sup> These canonical hours were gradually introduced, they are mentioned by Clemens Alexandrinus §, Tertullian ¶, Origen ||, Cyprian \*\*, and in the Apostolical Constitutions, yet none but the Apostolical Constitutions mention them as times of public prayer. But from these it appears that they are more ancient than monkery. None of these mention six such hours, but the Apost. Const., lib. viii. c. 34 ††. The hours there set down are, morn-

<sup>\*</sup> [singulis horis, S. W. T. "at the several hours." cf. A. D. 957, Elf. can. 19.]

† [Officio, MS. Cott.; œdificio? W. T.]

‡ [vivant, W. T.]

§ [Clem. Alex. Strom. vii. c. 7. p. 854.]

¶ [Tert. de Jejunii, c. ii. and x. p. 545 a. 549. c.]

|| [De Oratione, c. 12. Origen. Op., tom. i. p. 216.]

\*\* [De Orat. Dom. S. Cypriani Op., pp. 214, 5.]

†† [Εὐχὰς ἐπιτελεῖτε ἄρθρου καὶ τρίτη ὥρα, καὶ ἕκτη καὶ ἑνάτη· καὶ ἑσπέρα καὶ ἀλεκτοροφωνία· ἄρθρου μὲν εὐχαριστοῦντες ὅτι ἐφώτισεν ὑμῖν ὁ κύριος πα-

ραγαγὼν τὴν νύκτα, καὶ ἐπαγαγὼν τὴν ἡμέραν· τρίτη δὲ, ὅτι ἀπόφασιν ἐν αὐτῇ ὑπὸ Πιλάτου ἔλαβεν ὁ κύριος. ἕκτη δὲ, ὅτι ἐν αὐτῇ ἑσταυρώθη ἑνάτη δὲ, ὅτι πάντα κεινῆτο τοῦ δεσπότητος ἑσταυρωμένου φρίττοντα τὴν τόλμαν τῶν δυσσεβῶν Ἰουδαίων, μὴ φέροντα τοῦ κυρίου τὴν ὄψιν· ἑσπέρα δὲ, εὐχαριστοῦντες ὅτι ὑμῖν ἀνάπαυσιν ἔδωκε τῶν μεθημερινῶν κόπων τὴν νύκτα· ἀλεκτορῶν δὲ κραυγῇ, διὰ τὸ τὴν ἄραν εὐαγγελίζεσθαι τὴν παρουσίαν τῆς ἡμέρας εἰς ἐργασίαν τῶν τοῦ φωτός ἔργων. εἰ μὴ δυνατὸν ἐν ἐκκλησίᾳ προλέγειν διὰ τοὺς ἀπίστους, κατ' οἶκον συνάξει δὲ ἐπίσκοπε. — Const. Apost., lib. viii. c. 34. Concil., tom. i. p. 581 C.]

ing, the third, sixth, ninth hour, evening, and cock-crowing, which is explained by saying it was before day. Clemens Alexandrinus mentions only the third, sixth, and ninth hour. Compline was not added till long after. They who mention midnight, commonly omit matins, and *vice versa*, the Apostolical Constitutions by cock-crowing mean matins. St. Jerome \* mentions not compline, but nocturn; which was properly at midnight, which was afterwards deferred to what is now called matins; sometime before daylight.

[Tit. i. 7,  
8.]

29. Paul says of bishops, "It behoves a bishop to be in all respects blameless, as a steward of God, not proud, not angry, not \* given to wine, no striker, not covetous of filthy lucre, but hospitable, kind, sober, holy," &c.

\* *Vinolentum*, CCCC MS., not *violentum*, as Sir H. Spelman and his MS.†

[1 Tim. iii.  
7; Tit. ii.  
10.]

30. The Apostle also, "It behoves a bishop to have the good testimony of them that are without, that he may adorn the doctrine of God in all respects."

31. From the great synod. \* Of subintroduced women. The great synod wholly forbids the bishop, priest, and deacon, and every one in the clergy, to have a <sup>b</sup>subintroduced woman †.

\* *Ex concilio Niceno*, is added by Sir H. Spelman and is not in the MS.

<sup>b</sup> I cannot but think that Martin of Braga best explains the canon of Nice in this point, when by the subintroduced woman he understands an adoptive, pretended sister, or the like. See his thirty-second canon §.

32. Also. The canons teach, that if any man marry a widow, or an abandoned woman, or if he marry a second wife, he never be made deacon or priest.

\* [Præter psalorum et orationis ordinem, quod tibi hora tertia, sexta, nona, ad vesperum, media nocte et mane semper est exercendum, statue quot horis sanctam scripturam ediscere debeas.—S. Hieron. Op., tom. i. p. 985, Epist. 130 ad Demetriadem. cf. Ep. 22 and 108, ad Eust. pp. 119, 706. Ep. 107, ad Læt. p. 680.]

† [vinolentum, W. T.]

‡ [III. Ἀπηγόρευσε καθόλου ἡ μεγάλη σύνοδος, μήτε ἐπισκόπων, μήτε πρεσβυτέρων, μήτε διακόνων, μήτε ἄλλων τινῶν ἐν τῷ κλήρῳ, ἐξείναι συνείσακτον ἔχειν. πλὴν εἰ μὴ ἄρα μητέρα, ἢ ἀδελφὴν, ἢ θείαν, ἢ ἢ μόνον πρόσωπα πᾶσαν ὑποψίαν διαπέ-

φυγε.—Can. Nic. 3. A. D. 325. Concil., tom. ii. p. 669 B. "Subintroducendam habere mulierem" is from the translation of Dionysius Exiguus. *ibid.* p. 679 A.]

§ [XXXII. Nicæn. 3. Nullus episcopus, neque presbyter, neque diaconus, neque omnino aliquis ex clero licentiam habeat intromittendi ad se adoptivam aliquam mulierem quasi in loco filie aut matris, nisi forte sororem veram ex germanitate, aut sororem vel matris vel patris, et illas solas personas quæ ab omni mala suspitione alienæ sunt.—Capit. Collect. a Martino, Ep. Brac. A. D. 572. Council., tom. ix. p. 853 E.]

33. Also. Let the bishop, priest, or deacon, that hath been caught in fornication, perjury, theft, or murder, be deposed.

34. The institutions of the holy fathers. Bishops must take care that they being rooted and grounded in love, keep true peace, and entire concord between themselves, so that there be, as it were, one heart and one soul among them all<sup>c</sup>; and one perfect doctrine of true faith in the mouth of all\* . . .<sup>d</sup> a chasm.

<sup>c</sup> Here ends this canon in the CCCC MS.

<sup>d</sup> It is no small demonstration that the MS. now in the Cotton library was Sir H. Spelman's original, that at this place there is a chasm in both.

35. Nothing ought to be lodged in a church, but what belongs to the ecclesiastical ministrations. For it is written in Deuteronomy, "Thou shalt not plant a grove, nor a pillar, [*Deut. xvi. 21, 2.*]  
near the sanctuary of the Lord."

36. He begins [to treat] of the Sabbath. God, the creator of all things, created man on the sixth day, and on the Sabbath He rested from His works, and sanctified the Sabbath, for a future signification of the passion of Christ, and of His rest in the grave. He did not rest because He was tired; for He made all things without labour; and His omnipotence can never be weary; and He so rested from His works, as not to make any other creatures afterwards but such as He had made before; but such creatures as He had before made, He makes every year, to the end of the world. He creates men both as to body and soul, He creates animals and beasts without souls; every human soul is given by God; and He renews His creatures, as Christ saith in the Gospel, "My Father worketh until [*John v. 17.*]  
now, and I also work." Christ suffered for us in the sixth age of the world, and on the sixth day; by His passion, and by the miracles done by Him, He made anew undone man. He rested the sixth day in the grave; and sanctified the Lord's day by His resurrection. For the Lord's day is the first day of the world<sup>1</sup>, and the day of [*seculi.*]  
Christ's resurrection, and of pentecost, and therefore it is

\* [*In hac parte codicis duarum fere paginarum scriptura ita est deleta ut legi nequeat.—T.*]

[John viii.  
34.]

holy, and we ought spiritually to sabbatize, that is, to cease from servile work, that is, from sin, "for he that commits sin is the servant of sin." But because we cannot be without sin, let us beware of it to our power, and amend whatever we have done amiss. Let us give good example to our subjects, and correct ourselves and our subjects, and continually exhort them to what is good. Amen.

37. An item of the holy fathers. All must be careful to celebrate Easter, at the certain season, viz., after the fourteenth moon of the first month.

\* The calculation of Easter was not yet so exactly settled, but that there was a variation in the observing of this feast. The council of Toledo complain of this in the year 633. c. 4. *In paschalis solennitatis observatione solet in Hispania varietas existere prædicationis.* Therefore they order an annual synod to settle it\*.

38. The synod of Agde. † Such seculars as do not communicate on the nativity of the Lord, on Easter and Pentecost, are not to be esteemed Catholics.

† This, probably, was the first establishment of the custom of communicating three times a year, viz., at the synod of Agde, A.D. 506†.

39. The African canon. ‡ Penitents ought not, according to the canons, to communicate before they have finished their penance. But we for the mercy of a compassionate God, do grant license to some, after a year or two, or three.

‡ The first part of this canon is very rational, upon supposition that there could be any occasion for making it, as I hope there was not, during the first four centuries, when all the African canons were made. But the permission of penitents to receive the sacraments, is a contradiction to primitive discipline; yet I suppose it was certainly practised by the beginning of the sixth century at furthest, when Dionysius Exiguus published the Decretals. See Decr. of Innocent VII. †

\* [Solet in Hispaniis de solennitate paschali varietas existere prædicationis: diversa enim observantia laterculorum paschalis festivitatis interdum errorem parurit. Proinde placuit ut ante tres menses Epiphaniarum metropolitani sacerdotes literis invicem se inquirant: ut communi scientia edocti diem resurrectionis Christi, et comprovincialibus suis insinuent, et uno tempore celebrandum annuntient.—Tolet. iv. c. 5. Concil., tom. x. p. 618 D.]

† [Sæculares qui Natale Domini, Pascha et Pentecostem non communicaverint, catholici non credantur, nec inter catholicos habeantur.—Agathena. c. 18. Concil., tom. viii. p. 327 E.]

‡ [Vade-mecum, vol. ii. p. 292.]

De pœnitentibus vero, qui sive ex gravioribus commissis, sive ex levioribus pœnitentiam gerunt, si nulla interveniat ægritudo, quinta feria ante pascha eis remittendum Romanæ ecclesiæ consuetudo demonstrat. Ceterum de

40. An item of the holy fathers. Let priests give the sacraments of baptism promiscuously to all that want it; and forthwith succour all that desire penance, requiring no pay for it, unless they or their parents, or <sup>h</sup> fosterers, freely give somewhat. But if any one attempt to oppose these our institutions, let him feel the punishment of excommunication, or long bear the confinement<sup>1</sup> of a gaol.

<sup>1</sup> [ærum-  
nam.]

<sup>h</sup> Lat. *elemosynarii*.

41. A canon of the fathers. As to infants, when no certain witnesses of their baptism are found, and they, by reason of their age, can make no proper answer concerning the <sup>1</sup> sacraments having been given to them; it seems fit that they be baptized without scruple, lest through hesitation they be deprived of the cleansing virtue of the sacraments.

<sup>1</sup> Baptism, in this and the foregoing canon, is called sacraments, in the plural number, as the Eucharist also often is. Sacraments is the same with mysteries or solemn rites, and there were several such in baptism, as then administered; and there was a further reason for it still, viz., that in the old English Church the Eucharist was given to children presently after baptism.

42. An item. <sup>h</sup> There are some who mingle wine with the water of baptism, not rightly. And Christ commanded to baptize with water, not with wine.

<sup>h</sup> Yet some popes have allowed, that baptism may be performed with wine, in case of necessity. See Mons. Petit's Collections, annexed to the Penitential of Theodore, p. 159\*.

43 †. [44.] The Apostles' canon. If any bishop, priest, or deacon, obtained this dignity with money, let both him and his ordainer by all means be deposed and cut off from communion, as Simon Magus was by Peter.

pondere æstimando delictorum, sacerdotis est judicare, ut attendat ad confessionem pœnitentis, et ad fletus atque lacrymas corrigentis, ac eum (tunc) jubere dimitti, cum viderit congruam satisfactionem. Sane si quis in ægritudinem incidit, atque usque ad desperationem devenit, ei est ante tempus paschæ relaxandum, ne de sæculo abeque communione secedat.—Innocent. P. I. Epist. i. c. 7. A.D. 402. Con-

cil., tom. iii. p. 1030 D.]

\* [and p. 160. Cf. Concil., tom. xii. p. 561 B.]

† [XLIII. Ut nullus presbyter sine chrismate proficiatur. W.T. Cf. Arausic. A.D. 441. c. 2. Concil., tom. vi. p. 435-6. This canon seems to have been overlooked by Spelman and Johnson; the numbers of the succeeding canons, as in the editions of Wilkins and Thorpe, are inserted in brackets.]

44. [45.] An African canon. Let not a bishop ordain clerks, without a council of priests.

45. [46.] A canon. Let the bishop hear no cause, but in presence of his clerks, <sup>1</sup> excepting the case of confession\*.

<sup>1</sup> This exception is not in the CCCC MS.

46. [47.] The Carthaginian canon. Let the <sup>m</sup> rector do nothing without consent of his brethren. For it is written, [Eclus. xxxii. 19.] "Do all things with advice, and thou shalt not repent afterwards."

<sup>m</sup> The abbot, or superior of any religious body.

47. [48.] <sup>n</sup> Ulpian the bishop says †. That decree cannot be valid, which has not the consent of the most.

<sup>n</sup> Sir H. Spelman here has "Canon." But my friend assures me that *Episcopus dicit* is very legible in the MS., *Ulpianus* hardly discernible; yet he and another gentleman skilful in MSS. did so read it: who this Ulpian was I cannot guess. CCCC MS. reads, *Cyprianus Episcopus dicit*: this is the most probable. St. Cyprian hath several passages to this purpose. The forty-sixth and forty-seventh canon have no other title in this MS.

48. [49.] The Roman canon. If disputes arise in any province, let them be referred to the greater see, or to a synod, or to the <sup>o</sup> apostolical see of Rome.

<sup>o</sup> By this canon appeals might be made to Rome, from the bishop, without first applying to the primate, or greater see. Ecgbriht had obtained from the pope the honour of the pall, and thought himself bound to make the best requital he could to the see of Rome for that favour. Yet appeals to Rome were seldom used till after the Conquest. Wilfred, Ecgbriht's predecessor, had appealed to Rome to recover his bishopric, [Addenda.] and though the pope pronounced for him, yet he could never get [quiet possession. In truth he never got possession of his former entire see of York, but only of one part of it. It does not appear that appeals to Rome were at all allowed hitherto in the province of Canterbury.]

49. [50.] The bishops' canon. Let not the bishop deprive any man of the communion rashly, lest <sup>p</sup> one bishop receive that clerk or layman to communion by a just judgment, whom another bishop has cast out of the Church †.

\* [excepta causa confessionis, Sp. W. T.]

† [Cyprianus Episcopus dicit, W. T.]  
‡ [L. Canon Episcoporum. Non



<sup>p</sup> Sir H. Spelman supplied *ne* before *justo*, in his edition, and took it from before *quem*, in the next line. The CCCC MS. is, *Et nec quem alius, &c.*, without *justo judicio*: then the sense is agreeable to that of older canons, viz., that one bishop do not receive that man to communion, who has been expelled from the Church by another; though *et* does but serve to obscure the words.

50. [51.] A Nicene canon. Let no one surreptitiously ordain a man who belongs to another, in his own church, without consent of him to whom he belongs.

51. [52.] A Chalcedonian canon. That no one be ordained without a title, nor without pronouncing the place to which he is to be ordained.

<sup>q</sup> Let no altars be consecrated by unction with chrism, unless they be of stone.

<sup>r</sup> The CCCC MS. justly makes this a distinct canon; with this title, Canon Epaonensis. And it is the sense of the twenty-sixth canon of Epone, in the year 517\*.

52. [53.] <sup>r</sup> A canon of Epone †. Let not oblations be celebrated by bishops or priests in unconsecrated houses.

<sup>r</sup> CCCC MS. has here, Canon Laodicænsis; and it is indeed the fifty-eighth of Laodicea †. I find no such canon in the council of Epone.

53. [54.] The canon of the saints. \*Let no man in the prayers mention the Father for the Son, nor the Son for the Father. But in officiating at the altar, let prayer be always addressed to the Father.

<sup>s</sup> This is a known African canon §: but what occasion there could be for reviving this canon here in England at this time, it is not easy to say: except you will suppose that some English priests or bishops attempted to bring some of the Gotho-Franco offices in use here. For in them the oblation is sometimes made to the Son, contrary both to reason and antiquity.

temere quemquam communionem privet episcopus, et ne quem alius episcopus ab ecclesia expulerit, sive clericum sive laicum, suscipiat alius.—W. T. In MS. *justo judicio superscribitur manu antiqua.*—T.]

\* [Altaria nisi lapidea chris-matis unctione non consecrentur. Epaon. c. 26. A.D. 517. Concil., tom. viii. p. 562 C.]

† [Canon Epaonensis, W. T. This is clearly a mistake in the Cotton MS. and is set right by the above readings from CCCC MS.]

‡ [Ὅτι οὐ δεῖ ἐν τοῖς ὁλοῖς προσφορὰς γίνεσθαι παρὰ ἐπισκόπων ἢ πρεσβυτέρων. Laod., c. 58. (A.D. 364?) Concil., tom. ii. p. 574 C.]

§ [Carthag. A.D. 398. c. 23. Concil., tom. iii. p. 884 B.]

54. [55.] 'An item. It is sufficient for a priest to celebrate one mass a day, because Christ once suffered, and redeemed the world once. And it is written in Leviticus, that  
 Lev. xvi. "Aaron ought not to go assiduously into the holy place."  
 1, 2.

† Canon, Sir H. Spelman, but it is not so in MS.

55. [56.] † A canon of Orleans. Let the bishop give food and raiment, to the utmost of his power, to the poor and infirm, who cannot labour with their hands, by reason of weakness.

‡ Conc. Aurelian. A. D. 509, or 511, c. 16\*.

56. [57.] Theodore says. It is ordained, that without the authority and consent of the bishops, priests are not to be constituted in any churches, nor to be driven out of them; and if any one attempt to do this, let him be struck with a sentence of the synod.

57. [58.] The bishops' canon. Let bishops by no means be more drudges to secular business than to the service of God: (far be this from them :) but let them especially attend the cure of souls; that, according to the Apostle, they may reform the people of God by their examples, and instruct them with preaching of sound doctrine.

58. [59.] A canon. Let clergymen, as entire subjects of the bishops, pay them due obedience, and not elevate themselves with an affectation of gasconade<sup>1</sup>.

<sup>1</sup> [jactantise.]

59. [60.] A canon of Chalcedon. If any clerks or monks are discovered to enter into conspiracies, or treacherous designs against the bishops, let them be wholly degraded.

60. [61.] A Nicene canon. If any one receive the clerk or † monk of any bishop without his consent, let him be deemed sacrilegious, and be suspended from communion till he restore the clerk or monk to his proper bishop. But if the clerk contumaciously † refuse to return, let him be anathema.

\* The council of Nice takes no notice of monks, nor were there any such men as monks at that time. See Can. Nic. 16†.

† *Voluerit*, Sir H. Spelman and his MS., *noluerit* ‡, CCCC MS.

\* [Concil., tom. viii. p. 354 C.]

† [Vade-mecum, vol. ii. p. 57. The above exception is not the same with the sixteenth canon of Nice, A. D. 325,

though on the same subject. Concil.,

tom. ii. p. 675 B.]

‡ [Noluerit, W. T.]

61. [62.] An Irish canon. Let him who lifts up his hand with spear or sword to strike any man near a bishop, redeem his hand, or lose it; but if he have wounded him too, let him shave his head and beard, and <sup>2</sup>serve God; yet first let him make satisfaction to the bishop, and to the party whom he hurt. But if any man hurt a clerk, or any of the ecclesiastical order, let him make satisfaction sevenfold, in proportion to the order [he is of], and do penance according to the dignity thereof; or else let him walk off as an exile from his country\*. For the Lord says by His prophet, "Touch not Mine anointed," &c.

[Pa.cv.15.]

\* 'To serve God,' that is, become a monk.

62. [63.] A canon of Orleans. Let abbots, according to their religious humility, continue under the power of their bishops; and if they transgress their rule, let the bishops correct them; and let them meet once a year upon the receiving of a summons from the bishop, at the place which he shall choose. Let the monks subject themselves to the abbots, with a most devout obedience. But if any through contumacy do otherwise, or wander about from place to place, or presume to have any property of his own, let all he has got be taken away by the abbot, according to the rule, for the profit of the monastery. Let the wanderers themselves, <sup>a</sup> where they are found, be put under custody as renegades, by the help of the bishop. And let him who does not lay such persons under a regular restraint, know that he shall be answerable for it to the abbot; as also he who receives a monk that belongs to another †.

*Ubi inventi fuerint* is wanting in Sir H. Spelman and his MS., but is in CCCC MS. and the nineteenth canon, Concil. Aurel. before mentioned.

63. [64.] A canon of Orleans. If any abbot be not cautious in his government, humble, chaste, sober, merciful,

\* [aut extorria propria patria exulet, S. W. T.]

† [Ipsi autem qui fuerint pervagati, ubi inventi fuerint, cum auxilio episcopi tanquam fugaces sub custodia revocentur, et reum se ille abbas futurum esse cognoscat, qui hujusmodi personas non regulari animadversione

(MS. adversione) distrinxerit, vel etiam qui monachum susceperit alienum.—W. Thorpe omits 'ubi inventi fuerint,' but reads the rest as Wilkins. This excerpt is the nineteenth canon of Orleans, (A.D. 501,) which reads 'ubi inventi fuerint,' 'abba,' 'animadversione.' Concil., tom. viii., p. 354 E.]

and discreet, and do not express the divine precepts, both by his doctrine and example, let him be deprived of his honour by the bishop in whose territory he is, and the neighbouring abbots, and others that fear the Lord, although his whole congregation, consenting to his vices, desire to have him their abbot\*.

64. [65.] A canon of the <sup>b</sup> Apostles †. If an abbot be a transgressor of the divine commands, and a scorner of the holy rule, let him be deprived of the honour of an abbot, by the bishop of the city, with consent of the abbots and other monks that fear God. It is fit that the bishop of the city should take a proper care of monasteries, as the great synod of Chalcedon decreed.

<sup>b</sup> *Episcoporum*, CCCC MS., a much better reading.

65. [66.] Pope Leo says. The vow of a monk can in no wise be relinquished. For one ought to pay to God what he has vowed; <sup>c</sup> for the Psalmist says, "Vow, and render to the Lord." [Pa. lxxvi. 11.]

<sup>c</sup> *Namque*, Sir H. Spelman and MS., *quoque*, CCCC MS. †

66. [67.] Theodore says. Let not monks go from place to place, but continue in that obedience which they promised at the time of their conversion §.

67. [68.] Fructuosus says<sup>d</sup>. Let the monk that is a violator or scorner of the holy rule, or that is in a filthy manner <sup>e</sup> a suiterer of young boys, be publicly whipped, lose the crown which he bears on his head, and being shorn bald, be exposed to the basest reproaches; or being bound with iron chains, let him be macerated with a <sup>f</sup> close imprisonment.

<sup>d</sup> CCCC MS. adds, bishop, and he was indeed bishop and archbishop, in Spain.

<sup>e</sup> Sir H. Spelman and his MS. have *aut* here, which CCCC justly leaves out ¶.

<sup>f</sup> *Carceruli angustia*, Sir H. Spelman, *carcerali*, both MSS. ||

\* [This excerpt is noticed by Mansi as not found among the canons of any published council of Orleans. *Ibid.*, p. 372 A.]

† [*Episcoporum*, (MS., *apostolorum sed male*), W. T.]

‡ [*namque*, W. T.]

§ [See above, p. 91.]

¶ [vel parvulorum incestuose aut adolescentium consecrator, W. T.]

|| [*carcerali angustia*, W. T.]

68. [69.] A canon of Agde. If any monk have committed adultery or theft, (which may rather be called sacrilege,) we doom and ordain him that is guilty of so great a crime, to be whipped with rods, and never enter into the clerical office. But if when he is already a clerk, he be caught in such a crime, let him be deprived of the dignity of that title.

69. [70.] The bishop of Aurelia says. Let monks never have flesh in commons; animals\*, either young or full-grown, are never to be served up at the table in the congregation: they may be provided for, and eaten by them that are infirm only.

70. [71.] Isidore the bishop says. † An abbot or monk may not give freedom to a slave of the monastery; for it is impious that he should damage the Church, who hath given nothing to it.

\* This is also forbidden by several of the councils of Toledo, particularly that in the year 633; they might in some sense be freed, indeed, but not to be at their own disposal, as other freed persons; but like the *servi ascriptitii*. See canons of that council, 67, 70 †.

71. [72.] A canon. If any bishop, priest, or minister, take any of those things away from the Church, which the faithful do give in any place, he shall with confusion restore the plunder, and † undergo the sentence of an annual excommunication.

† This is an abridgment of the first canon of the council held at Toledo, in the year 693. The same punishment is inflicted by the eleventh canon of the council held there 691, for refusing to be determined by the majority of an ecclesiastical assembly. *Annua excommunicatio*, may, perhaps, signify an excommunication to last one year; but it seems rather to denote a sentence passed once a year, viz., at the beginning of Lent, and relaxed on Maundy Thursday. CCC MS. hath *aimæ*, for *annuæ*, a mere blunder.

72. [73.] An Irish canon. Let restitution fourfold be made for the goods of the Church stolen or plundered, double for the goods of common men.

73. [74.] † An Irish canon. If any one have stolen goods from the church, let the lot be cast, whether the [thief's] hand be cut off, or he be thrown into gaol, there long to fast and mourn; and let him restore what he had taken, or be

\* [pulli vero vel alticia cuncta in congregatione non ministrentur, S. W. T.]

† [Concil., tom. x. pp. 635-6 C.]

sent into banishment, and make double restitution. But if he stay in his own country, let him make fourfold restitution, and do perpetual penance.

<sup>1</sup> This canon may justly be deemed to have come from Ireland; for it savours of the barbarity of that people; and yet it agreed well enough with the temper of Ecgbriht, and the Northumbrians: for in the *Formula veteres*, following these Excerptions, in the Cott. MS., in the chapter, *De improviso judicio secularium*, you have the following directions, "Some are to be chastised with fetters, and some with scourges, others are to be distressed with hunger and cold; let others endure the reproach of losing their skin, hair, and beard, all at once; let others be yet more sharply distressed, that is, let them undergo the loss of an eye, nose, hand, foot, or other member." The truth is, this practice of pulling the skin of the whole head off, was so familiar among our ancestors, that they had a single word or term of art, whereby to express it, viz., hættian.

74. [75.] A canon of Toledo. If a clerk be caught demolishing of sepulchres, let him be removed from the clerical order\*. If any one [else] violate a sepulchre, let him do seven years' penance, three of them in bread and water.

75. [76.] <sup>k</sup> A canon of Eliberis †. They that fly to the Church for refuge, ought not to be forced from thence; but their lords may <sup>l</sup> persuade them to be gone, by promising their intercession ‡. But if the lord inflict any punishment on them, when they so go out, let him be deemed an enemy, and excommunicated. [77 §.] If any man do hurt to a man under Church sanctuary, or <sup>m</sup> under the seal of sanctity, let him make sevenfold satisfaction and restitution, and likewise continue seven years in hard penance; otherwise he is to be excommunicated from the whole Catholic Church.

<sup>l</sup> Sir H. Spelman and his MS. have canon Hibritan, which he understood as if it had been Hibern, but the CCCC MS. has Heliberitan; yet there is no such canon among those of Eliberis; and if that council were held, as it is pretended to have been, before Constantine's conversion, it is impossible that such a canon should be there made, for sanctuary is a civil privilege. But there are several canons cited by old collectors, as from Latin councils, which yet are not found in the most approved copies. And

\* [a clericatus ordine pro sacrilegio submoveatur, S. W. T.]

† [MS. legit Hebritan: forte Eliberitan, W. T.]

‡ [Sed eos domini sui promissa in-

tercessione persuadeant, T.]

§ [LXXVII. Canon Hibern. Si quis, &c., W. T. Sir H. Spelman's edition here repeats Can. Hib. in the margin.]

some of the canons now called Eliberitan, were by them entitled Hibern, as if they had been made in Ireland.

<sup>1</sup> CCCC MS. has *exire persuadeant*.

<sup>2</sup> That is, ordained to the clergy, or shorn for a monk. This whole clause is wanting in the CCCC MS.

76. [78.] Jerome says. The Church defends such as she receives into her bosom, like an hen, which broods and defends the chickens that are, or that are not her own; so the Church ought to defend all that flee to her.

77. [79.] An Irish canon. Let him who kills a man within the verge of a monastery, get him gone into banishment, with damnation; or else quitting his arms, and shaving his head and beard, let him serve God the rest of his life; yet let him first make satisfaction to God, and the kindred [of the party murdered.]

78. [80.] Jerome says. They who sin in a consecrated place are to be slain there. Phinees killed the man and the whore in the camp, (<sup>n</sup> as Mattathias did the Jew who sacrificed to an idol.) The holy places defend not him who pollutes what is holy. Christ scourged the malefactors in the temple.

Numb.  
xxv. 8.  
1 Macc. ii.  
23—25.

<sup>n</sup> The words in this parenthesis are not in CCCC MS.

79. [81.] Jerome says. He that strikes evil men because they are evil, is a minister of the Lord.

80. [82.] Jerome also says. To punish such as are guilty of murder and sacrilege, is not shedding of blood, but an administration of the laws. He hurts the good who spares the bad.

81. [83.] A canon of Orange. All religious offices are to be administered to idiots<sup>o</sup>.

<sup>o</sup> Lat. *amentibus*. Canon Araus. 13<sup>\*</sup>.

82. [84.] A canon of Carthage. Let exorcists lay hands on the possessed every day †.

83. [85.] A canon of Orange. They who are sometimes notoriously <sup>p</sup> possessed, are not only not to be admitted to any

\* [See next page, first note.]

† [LXXXIV. Canon. Carthag. Omni die exorcistæ energumenis manus im-

ponant. S. (82) W. T. This is Can. 90, Carthag. A. D. 398. Concil., tom. iii. p. 958.]

clerical order, but, if some such are ordained, they are to be repelled from the office conferred on them.

† Lat. *arrepti*, Sir H. Spelman and the MSS., but in the council of Orange it is *energumeni*\*.

84. [86.] A canon of Carthage. Let him who goes out of the auditory, while the priest is preaching, be excommunicated.

85. [87.] A canon of Carthage. Let not a layman dare teach in the presence of clergymen, † unless it be at their request.

\* Lat. in Sir H. Spelman and both MSS., *nisi ipsis provocandis*, but in can. 98, fourth council of Carthage, *nisi ipsis rogantibus* †.

86. [88.] † Isidore says. Let not the worldly wise, how wise soever, condemn the ecclesiastical judicature ‡.

† This canon is without title in CCCC MS.

87. [89.] A canon of Carthage. Let not a woman, though learned and holy, dare to teach men in the assembly §.

88. [90.] A canon of Carthage. Let the bridegroom and bride be offered by the parents, and bridefolk, to receive the priest's benediction; and let them remain virgins that night, in † honour to that benediction, when they have received it.

\* I am sorry to see such a superstition countenanced by so early a council; but so it is in canon 13 of the fourth council of Carthage ¶.

\* [This is a mistake, arising probably from the use of the word 'energumeni' in the two canons which come between the two above quoted in the council of Orange:

XIII. "Amentibus quæcunque pietatis sunt conferenda.

XIV. "Energumeni jam baptizati, si de purgatione sua curant, et se solitudini clericorum tradunt, monitione obtemperant, omnimodis communicent, sacramenti ipsius virtute vel munienti ab incurso dæmonii, quo infestantur; vel purgandi, quorum jam ostenditur vita purgatio.

XV. "Energumenis catechumenis quantum vel necessitas exegerit, vel oportunitas permiserit, de baptismate consulendum.

XVI. "Qui palam aliquando arrepti sunt, non solum non assumendi

ad ullum ordinem clericatus, sed etiam jam aliqui ordinati sunt, ab imposito officio repellendi."—Can. Arausic. A.D. 441. Concil., tom. vi. p. 438-9.

With the first and last of these canons, omitting 'et' before 'si' in the last, the Excerptions [83] and [85] agree word for word. In Excerption [83] Wilkins and Thorpe suggest 'opera,' which seems unnecessary, and is not given by Spelman.]

† [*Male MS., habet provocandis pro rogantibus*, W. T. XCVIII. Laicus præsentibus clericis nisi ipsis jubentibus docere non audeat.—Carthag., A.D. 398. Concil., tom. iii. p. 959 A.]

‡ [Isidorus dicit. Omnis mundialis sapiens, si sapiens sit, non judicet judicia ecclesiæ, W. T.]

§ [Can. 99. *ibid.*]

¶ [Ibid., p. 952 C.]



89. [91.] A canon says. That a priest ought not to be present at a feast made on occasion of a second marriage; especially when it is required that penance be laid on second marriages.

90. [92.] Pope Gelasius. The holy veil ought not to be put on virgins, or 'widows\* devoted to God, except on the Epiphany, or Low-Sunday, or on the nativity of an Apostle, unless they be dangerously sick, (as has been said in relation to baptism,) then let it not be denied them, if they implore it, that they may not pass out of the world without this gift.

\* *Viduis* is wrote with a late hand in Sir H. Spelman's MS.

91. [93.] A canon of Carthage. It seems fit that a man be not ordained deacon, nor a virgin consecrated, before they be twenty-five years of age, "unless a reasonable necessity compel.

\* This exception is not in the fourth canon of the third council of Carthage. Yet some copies add another exception, viz., unless they be well instructed in the Scripture from their infancy, &c.†

92. [94.] Basil the bishop. \* Yet † infants ought to be received, with the will and consent of their parents, or rather offered by them before many witnesses.

\* *Tam*, Sir H. Spelman and his MS., *tamen* CCCC MS. But Basil declares directly against this, can. 18§.

93. [95.] Isidore. Whoever hath been settled in a monastery by his own parents, let him know that he is always there to remain. For Hannah offered her son Samuel to God, when a child, and now weaned; and he continued in the ministry of the temple.

94. [96.] A canon of the Romans and Franks. A boy till he is fifteen years old, is to be chastised with corporal dis-

\* [vel *viduis* ab *antiqua manu super-*  
*imposita*, W. T.]

† [cf. Concil., tom. iii. 880 E.]

‡ [tamen, W. T.]

§ [Vade-mecum, vol. ii. p. 233.  
Πολλάς γὰρ γονεῖς προσάγουσι, καὶ  
ἀδελφοί, καὶ τῶν προσηκόντων τινεῖς,

πρὸ τῆς ἡλικίας, οὐκ οἰκοθεν δρμηθείσας  
πρὸς ἀγαμίαν· ἀλλὰ τι βιωτικὸν ἑαυτοῖς  
διοικούμενοι, ἅς οὐ βλάβεις προσδέχασθαι  
δεῖ, ἕως ἂν φανερώσῃ τὴν ἰδίαν αὐτῶν  
ἐρευνησωμεν γνώμην.—S. Basil., Op.,  
tom. iii. p. 292 A.]

cipline for his crimes: whatever crime he commits afterwards, or if he steal, let him make restitution, and pay according to law.

95. [97.] A canon of Neocæsarea. Let no one, in any case, be ordained priest before the thirtieth year of his age, unless reasonable necessity compel; because the Lord Jesus preached not before the thirtieth year of His age.

96. [98.] A Nicene canon. † That a bishop be ordained by the bishops of the whole province, if it be possible; if this be difficult, however not by fewer than three. Ordinations of bishops ought to be on the Lord's days, not in the country, or small towns, but in the chief cities, in regard to the dignity of so great a title.

‡ This is a jumble of the fourth canon of Nice, and of the sixth of Sardica; or rather, of some part of each. That of Sardica was misunderstood; for it was meant of creating bishoprics, by the Sardican fathers, but here understood of ordaining bishops. That bishops should be ordained on the Lord's day, is no part of either canon\*.

97. [99.] But [let the ordination of] priests and deacons be on the † sabbaths of the four seasons; that this ordination being performed in the presence of the people, the reputation of the elected and ordained may be debated under the testimony of all †.

\* Saturday in the Ember week (because the fast was not then ended) was thought the most proper season for ordaining priests and deacons: but the ordination was not to begin till toward evening, and it was not to be completed till the Lord's day morning, before the fast was broken.

98. [100.] The canon of the saints. Let the priests of God always diligently take care that the bread, and wine, and water, (without which masses cannot be celebrated,) be pure and clean; for if they do otherwise, they shall be punished with them who offered to our Lord vinegar mixed with gall, unless true penitence relieve them.

99. [101.] Of tithes. It is written in the law of the Lord, [Ex. xxii. 29, Vulg.] "Thou shalt not delay to offer thy tithes and first-fruits."

\* [cf. Concil., tom. ii. p. 669 C, and tom. iii. p. 10 E.] toram ordinatorumque opinio discutatur, W. T.]

† [sub omnium testificatione elec-

\* And in Leviticus, "All the tithes of the ground, and of the trees, are the Lord's, oxen, and sheep, and goats, which pass under the rod of the shepherd, whatsoever is the tenth, shall be sanctified to the Lord: neither the good nor the bad shall be chosen, nor shall any change be made." [Lev. xxvii. 30, 2, 3.]

\* Here this canon ends in CCCC MS.

100. [102.] Augustin says. Tithes are the tribute of the churches, and of needy souls. The Lord, O man! demands tithes of that whereby thou livest: pay tithes of what thou gettest by bearing arms, by trade, by handicraft. Our God is not indigent, He requires not gifts, but honour.

101. [103.] An item in the law. "When thou reapest the corn of thy land, thou shalt not cut it close to the surface of the ground, nor gather the ears that remain, neither shalt thou gather the bunches and grapes that fall down in thy vineyard, but thou shalt leave them to be gleaned by the poor and stranger." [Lev. xix. 9, 10.]

102. [104.] Also in the law. "If thou come into the standing corn of thy friend, break off the ears, and rub them in thy hand, but reap them not with a sickle." This our Saviour's disciples also did; they rubbed the ears of corn in their hand, and eat them on the Sabbath, as the Gospel saith. [Deut. xxiii. 25.] [Luke vi. 1.]

103. [105.] An item in the law. "When thou goest into the vineyard of thy neighbour, thou shalt eat as many grapes as thou pleasest; but carry none out with thee." [Deut. xxiii. 24.]

104. [106.] An institution of the fathers. Men must do nothing on the Lord's day, but attend on God with hymns, and psalms, and spiritual songs. <sup>b</sup> And all the days of Easter week are to be observed with equal devotion.

<sup>b</sup> The following clause is not in CCCC MS. Yet the observation of the whole Easter week was enjoined by the second canon of Mascon, in the year 588\*.

105. [107.] A canon of Orleans. We think it reasonable to be observed, for mercy's sake, that they who are imprisoned for any crime be looked after by the archdeacon, or reeve<sup>1</sup> of the church, every Lord's day, that the straitness of them that [præpositio.]

\* [Concil., tom. ix. p. 950 C.]

are in bonds may be mercifully relieved, and competent victuals be given them by the bishop, from the house of the church.

\* The reeve of the church was the bishop's steward for secular affairs; the twentieth canon of Orleans, in the year 649 or 550, is almost in the same words\*.

106. [108.] An item. Let him that <sup>d</sup> commits the conjugal act on Lord's day night, do penance seven days†; let him that does it on Wednesday or Friday, do penance three days; he that does it in the Lent before Easter, let him do penance a year.

<sup>d</sup> Lat. *nupsarit*: some later hand has written over this word, *sc. cum pompa conjugii*, as if it were meant of solemnizing marriage; whereas *nubo*, in the canonists of this age, especially in the penitentiary canons, does generally signify as I have translated it in the text: they frequently speak, *De nubendo masculis, brutis, &c.* And the mentioning of the night determines the word to this sense. In Bede, *de Remed. Peccator.*, c. 2, you have these words; *Qui in Ecclesia consecrata nubunt...3 dies peniteant*‡. Petit's Collections on Theodore's Penitential are full of the like expressions.

107. [109.] An item. Let no one presume to break publicly enjoined fasts, lest he incur the wrath of God.

108. [110.] \* From the council of Brague. Religious men ought not to take victuals, nor to go to meals, till the third holy hour of the day: nor should clerks eat bread at any time, till they have first said an hymn, and † after meat they should give thanks to the donor§.

\* This canon is written with a later hand in Sir H. Spelman's MS. in the Cotton Library, and in the margin, not in the text; and the word *horam* is omitted in the interpolation. It is to be feared that the interpolator did not understand the canon. It is the sixty-fifth canon of Martin of Braga, and sent by him to the council at Lugo, in the year 572. In

\* [Concil., tom. ix. p. 134 B.]

† [Qui Dominica nocte nupsarit, vii dies pœniteat, S. W. T. Sir H. Spelman makes a note in the margin, 'nuptiarum temp. prohibita.' *Voci nupsarit superimponatur in MS. cum propria conjuge*, W. T.]

‡ [Conc. Spelman, vol. i. p. 233.]

§ [CX. Ex concilio Bracarena. Non oportet homines religiosos ante sacram

horam diei iiii. cibum sumere nec convivium inire; neque clericos aliquando nisi hymno dicto edere panem, et post cibos gratias Auctori referre.—W. T. The sixty-fifth canon of Martin of Braga omits 'cibum sumere,' but is otherwise word for word the same as this excerption. See Concil., tom. ix. p. 857 B.]

that age there were but six canonical hours, nocturns and matins before day, tiers, mid-day, nones, and vespers, for the day. Nones was the third holy hour, or time of prayer. But by the time of Ecgbriht and Cuthbert, prime was added, therefore then nones was the fourth holy hour of the day\*.

r The *hiatus*, before *post*, and in the word *Bracarensi*, and the want of several other letters in the MS. itself, was occasioned by the cutting of the margin, when the book was bound, as my learned friend assures me.

109. [111.] A canon of the saints. Let them who are married contain themselves for three nights before they communicate, and one afterwards. Upon which the Apostle says, "Defraud not one another but by consent, that ye may for a time attend on prayer." [1 Cor. vii. 5.]

110. [112.] † Gregory says. If any one use his wife, not out of lust, but for procreation of children, he is to be left to his own discretion, either as to going to church, or receiving the mystery of the body and blood of the Lord; for he ought not to be prohibited by us, since he may go to church, according to the aforesaid determination. But because the lawful embraces of the married cannot be without the will of the flesh, therefore there should for some time be an abstinence from entering into the holy place, because such a will cannot be without fault.

\* See Gregory's answer to Augustin's eighth question, Art. 6.

111. [113.] Of marriage it is written in the law. "If a man seduce a virgin not betrothed, and lie with her, he shall endow her, and take her to wife." [Exod. xxii. 16.]

112. [114.] Augustin saith. As he who takes a wife, desires to find her a virgin; so let him also keep his virginity till marriage.

113 †. [115.] Let young men, when they come to the age of puberty, either marry, or profess continence. Young women at the same age ought to observe the same law.

114. [116.] Paul the Apostle says. "For [the avoiding] fornication, let every man have his own wife, and every woman her own husband." And let no one presume to separate lawful matrimony. "What God hath joined, let no man put asunder." [1 Cor. vii. 2.] [Matt. xix. 6.]

\* [Tierce, the third hour, that is, 8-9 a. m. is meant in the canon.]

† [Synodus Rom. dicit, W. T.]

[1 Cor. vii. 4.] 115. [117.] Paul saith. "The woman hath not power over her own body, but the man; and the man hath not power over his own body, but the woman."

116. [118.] The synod saith. A man may marry another woman, a month after the death of his wife; a woman may take another man, a year after [the death of her husband.]

[1 Cor. vii. 39.] 117. [119.] Paul the Apostle saith. "A woman is tied by the law, as long as her husband liveth; but if her husband die, she is free, let her marry to whom she will, but only in the Lord. But she will be happier if she so remain."

118. [120.] <sup>b</sup>Also an African canon. Lawful matrimony may not be separated, without consent of both parties: but one may give leave to the other to enter into the service of God, with the advice of the bishop. Some also say, if an husband or wife by consent becomes religious, the other, being very young, if not able to contain, may engage in a new marriage; which I do not approve. But though a married man is willing to be converted to a monastic life, he is not to be admitted, unless he be first loosened by his wife's professing chastity also. For if she, through incontinency, marry another, while he is alive, she will be an adulteress, beyond all doubt: and he who hath dismissed her will be partaker in her sin.

<sup>b</sup> One may dare pronounce this to be no African canon, without making any enquiry; but the worst part of it is attributed to Jerome, in Excerptions according to the CCCC MS., which see.

119. [121.] An item concerning lawful matrimony. Let no one presume to separate lawful matrimony, but by consent of both, and for love <sup>1</sup>of Christ, who saith, "He that hath left a wife, &c., shall receive an hundred fold, and inherit eternal life." And let no man dismiss a wife for any cause, but fornication, because the Pharisees tempting our Lord Jesus Christ, "asked Him, if it were lawful for a man to divorce his wife\*," &c.,—till you come to those words, "Whosoever divorceth his wife, except for the cause of fornication, and marrieth another, committeth adultery:" therefore the Apostle says†, "Let not a woman depart from her

\* [The quotation is given at length by S. W. T.]

† [Unde et Apostolus dicit, "præ-

cipio, non ego, sed Dominus, uxorem a viro non discedere."—S. W. T.]

husband." And again, "Art thou bound to a wife? seek not to be loosed. Art thou loosed from a wife? seek not a wife." It is elsewhere written, concerning adultery, or fornication<sup>1</sup>, "He that retains an adulteress is foolish and wicked\*." <sup>2</sup> Ezekiel also speaks of casting out the children of adulteresses, with their mothers, "Cast out the fornicating mother, and the children of fornication." And Augustin says, "If a woman commit fornication, she is to be dismissed; but another is not to be married, while she is alive<sup>†</sup>." Wherever then there is fornication, and a just suspicion of fornication, the wife may freely be dismissed; but otherwise, though she be barren, deformed, rank, a sot, a shrew, ill-behaved, luxurious, senseless, gluttonous, a stroller, impertinent<sup>‡</sup>, slanderous, whatever she be, as you took her, you must have and hold her; for the Apostle says<sup>1</sup>, "when thou wast free, thou didst of thine own accord put thyself in a state of bondage."

<sup>1</sup> That is, of a monastic life.

<sup>2</sup> Prov. xviii. 23. LXX and Vulg.

\* This citation is interpolated by the same hand that inserted can. 108; and they are only in the margin of the MS.

The Apostle says something like this of himself, 1 Cor. ix. 19, but not in relation to marriage. It is no extraordinary thing for the writers of this age to coin a new text of Scripture.

120. [122.] The African canon. According to the Evangelical discipline, neither let a wife, dismissed from her husband, take another man, the former living; nor an husband another woman; but let them so remain, or be reconciled.

121. [123.] Augustin says. If a woman commit fornication she is to be relinquished, but another must not be taken so long as she lives.

122. [124.] A canon says. If a woman depart from her husband with a contempt of him, refusing to return and be reconciled to him, he may take another wife after five, or seven years, with the bishop's consent, if he cannot contain.

\* [The Vulgate closely following the Septuagint has:

Prov. xviii. 22. Qui invenit mulierem bonam, invenit bonum: et hauriet jucunditatem a Domino. Qui expellit mulierem bonam, expellit bonum: qui autem tenet adulteram, stultus est et

impiaus.]

† [Cf. S. Aug. Op., tom. vi. p. 407 A. De conj. adult. lib. ii.]

‡ [nugatrix, S., jurgatrix, W. T. Cf. S. Hieron. Op., tom. vii. p. 146, in S. Matt. xix. 9, 10.]

But let him do penance for three years, or even so long as he lives, because he is convicted of adultery by the sentence of our Lord\*.

\* If it was a crime, how could the bishop's consent make it lawful? If it was not a crime, what occasion for penance? yet see Theodore's Council, can. 10 with note, in the year 673 †. See Theodore's Penit., as published by Petit, c. xi. p. 10. *Si cujus uxor fornicata fuerit, licet dimittere eam, et accipere aliam....Illa vero, si voluerit panitere peccata sua, post duos annos alium accipiat virum; hoc est si in primo conjugio essent secundum Græcos. ...Si mulier discesserit a viro, nolens reverti, et reconciliari viro, post quinque annos, cum consensu episcopi, aliam liceat uxorem [ducere.]* Our reformers allowed a dissolution of marriage for desertion, long absence, mortal hatred, &c.; and in all these cases permitted a second marriage. See *Reformatio Legum Eccl. de Adulteriis et Divortiiis*, c. 8—10.

123. [125.] An item. If any one's wife be taken captive, and cannot be redeemed, let him take another after seven years; but if his own, that is, his first wife, do afterwards return out of captivity, let him receive her, and dismiss the latter. Let a woman do the same, if this happen to her husband †.

124. [126.] Of the matrimony of slaves. If the master of a male and female slave join them together in marriage, and one of them be afterwards set free, and the other cannot be redeemed, the freed party may (as some think) marry to another that is free; yet by the sentence of our Lord, he is convicted as an adulterer. Let him, therefore, that does thus dismiss his first wife, on account of human servitude, and marry another that is free, do penance three years in bread and water, and do some sort of penance during life: and let the woman that does this do penance in like manner. If a freeman marry a female slave of his own, or that belongs to another, he may not dismiss her, if they were first joined together by mutual consent: if he do dismiss her and take another, whether bond or free, let him do penance as above.

\* Yet even in this case the second marriage holds as to the *vinculum*,

\* [This agrees with the text of Spelman, Wilkins, and Thorpe, but in the Penitential of Theodore the canon is thus given:

*Si mulier discesserit a viro suo, despiciens eum, nolens revertere et reconciliari viro, post v. annos, cum consensu episcopi, ipse aliam accipiat uxorem.*

*Si continens esse non poterit, iii. annos peniteat; quia juxta sententiam Domini mæchus comprobatur. Theod. Pœnit. ed. Thorpe, c. xix. § 23.]*

† [See above, p. 94.]

‡ [Theod. Pœnit. ed. Thorpe, c. xix. § 24.]



according to this canon, and Theodore, *ubi supra* \*, *Maritus si ipse seipsum in furto, aut fornicatione, servum fecerit*, (this shows that the punishment of theft and fornication was forfeiture of liberty,) *vel quocunque peccato, mulier si prius non habuit conjugium, habet potestatem post annum alterum accipere virum*. In case the husband or wife were taken captive, the point was unsettled: it is declared that the husband or wife may, after five years, marry again; but upon the return of the captive, the first marriage takes place, according to the first determination; the second, according to the second.

125. [127.] Of concubines. Augustin says, what a thing is this, that many men, before marriage, are not ashamed to take concubines, whom after some years they dismiss, and then take lawful wives? Therefore, before the Lord, and before His angels, I testify and denounce that God ever forbade such marriages, and that they never were pleasing to Him: and it never was, is, or shall be, lawful to keep concubines, especially in Christian times.

126. [128.] An item in the Law. Let none defile themselves with incestuous conjunctions, because it is written in Leviticus, "Let no man go in to her that is near akin, to uncover her nakedness." And again, "The soul that does any of these things shall be cut off from the midst of the people." But they to whom unlawful conjunction is forbidden, shall have the liberty of entering into a better marriage. [Lev. xviii. 8, 29.]

127. [129.] A synod says. They who have been coupled in unlawful matrimony ought not, after penance, to be in the same house together, lest they be coupled together out of love.

128. [130.] Also a synod, concerning the marriage-bed of a dead brother. Hear the decrees of the synod: let not a surviving brother go into the marriage-bed of his deceased brother, since the Lord says, "They two shall be one flesh;" therefore the wife of thy brother is thy sister. [Mark x. 8.]

129. [131.] Gregory says. If any man marry a nun, a godmother, a brother's wife, a niece, a step-mother, a cousin-german, a near kinswoman, or one with whom a near kinsman has had [to do], let him be anathema.

130. [132.] Also concerning such as are near akin, Gregory

\* [Theod. Pœnit., ed. Petit, c. xi. p. 10; the whole passage is quoted above, p. 94, note.]

thus answered Augustin's questions. (This is the same with Gregory's fifth answer to Augustin, till you come to these words, ought to abstain from each other\*.)

131. [133.] ° An item concerning the rational excuse. A long time after this, Gregory† being asked by Felix, bishop of Messana in Sicily, whether he had written to Augustin, that marriages contracted by the English in the fourth generation should not be dissolved, the most humble father among other things gave this account of it; "What I wrote to Augustin our disciple, bishop of the nation of the English, concerning the marriage of near relations, we certify was written, not to others in general, but to him and to the nation of the English, just now come over to the faith ‡, in particular, and the whole city of Rome is witness, that I wrote not to them with an intention that they should not be separated if they married such as were related to them in blood or affinity, even to the seventh generation, after they had once been settled and grounded in the faith; but while they were yet novices, I began to teach them both by precept and instances, their former unlawful deeds§. And we ought in reason and fidelity to make an exception against what they shall afterwards do of this sort. For in imitation of the Apostle (who says, 'I gave you milk and not strong meat,') we made this allowance for the present time, not for the future, that the kindly seed might not be scorched¶ before it had taken root, but might gain a gradual strength, and be preserved till it came to perfection."

\* I am little concerned whether this be true in fact, or not: but the most impartial papists (says Dr. Cave) esteem this letter spurious||; and the first that attributes this to Gregory, is Joanes Diaconus, who wrote above an hundred years after Ecgbriht; I mean, that he is the first, unless you will suppose that this is a genuine excerption of Ecgbriht's. Ivo and Burchard cite Joanes Constantinopolitanus for saying this to Felix of Messana: Gregory the VIIth, and Alexander II., cite them as the words of Gregory

° [See above, p. 69.]

† [Regist. l. xiii. indict. vii. epist. 32.]

‡ [ne a bono quod ceperat, metuendo austeriora recederet, S. W. T.]

§ [Sed adhuc illos neophitas existentes, cepisse eos prius illicita docere, et verbis et exemplis instruere, W. T.]

¶ [exureretur, S., erueretur, W. T.]

|| [Privilegium sane monasterii S.

Medardi, epistolæ 77 libri ii. subnexum, et epistolam 32 libri xii. ad Fœlicem episcopum Messanæ, spuria esse fatentur ipai conciliorum editora. Cave, Hist. Lit., vol. i. p. 545. Cf. Concil., tom. x. p. 425. For an opinion in favour of the genuineness of this epistle, see S. Greg. P. I., Op., ed. Ben. tom. ii. p. 1277, note.]

the Great, but they are too young evidences in this point. See Causa 35, quæst. 3, c. 20. They are not in CCCC MS.; my reader will not wonder if my translation here does not exactly agree with Sir H. Spelman's text. I have in several particulars followed the copy in the *Corp. Juris Canonici*, before hinted.

132. [134.] A Roman canon. A layman who defiles himself with an <sup>p</sup> handmaid of God, or with his godmother, or near kinswoman, or her with whom, perchance, his kinsman hath had [to do], let him first be anathematized, and afterwards do seven years' penance; three [of them] in bread and water. Let the woman do the same penance. Because Christianity equally condemns fornication in both sexes.

<sup>p</sup> A nun.

133. [135.] An item. The apostolical Pope Gregory, being present in Synod before the body of the most blessed Peter, said, if any one marry a <sup>q</sup> presbyteress, let him be anathema <sup>1</sup>.

<sup>q</sup> By the presbyteress must be meant an abbess, or the superior of some convent of women. See Decrees of Pope Gregory II. which were made not much more than 20 years before Ecgbriht's Excerptions were compiled\*.

134. [136.] An item. If any man marry a nun, whom they call a servant of God, let him be anathema<sup>2</sup>.

135. [137.] <sup>r</sup> An item. If any marry one of his own kindred, or one with whom his near kinsman has had [to do], let him be anathema: and all answered and said, Amen †.

<sup>r</sup> This canon is in the margin of the MS. in the same hand with can. 108.

136. [138.] An item. If any one commit fornication with two women, related [to each other], first let him be anathematized, and then do penance for seven or ten years.

137. [139.] <sup>s</sup> Also Gregory to Bishop Felix. We decree,

\* [Post hanc omnium consonam resposionem, Gregorius apostolicus papa ante corpus memoratum venerabilis Christi apostolorum, principis inferendo sententiam dixit.

<sup>1</sup> I. Si quis presbyteram duxerit in conjugium, anathema sit.

II. Si quis diaconam in conjugium

duxerit, anathema sit.

<sup>2</sup> III. Si quis monacham, quam Dei ancillam appellamus, in conjugium duxerit, anathema sit.—Concilium Romanum I. sub Greg. II. A.D. 721. Concil., tom. xii. p. 263 C.]

† [ibid., c. ix.]

that every one preserve his own pedigree to the seventh generation: and it is not, nor ever will be, lawful for a Christian to marry any, so long as they know them to be akin; and we will not be reproved either by 'you, or others of the faithful because we indulged the nation of the English in this point, not by giving them a prescribed rule, but a permission: we did it that they might not lay aside that Christianity which they had imperfectly received.

\* See note on can. 131.

\* *Nobis*, Sir H. Spelman; *Vobis*, MS\*.

138. [140.] Concerning "schemes. The branches in the pedigree of a family are called schemes, when the degrees of consanguinity are distinguished, viz., such an one the father, such an one the son, such an one the kinsman, and so on: the manner of it appears in what follows. And this consanguinity, whilst it orderly parts itself by gradual descents, and comes at last to the lowest degree, and ceases to be what it was, the law of matrimony, by its bond, brings it back again, and recalls it when it is now vanishing. It is for this reason that consanguinity is continued to the sixth degree of relation, that as the generations of the world, and the state of mankind is limited to six ages, so propinquity of stock may be terminated by the same degrees. It is not therefore convenient, that any within these degrees should be coupled in matrimony: nor is it, or ever will it be lawful, for any Christian to marry her whom any nearly related in blood have had to wife before; because such incestuous copulation is abominable to God. We read, it was long since ordained by the fathers, that such as are incestuous should not be called husband or wife.

\* Sir H. Spelman put *stemmata*, for *schemata* †.

\* This canon was clearly put before a tree of consanguinity, as they call it, in the book, wherever it was, from whence it was transcribed into this collection.

139. [141.] Pope † Virgilius †. If the altar be taken away, let the church be consecrated anew. If the walls are only

\* [vobis, W. T.]

† [Virgilius Papa, W. T. He was pope A. D. 538—555.]

† [De schematibus, MS. De stemmatibus. W. T.]

altered, let it be reconciled with salt and water: if it be violated with murder, or adultery, let it be most diligently cleansed, and consecrated anew.

⁊ Read Vigilius. There is a decree of his extant in his first epistle, and in *De consecr.*, dist. i. c. 24\*, relating to this matter: but instead of *altaria*, he has *sanctuaria*; by which, I suppose is meant, the relics of saints, without which no church of old could be consecrated. But his decree is very obscure, and there is very little resemblance between that and this canon.

140. [142.] Pope Virgilius† \*out of the Council of Carthage, Gregory. When any one, being a clerk, comes to his trial, if he desire it, and there be occasion, let the respite limited by the fathers be granted upon his request, without obstruction, and let selected‡ judges be allowed him by his bishop: if he at that place fear the violence of the rash multitude, let him choose a proper place, where he may have his witnesses, if occasion be, without fear, and bring his cause to an issue without impediment, according to canon, because many things used to happen by way of surreption §—¶ for mercy is better than all holocausts. We must not act in ecclesiastical causes as in secular. For in secular causes, he that is sued at law cannot withdraw till he have appeared, and pleaded, and given his answer, and the cause be ended. But in ecclesiastical, he may withdraw, if there be occasion, or if he see himself aggrieved, upon the hearing of his cause.

\* This canon is clearly framed from canons 15, 96, 121, 122|| &c. of the African code. For *se electi* read *a se electi*¹, or *selecti*. In Sir H. Spelman's chasm, my friend reads *a patre*²; which I translate, by his bishop, according to the sense of the African fathers. In the first line of this canon, Sir H. Spelman has *noluerit*, the MS. *voluerit*¶.

ª *Sententiam fratris quæ*, (so my friend supplies this chasm. from the MS.) *misericordiam vetat*³, are to me unintelligible words.

141. [143.] ʙ In the Nicene synod. It is ordained, that

\* [Vigilius papa ad Euterium, epist. i. c. 4; Gratiani Decretum, De Consecr., dist. i. c. 24, p. 2335.]

† [CXLII. Ex concilio Carthaginiensi Gregorius. W. T. The repetition of "Virgilius Papa" in Sir H. Spelman's edition is clearly an error.]

‡ [et iudices ¹ a se electi tribuantur ² a patre. W. T.]

§ [Sententiam fratris, quæ ³ misericordiam vetat, non solum tenere, sed etiam audire refugite; W. T. The meaning is clearly, "The opinion of a brother, which forbids mercy, shun not only to bold, but even to hear."]

|| [Concil., tom. iii. pp. 717, 801, 819, 821.]

¶ [voluerit, W. T.]

there ought to be no judges in synod, but such as he who is impeached hath chosen, or such as his primates have appointed, with his consent, by the authority of this holy see: for it is an indignity to him who ought to have judges of his own province, and chosen by himself, to be tried by foreigners.

• This exception too is patched up out of the African canons, 19, 20, &c. • ‘By the authority of this holy see,’ is owing to the invention of the interpolator.

142†. The gift, sale, or exchange of any thing belonging to the church, made by the bishop without the consent and subscription of his clergymen shall be void.

143. [145.] Let no monk presume to judge, or to receive a secular accusation against a clergyman. If any one be convicted of attempting this, let him know that he is to be degraded, according to the statutes of the fathers<sup>c</sup>, as an exactor and possessor of usury, while any man is under grievous crimes he cannot purge away the sins of others, so long as he is laden with his own.

• I read, *Velut exactor fœnoris*‡, aut *usurarium possessor*, as Sir H. Spelman in margin.

144. <sup>d</sup>A Roman council. In the time of Constantine Augustus, Pope Sylvester assembled a synod of seventy-three bishops at Rome, by whose consent and subscription it was ordained that no layman should presume to bear testimony against a clergyman: <sup>e</sup>therefore let not laymen be admitted against a clergyman. Let not the kindred or domestics of the informer give evidence against others who do not belong to the family; nor let suspected informers, or witnesses, be admitted; because affection towards kinsmen, masters, and those of the same family, is prejudicial to truth in many cases. But parents, if they will, and it be mutually agreed, may testify [against their children] ‘not against others; for carnal love, and fear, and bitter hatred, do often cloud men’s senses and pervert their thoughts.

<sup>d</sup> This council is entirely a forgery.

• The decree of this pretended council goes no farther, and this, indeed,

• [Concil, tom. iii. p. 720-1.]

are transposed by Johnson.]

† [This is appended to the foregoing canon by S. W. T., the next two canons

‡ [So W. T., but MS. *fœnoris*.]

is more than enough. There can nothing be said in defence of such a law, but that laymen were, by another forged decree, exempt from having any accusation or testimony given against them by a clergyman. See Caus. 2. quest. 7. c. 2, 6.

<sup>f</sup> That is, I conceive, not against others in behalf of their children.

145. [146.] Of ancient matrimony. It is sufficiently plain that the sons of Adam, in the beginning of the world, could marry none but their own sisters, and those who were nearly related to them in blood. But it was always unlawful from the beginning, to violate one's father's wife or concubine; therefore the patriarch Jacob said to his son Reuben, "Thou art poured out like water; mayst thou not thrive, because thou wentest up to thy father's bed, thou hast defiled my couch." [Gen. xlix. 4.] Therefore the Apostle Paul, the doctor of the Gentiles, wrote of such sacrilege in these words: "It is reported that there is fornication among you, and such fornication as is not among the Gentiles, that one should have his father's wife. And ye are puffed up, and have not rather mourned, that he who hath done this deed might be taken away from among you." [1 Cor. v. 1, 2.] For the Apostle<sup>b</sup> judged that he should be taken away from among Christians who violated his step-mother, saying, that such wickedness was not done among the Gentiles, that is, the pagans. It is true, and sufficiently evident, that God Almighty, in the law of Moses, forbad to marry the wife of a father, brother, and near kinsman, or to lie with her. But as to that which is written in Deuteronomy, "that a man should take the wife of his deceased brother, and raise up seed unto his brother," it is not to be understood carnally, but to be kept spiritually; and he is a blind doctor who does not understand the difference between the Old Testament and the New, but still walks up and down blindfold with the mist of antiquity, and knows not that the "law and prophets prophesied until John," [Ma't. xi. 13.] &c.; and whoever, with the Jews, pursues the letter only, continues without the reviving spirit and the grace of Christ, and eats the crust only, not the crumb. Great is the distance between the killing letter, and the spirit which giveth life; and he is a very ignorant, idle, insipid doctor, who, after so long time, and so many commentators on the law of Moses who have been inspired by God, will yet judaize, in con-

tempt of Christ and all the holy doctors. For in Deuteronomy we read that<sup>1</sup> "if brethren dwell together, and one of them dies without children," &c., *to those words*, "the house of him that hath had his shoe loosed." Now as to this which is written in Deuteronomy and in the Gospel, that "the brother took the wife of the deceased brother, that he might raise up seed unto his brother," it is not to be kept by Christians carnally, but spiritually.\* And when spiritual brothers dwell together, and the brother who presides in the Church of God passes from this world to Christ, then let his brother undertake the government of the Church, and raise up spiritual children to God, lest upon the failing of one doctor by reason of his mortal state, the spouse of Christ, which is the mother of us all, remain barren. And if any doctor will not govern the Church when the other is dead, not caring for the salvation of others, but for his own, he shall then be one that hath his shoe loosed, in opposition to what the Apostle says, "Having your feet shod with the preparation of the Gospel of peace†." If he will not sow the word of God when he may, but hides his talent in a napkin, that is, in torpid sloth, the Church shall spit in his face, as in the face of one who deserves confusion, and to be cast into "outer darkness, where shall be weeping and gnashing of teeth." But let one doctor succeed another in governing the Church unto the end of the world, that spiritual children may be raised up to Christ from His virgin spouse. For he that will not labour for God deserves no reward.

[Eph. vi.  
18.]

[Matt. xxv.  
30.]

\* Gen. xlix. 4, according to vulgar Latin.

<sup>1</sup> Judicavit, MS.

<sup>1</sup> Deut. xxv. 6—10.

146. [147.] A Laodicean canon. <sup>1</sup> That no Christian presume to Judaize, or be present at Jewish feasts.

<sup>1</sup> By this one would suppose there were in this age Jews in the north of England, but I know no other proof of it.

Here Sir H. Spelman breaks off with an &c., but the Cotton MS., from which it seems evident he published his copy,

\* [Christus ait in evangelio "Omnes autem vos fratres estis, et unus est pater vester, qui in caelis est." (Matt. xxiii. 8, 9.) S. W. T.]

† [Et iterum: "Quam speciosi pedes evangelizantium pacem, evangelizantium bona." (Rom. x. 15.) S. W. T.]



contains the following canons or excerpts, without any break or chasm, as I am assured by my learned friend who sent me a Latin transcript of them.

147. [148.] An item. That no Christian observe pagan superstitions, but express all manner of contempt toward all the defilements of the Gentiles.

148. [149.] A canon of Braga. If any man, following the custom of the pagans, introduce diviners or sorcerers into his house, either to drive away mischief, or to make discovery of any crimes committed, or attend the lustrations of pagans, let him do penance five years.

149. [150.] A canon of the saints. If any Christian sell a Christian into the hands of Jews or Gentiles, let him be anathema: for it is written in Deuteronomy, "If any man ch. xxiv. 7. be caught trafficking for any of the stock of Israel, and takes a price for him, he shall be slain."

150. [151.] Also a canon of the saints. It is therefore unlawful that they be made bond-slaves to Jews or Gentiles, whom Christ hath made free by the effusion of His own blood.

151. [152.] Of tonsure. Tonsure took its beginning from the Nazarites, who, preserving their hair, after having lived an abstemious life, consecrated to God what they had devoted to Him. We find it also written in the canons of the saints, If any Catholic cut his hair after the manner of the barbarians, let him be deemed an alien from the Church of God, and from every divine office of the Christians, till he make satisfaction for his offence.

152. [153.] Of Peter's tonsure. The Apostle Peter first used the clerical tonsure, by bearing on his head a resemblance of Christ's crown of thorns. Therefore an African canon forbids a clergyman to wear a long hair or beard.

153. [154.] A Roman canon also says: Let whatever clerk is seen in the church without his <sup>1</sup> mantle or cope, or with his hair or beard cut after any other fashion but the Roman, be excommunicated. A clerk ought not to wear the monkish habit, nor a layman's apparel. And if the man use the woman's habit, or the woman the man's, let them be excommunicated.

<sup>1</sup> Colobium.

154. [155.] An item. A clerk also ought not to bear arms, nor to go into the wars, because the canons teach that whatever clerk dies in war, or in a fray, intercession should not be made for him, either by the oblation or by prayer, (yet let him not be deprived of burial.) The Apostle also [2 Tim. ii. 4.] says, "No man that warreth entangleth himself in secular affairs;" therefore he is not free from the snares of the devil in worldly warfare: therefore all bishops, priests, and deacons, are to be charged that they do not wear weapons, but rather trust in the divine defence than in arms.

155. [156.] An item. Clerks also are to take care that they be not judges for the condemning men [to death.]

156. [157.] An item. The authority of the canons forbids any bishop or clergyman to give his consent to the death of any man, whether robber, thief, or murderer.

157. [159.] An African canon. Let all clerks who are able to labour, learn both arts and letters.

158. It is ordained that priests be not sent hither and thither, without distinction, by bishops, prelates, or laymen, lest by their absence the peril of souls be occasioned, (especially the death of children without baptism,) and they neglect the service of the churches in which they are constituted.

159. [160.] A canon of the saints\*. There are two sorts of clerks, one of ecclesiastics, under the government of the bishop, the other *acephali*, that is, clerks without a head; of whom <sup>m</sup> Gregory says, If there be any vulgar clerk, not in the holy orders, that is, who are neither priests nor deacons, that cannot contain themselves, they ought to have wives, and to receive their stipends apart from the rest. Let not priests by any means marry, nor bear martial arms, but exercise the spiritual art military.

\* See Gregory's answer to Augustine's first question †.

160. [161.] An item concerning warfare. Know, that the secular power is quite different from the spiritual. For it becomes good secular men to be defenders of the Church and flock of Christ. But it concerns spiritual men to be intercessors for all the people of God. A soldier of Christ ought not to

\* [Canon Cæsarien., W. T.]

† [See above p. 66.]

use human arms, as many testimonies declare. Let us begin with that of our God and Lord Jesus Christ, who, when He chose to suffer the torment of the cross for mankind, and was under custody of the soldiers, forbade Peter to fight with the sword. And if he had not allowance to fight on account of the injury offered to his Lord, what is more agreeable to right, than that we should imitate His example? Know that God saveth not only by the spear and sword, but rather by assiduous prayers, and other divine services. Martius also, the holy confessor of Christ, when he was commanded by Julian the apostate to bear military arms, said that he was a soldier of Christ, and therefore could not fight. We have also a useful example from the book of Exodus, viz., while Joshua fought with Amalek, Moses did not fight with weapons, but prayed to God with his hands stretched out toward heaven; and the people of Israel overcame; but when he let down his hands Amalek prevailed. By these and many other examples it is declared that the bishop, priest, deacon, or monk, should bear no arms in battle, but those only of which it is read, "Above all, taking the shield of faith, by which ye may quench all the fiery darts of the wicked one; take also the helmet of salvation, and the sword of the spirit, which is the word of God\*."

[John xviii. 11.]

[ch. xvii. 10, 11.]

[Eph. vi. 16, 17.]

161. [162.] The canon of the saints concerning murder. If a priest or deacon commit murder, let him be degraded, and do penance to the end of his life.

162. [163.] An item. If any clerk commit murder, let him do penance in exile ten years, and three of these in bread and water; then let him be received into his country, if he have done his penance well, so as to be approved by the testimony of the bishop, or priest, or whoever it was to whom he was committed, that he has done his penance well. Let him also make satisfaction to the parents of the murdered person: and if he do not, let him never be received into his country, but be like Cain, a vagabond and stroller over the face of the whole earth. But if he committed the murder † through chance, not wilfully, let him do penance five years,

\* [Contrarium itaque omnino est ecclesiasticis regulis, post ordinationem redire ad militiam secularem, W. T.]

† The word translated "murder" in this and the preceding excerption is "homicidium."

or five lents, more or less ; three of these in bread and water. If he have consented to murder, and it was actually committed, let him do penance seven years, or seven lents<sup>a</sup>, three of these in bread and water. If he designed murder, but did not execute it, let him do penance one year. If one strike [another] so as to shed blood, let him do penance forty days in bread and water ; if a deacon [do this, let him do penance] six months ; if a priest, a year. If one layman kill another, let him abstain from the church forty days, and fast in bread and water, and afterwards do the penance which the priest shall assign him.

<sup>a</sup> The lents are inserted by interlining in the MS.\*

N.B. These are the penances of those that willingly submitted to discipline, without being excommunicated. But if any stood it out, and would do no penance till they had sentence of excommunication passed against them, their penance was more severe still, as appears by the following passage in the *Formula Veteres*, which come immediately after these excerpitions in the Cotton MS. *Cap. Exemplum de Excommunicatione, &c.* "Let not meat be given into the hands of one that does penance as an excommunicate ; but let it be laid before him on the ground ; and let not the remainder be taken by any man, nor given to the poor, but cast to the swine, or let the dogs eat it. And let not such a penitent wash himself in a bath, nor trim [his hair or beard,] nor cut his nails, nor sleep in a bed, even of straw, but on the bare pavement. And let him go unarmed, barefoot, clothed in sackcloth. Let him mourn for his sins night and day, and beg pardon of God by prayer, mixed with tears ; let him not enter into the church, nor receive the kiss of peace ; let him abstain from flesh and wine, and from the embraces of his wife, and not communicate so long as he is doing penance, unless he be seized with death." By this last clause it appears that an excommunication was not, in this age, taken off so soon as the excommunicate submitted to the Church, and undertook to do penance, as it was in after-times. Further, you have in the chapter *De excommunicatis, qui inivisi ad penitentiam provocantur*, the secular punishments inflicted on them who despised the censures of the Church, viz., "Some are to be chastised with imprisonment, others with fetters or scourges ; and let others incur the loss of their money, estate, or country ; let others be laid under perpetual servitude, either divine or human," that is, I suppose, either to some bishop, or monastery, or else to their temporal lords.

[Addenda.] [Whereas in this and several other canons a fast of five and of seven lents is enjoined, we are thereby, I conceive, to understand a fast of forty days at a time, to be assigned by the prelate or confessor. For no Church or

\* [Ab antiqua manu superscribuntur minusve ; et postea : vel vii. carinas'. T. sequentia ; vel v. carinas, vel plus Wilkins omits the interlineation.]

private men did ever, I conceive, observe more lents than three in one [Addenda.] year, as stated solemn fasts. But Ecgbercht, the British recluse in Ireland, is said to have fasted forty days after Pentecost, and again forty days before Christmas, as well as the common lent before Easter.—Bede, lib. iii. c. 27. Of those other occasional lents for penitents, they might make as many as they pleased.]

Next follows what in the catalogue of tracts belonging to this volume, is entitled, *Formulæ Veteres, et Precepta de Confessione, Pœnitentia, et Jejunio.*

N.B. I am assured by a learned hand, who has searched the excerpts of Ecgbriht, mentioned by Sir H. Spelman in the Bodleian Library at Oxford, that none of these excerpts are in that book, save the twenty-one first items.\*

\* [This assertion, and the statements of Spelman, Conc. Brit. vol. i. p. 260, 275, seem to have misled Wilkins and others as to the contents of MS. Bodl. 718, which has been already mentioned above, p. 185, and 187, note \*. This 'noble' MS., as Spelman justly calls it, (probably from having seen it, though he made his extracts, Conc. Brit., p. 275—8, 281—8, 'aliorum oculis et industria') contains four books of excerpts, the first three penitential and the fourth general: it is in Latin, but written in Anglo-Saxon characters, is said to have formerly belonged to Leofric, bishop of Cornwall and Exeter, A.D. 1046—71, and has on the last leaf in a later hand the letter of Pope Leo to King Edward the Confessor for moving the see from Crediton to Exeter. The first book has in rubric the title,

Incipit excerptio de canonibus catholicorum patrum pœnitentialis libri ad remedium animarum Ecgberhti Archi epi Eburacæ civitatia.

At the end, f 21,

Fin. Lib. pœnitential Ecgberhti Archi epi.

The whole work professes to be a collection of authorities made by an ecclesiastic at the bidding of a bishop, but no name is mentioned except in the title and colophon above quoted.

At the beginning of the first book are the first twenty-one excerpts of the Cot. MS., as part of the introduction to the penitential.

The fourth book, however, contains 383 excerpts, with titles and numbers in rubric; many of these are word for word the same as excerpts in the Cotton MS. Nero A. 1; others are the original passages of fathers and councils from which corresponding parts of that MS. are abridged, while others again agree with CCC MS. K. 2. as described by Johnson in the following pages. The conclusion seems to be that the excerpts published by Spelman and others from the Cotton MS. Nero A. 1. (a copy not in Anglo-Saxon character, but written at the beginning of the twelfth century) are a somewhat confused abridgment of a portion of a work ascribed to Archbishop Ecgbriht.]

A.D. DCCXL.

Ecgbriht's AN ACCOUNT OF ECBRIHT'S EXCERPTIONS, AS THEY STAND  
Excerp- IN THE MS. MARKED K. 2, IN THE LIBRARY OF CCCC.  
tions, ac-  
cording to  
CCCC MS.

PREFACE.

THE see of Worcester was held by three archbishops of York successively, viz., Oswald, Wulstan (the reprobate), and Aldulf\*. These three, probably, governed the diocese of Worcester by the same canons that they governed their province of York, that is, by the excerpions of Ecgbriht, though with great additions and defalcations. The book in which this code is contained in CCCC did certainly belong to the church of Worcester, and has in the first page the form of an oath of chastity, in these words: "I, brother N., do promise to God and all His saints, that I will preserve the chastity of my body, according to the decrees of the canons, and the order to be conferred on me, in the presence of the lord bishop Wulstan." The first six pages contain many pious admonitions, but nothing, besides this, to my present purpose. And this seems a plain proof that the transcript was made while Wulstan was both archbishop of York and bishop of Worcester, that is, between the years 1001 and 1023. The alterations are so great, that we are not to wonder that the canons are not called the excerpions of Ecgbriht. From the seventh to the thirteenth page is a letter from Albin to Athelard, archbishop of Canterbury; from thence to the seventeenth a letter from Alcuin (the same with Albin) to Eanbald, archbishop of York. Then follows a chapter concerning the doctrine and example of superiors, another concerning those who preach well and live ill, another concerning the example of evil priests; in the nineteenth page is a chapter concern-

\* Oswald became bishop of Worcester, A.D. 961, archbishop of York 971, and retained both sees till his decease, 992: both sees were also held by Ald-

wulf, 993—1002, and by Wulstan 1003—23; Godwin de Præsul, pp. 462, 660, 661.]

ing the observances of bishops. In the twentieth page begin the twenty-one items, which are the twenty-one first excerpts of Ecgbrigt, put all together without any division. I conclude that these excerpts were the canonical code for the province of York for three hundred years together, and how much longer we know not, though during these ages every archbishop made such variations as he thought proper. Immediately after the twenty-one items it thus goes on.

**LATIN. THE EXCERPTIONS OUT OF THE BOOKS OF CANONS BEGIN  
HERE. (WITHOUT THE SHORT PREFACE, "WE CALL THOSE  
RULES, &c.")**

**AUGUSTINUS AUREL., &c., AS IN SIR H. SPELMAN.**

**CCCC MS.**

*In Sir H. Spelman's numbering.*

1. **\*IF** there arise disputes in any province, and clergy-  
men do not agree among themselves, let a reference  
be made to the greater see; and if they cannot  
there easily be discussed, let them be determined  
when a synod is assembled. And if difficult ques-  
tions arise, let them be referred to the apostolical  
see. . . . . 48.

\* By comparing this with the forty-eighth excerption of  
Ecgbriht, we may see that the pope's power was in a thriving  
condition.

2. The Roman institution also says: Heed must be  
taken that causes be not referred to foreign pro-  
vinces or churches, where different usages and a  
different religion prevail; or to the Jews, who obey  
the shadow rather than the truth; or to the Bri-  
tons, who are contrary to all men; or to heretics,  
though they study and are well versed in ecclesias-  
tical causes.
3. . . . . 29.
4. But this canon ends at, "among them all," in CCCC  
MS. . . . . 34.
5. Also an institution. Let bishops and priests in-  
stantly preach the Catholic faith to the people, and  
instruct all men by all means, not only by word,  
but by example; and endeavour to keep up assidu-  
ous reading and prayer.



CCCC MS. Sir H. S.

6. . . . . 37.

7. . . . . 40.

8. . . . . 43.

9. Of the ordination of bishops . . . . 96.

10. Also, of the ordination of bishops . . . . ib.

11. Of the ordination of priests and clerks. "Unless reasonable necessity compel \*" is not in CCCC MS. Instead of "priests and deacons," in Sir H. Spelman, "clerks" in CCCC MS. . . . . 97.

12. . . . . 95.

13. Of veiling of virgins. That virgins be not veiled, nor deacons ordained, before <sup>b</sup> fifteen years, &c. . . . 91.

<sup>b</sup> Sure it should be twenty-five; yet virgins used to be allowed the veil much sooner: but if Ecgbriht, or rather Wulstan did not, it speaks their wisdom.

14. Ending at "of an apostle" . . . . . 90.

15. Of secular cares. Let not the bishop, priest, or deacon, take any secular cares on himself; if he act contrary to this let him be deposed; and let not the bishop concern himself with the family affairs of his single church, but attend on reading, prayer, and preaching of the word of God; and let him have cheap furniture for his house, and low diet; and let him consult the authority of his dignity<sup>c</sup> by the merit of his faith and life, and with the apostles endure penury<sup>d</sup> †.

<sup>c</sup> MS. *Fidem, et per vitæ meritum.* I read, *per fidei, et vitæ meritum.*

<sup>d</sup> MS. *Perjuriam.* I read, *penuriam.* Perhaps it might be *injuriam.*

16. . . . . 44.

17. . . . . 45.

18. . . . . 49, 50.

\* [The words "nisi rationabili necessitate cogente" are in the 91st and 95th excerptions according to Sir H. Spelman's numbering, but not in the 97th.]

† [XV. Ut episcopus vilem supellectilem, et mentam ac victum paupe-

rem habeat, et dignitatis suæ auctoritatem fide et vitæ meritis quærat. XX. Ut episcopus nullam rei familiaria curam ad se revocet, sed lectioni et orationi et verbi Dei prædicationi tantummodo vacet. Carthag. A.D. 398. Concil., tom. iii. p. 962.]

CCCC MS.

Sir H. S.]

19. A canon of Epone\*. See the edition of Sir H.

Spelman . . . . . 51.

\* Yet I find no such canon in that council.

20. . . . . 55.

21. A canon of the apostles. Let the bishop have the care of all things belonging to churches, and dispense them as under the Divine inspection; nor may he 'appropriate' any of them at all to himself, or give to his parents what belongs to God. But if they are poor he may relieve them as poor. Let not what belongs to the Church be wasted<sup>2</sup> by occasion of them\*.

<sup>1</sup> Lat. *Contingere*. And this is according to the ancient translation published by Justellus†, which cannot, I think, be reconciled to the original. See *Can. Ap.* 31 †.

<sup>2</sup> *Deperdatur*, MS. *Deprædatur*, the ancient translation now mentioned.

22. A canon of Orleans. Let all churches, which are, or shall be built in various places, according to the direction of former canons, be under the power of that bishop in whose territory they are situate.

23.	. . . . .	56.
24.	. . . . .	57.
25.	. . . . .	58.
26.	. . . . .	60.
27.	. . . . .	62.
28.	. . . . .	63.
29.	. . . . .	64.
30.	. . . . .	65.
31.	. . . . .	66.
32.	. . . . .	67.
33.	. . . . .	68.
34.	. . . . .	69.
35.	. . . . .	70.
36.	. . . . .	71.

\* [*Ἰσφετερίζεσθαι*, 'sibi vindicare.' ἀλλὰ μὴ προφάσει τούτων τὰ τῆς ἐκκλησίας ἀνεμπολείτω' 'sed non earum prætextu vendat quæ sint ecclesie

Can. Apost. 37 Concil., tom. i. p. 37 A.]

† [Bibl. Jur. Can., tom. i. p. 113.]

‡ [Vade-mecum, vol. ii. p. 22.]

- 37 . . . . . 72.
- 38 . . . . . 74.
39. But this canon in CCCC MS. ends at, "and ex-communicated" . . . . . 75.
- 40 . . . . . 75.
41. Let no one dare to strip the church, whatever her prime governors are. For the sons of Aaron and Eli were wicked, and yet God did not withdraw from them the offerings of the people. Annas and Caiaphas received the offerings of the people, though they crucified Christ.
42. Jerome. Though prime governors, when wicked, destroy themselves, yet the Church remains without fault. Christ, though He knew Judas would betray Him, yet took not from him the bags.
43. Of the priests' right. "The first-fruits and tenths, and much of the first-born of all the people of Israel, shall belong to the Lord. Let them eat the offering for sin and trespass; and every vow in Israel, and every meat-offering of all that is offered, and the first-fruits of every thing that is for food, shall belong to the priests. I have taken the breast and the right shoulder from all the children of Israel, they shall belong to the priests\*." It is to be noted that not Aaron himself made the tabernacle, but the people and artificers, by the advice of Moses, which signifies that it is not the priest's part to build the church. <sup>b</sup> Aaron ate the sacrifices, (except some few,) yet it was the people that laid their hand on the head of the sacrifice; which signifies that it is not the priest's part to labour for victuals. It was not Aaron or his sons that carried the tabernacle, they only sacrificed, which signifies that there ought to be ministers together with the priests. "They who serve the altar are made partakers of the altar."

[1 Cor. ix.  
13.]

<sup>b</sup> Lat. *Aaron non edebat*, &c. I leave out *non* in the translation: for I suppose Aaron here stands for all the priests, who were authorized to eat of all the sacrifices that were to be eaten;

• [See Numb. xviii. 8, and following verses; Lev. vii. 34.]

CCCC MS.

Sir H. S.

yet even thus, I scarce know how the author drew his conclusion from his premises.

44. . . . .	78.
45. . . . .	79.
46. . . . .	81.
47. . . . .	82.
48. . . . .	83.
49. . . . .	84.
50. . . . .	85.
51. . . . .	86.
52. . . . .	87.
53. . . . .	88.
54. . . . .	89.
55. . . . .	110.
56. . . . .	90.
57. . . . .	91.
58. . . . .	92.
59. . . . .	93.
60. . . . .	94.
61. . . . .	105.
62. . . . .	99.
63. . . . .	102.
64. . . . .	103.
65. . . . .	*148.

66. A canon of Carthage. They who attend auguries or incantations are to be separated from the Church, according to the stated measures of penance.

67. A canon of the bishops. <sup>1</sup>If a Catholic clip his hair after the manner of the barbarians, let him be esteemed an alien from the Church of God, and from the table of christian men, till he correct his fault. Let not a clergyman have a long hair or beard.

<sup>1</sup> The latter part of canon 151 in the Cot. MS. is very like to this.

68. An African canon. To the word "burial." \* 154.

\* [The last of the excerpions of Ecgbriht given by Sir H. Spelman is higher than this refer to the excerpions of the Cotton MS. as given in the numbered 146; therefore all numbers preceding pages.]

69. An item. Beginning at, "a clerk ought not," &c. \* 153

70. Bishop Basil. It shall not be lawful, either to pray, or speak, or eat with an excommunicate.

71. A canon of the holy fathers. If any man be deprived of communion by his own bishop, let him not be received by others before he is reconciled to his bishop; or, however, comes to the synod when assembled, and makes satisfaction for himself. Let this determination be in force as to laymen, priests, and deacons, and to all that are known to be<sup>k</sup> under the rule.

<sup>k</sup> All clerks and monks.

72. At the end of the canon is added, "lest he destroy innocency;" or, "lest he lose [his] innocency." \* 156.

73. A canon of the fathers. If any bishop condemned by a synod, or a priest or deacon by his bishop, dare to concern themselves in the sacred ministry, whether he be bishop, (according to the preceding custom,) or priest, or deacon, let no room for satisfaction, or hope of restitution, be allowed him in another synod: but all that communicate with him, even the greatest, are to be cast out of the Church, if after they know that sentence hath been passed against them they attempt to communicate with them.

<sup>l</sup> This parenthesis seems to refer to something said in the foregoing canons in that system, to which it originally belonged, but what that system was I know not. The syntax is obscure in the following clause.

74. A canon of the fathers. If a bishop, or one in orders, be an habitual drunkard, let him either desist or be deposed.

75. Basil. If any one be guilty of detraction toward his superior, let him do penance, by being separated from the ecclesiastical assembly for seven days, as Mary, the sister of Aaron [was] when she had been guilty of detraction toward Moses.

76. A canon of the apostles. Only the word 'bishop' is omitted. . . . .

CCCC MS.

Sir H. S.

77. . . . . 31.

78. . . . . 127.

79. An item. The canons teach that whosoever hath married a widow or divorced woman, or hath himself been twice married, be never made a deacon, never a priest.

80. An item. . . . . 116.

81. Of abstinence. The Greeks and Romans contain themselves from women for three days before [they receive] the shew-bread, according to what is written in the law.

82. . . . . 38.

83. No title. The sense is entirely the same, though not the words. . . . . 120.

84. Pope Innocent. He who marries another wife, she that is divorced yet living, and he who marries the divorced woman, are both of them adulterers. The Lord says in the Gospel, "whosoever puts away his wife, except for fornication, and marries another," &c.

[Mat. xix.  
9.]

85. Jerome says. It is fornication only which overcomes a man's affection to his wife; nay, when she hath divided the one flesh into another, and by fornication separates herself from her husband, she ought not to be retained, lest she bring her husband too under a curse, since the Scripture says, "he that retains an adulteress is foolish and wicked\*<sup>m</sup>." The wife, therefore, is freely dismissed, wherever there is fornication in the case: and because it might happen that innocency might be calumniated, and the first marriage might be impeached for the sake of a second match, a man is commanded so to dismiss his first, as not to marry a second in her lifetime: it is as if he had said, upon condition you do not dismiss your wife for the sake of lust, but of injury done.

<sup>m</sup> Prov. xviii. 23. according to LXX, and vulgar Latin\*.

\* [See above p. 209. Cf. S. Hieron. Op., tom. vii. p. 146, in S. Matt. xix. 9, 10.]

85. Also Jerome. <sup>n</sup> If a man or woman by consent become religious, the other, being very young, may engage in a new marriage.

<sup>n</sup> This notion was started in Ecgbriht's time, but was justly condemned by him, Excerpt. 118, yet now it prevailed. It does not appear that Jerome ever countenanced this practice, but rather the contrary.

86. An African canon. Let the priest enjoin laws of penance to him that earnestly desires it, without respect of persons.

87. African canon. Omitting, "to some." . . . 89.

88. Basil the bishop. A penitent ought cordially to be received in the manner declared by our Saviour, when He says, "The man calls together his friends and neighbours, saying, Rejoice with me, for I have found the sheep which I had lost."

[Luke xv. 6.]

89. Also Basil. We ought so to behave ourselves toward them who do [not] repent of their sins, as our Lord charges us when He says, "Let him be to thee as an heathen man and a publican."

[Mat. xviii. 17.]

90. A canon of Orleans. <sup>o</sup> Penance is not to be enjoined to married persons but by consent.

<sup>o</sup> The penance he meant, is that foolish one of going into a monastery, and taking a vow of chastity.

91. . . . . 113.

92. An African canon. Times of penance are to be decreed for penitents, according to the degrees of their sins, at the bishop's discretion.

93. The Romans say concerning lapsed [clergymen,] He that falls with his degree, let him rise without it, and be content with the name only. On the other side, it is said in the <sup>p</sup>Apocalypse. "Remember from whence thou art fallen, and do penance, and perform thy former works."

<sup>p</sup> Rev. iii. 5. This seems a contradiction to the old canons (which forbid a lapsing clergyman to officiate ever after) but by a gross misapplication of the text.

94. Of murder. This MS. omits the 'five' and 'seven lents,' 'more or less,' and assigns seven months penance to the deacon who hath shed blood. After those words, "if a priest, a year," it thus goes on, let him who kills a monk, or clerk, lay aside his arms, and serve the Lord in a monastery, or do penance seven years in exile. The doom of him who kills a bishop or priest belongs to the king. Let him who kills a layman out of premeditated malice, or to get his inheritance, [do penance] three, five, or seven years; if it were for the revenge of his brother, but one year and three lents, and the stated week-days in the two following years; if by sudden violence, three or five years; if by chance, one year; if in public war, forty days. Let the freeman who kills an innocent person at the command of his chief, do penance one year, and three lents, and the stated week-days in the two following years. Let him who by striking a man in a fray has brought a man to a state of weakness or deformity, pay the charge of the physicians, and make amends for his blemish, and for [the loss of] his work, till he be cured, and do penance half a year; and if he be not able to make [such] restitution, then a whole year. Let him that riseth up to strike a man, with an intent to kill him, do penance three weeks; but if he hath wounded him, forty days; if he be a clerk, one year, and let him pay a fine in proportion to the wound; for the law<sup>9</sup> enjoins this. Let the woman that destroys her conception designedly, before forty days, do penance one year; if after forty days, three years; if she were quick with child, as a murderer. But the difference is great between a poor woman, that does it by reason of the difficulty of nursing it, and a whore [who does it] to conceal her wickedness . . . . . \* 162.

<sup>9</sup> Lat. *Commendat*.

• [See above p. 230, note •.]



95. Of penance for neglect of baptism. Let the parent whose child is dead without baptism through his neglect do penance one year, and never live without penance. If the priest, whose duty it was, neglected to come, though asked, let him be chastised by the doom of the bishop for the damnation of a soul. But all the faithful may do this when they find any dying unbaptized; nay, it is commanded that men should snatch a soul from the devil by baptism; that is, by baptizing them with water simply blessed in the name of the Lord, by immersing them, or pouring water upon them, in the name of the Father, the Son, and the Holy Ghost. Therefore they who can, and know how to baptize, faithful monks especially, ought always to have the <sup>r</sup>Eucharist with them, though they travel to places far distant.

<sup>r</sup> The Eucharist was to be given to the new-baptized infant.

96. From the council of Braga. Concerning those who by any fault inflict death on themselves, let there be no commemoration of them in the oblation, as likewise for them who are punished for their crimes. It seems fit that they who kill themselves with a sword, with poison, by a precipice, or a halter, or by any other violent means, have no commemoration made for them in the oblation; and that their corpses be not carried to the grave with psalms; for many have presumed to do this through ignorance. The like must be done in relation to them who are punished for their crimes.

Then immediately follows, in the CCCC MS.

“The excerption of the lord Ecgbricht, archbishop of the city of York, out of the catholic fathers: or, the penance or remedy for souls begins here.”

A.D. DCCXLII.

KING ETHELBALD'S GRANT OF PRIVILEGES.

PREFACE.

THE following council, and the privilege therein granted, hath been condemned as a fraud, because interpolated into the Cotton copy of the *Chronicon Saxonicum*\*, and a rasure made to make room for it in that book. But I am apt to think that this is the first instance that any ancient fact was ever proved to be a forgery because it was put into a book where it was not before. Not only a falsarian knave, but any learned man of integrity, would take care to have a thing of this nature registered in its proper place, though the one does it with some base view, the other to inform posterity. But it was a monk of Canterbury who did this: yet I must have leave to say, this is more than has been yet proved; and if it were never so evident that it was a monk of Canterbury, yet it will scarce be granted that this alone will convict him of forgery: it is to be hoped that many an honest man has lived and died a monk of Canterbury. And I must needs say that if he were a monk of Canterbury, he had more of the fool, or the simple-hearted man, at least, than of the knave. If he had had the interest of his own house in his eye, he would never have forged a council and a charter whereby the privileges of the Kentish monasteries were really lessened. For by the grant of King Wihfred, they were wholly exempt from taxes, or tribute, but in this of Cloves-hoo, they were obliged to contribute to any military expedition, and to the building of castles and bridges. Though King Wihfred's decree is here much extolled, yet one main point of it (the Church's immunity from taxes) is set aside: if the monks forged it they put a cheat on themselves. They had, indeed, here the freedom of elections confirmed to them. And this, I conceive, was a right never

\* [Chron. Sax. A.D. 742. ed. Gibson, p. 55, ed. Ingram, p. 67.]

denied to the Church, by the legislative power of the nation, before the reign of King Henry VIII. Kings [and popes] [Addenda.] did in fact very often, and after the Conquest, for the most part overrule the monks or other electors, and by management oblige them to elect such persons for bishops and abbots as they nominated to them; but even those kings who carried it with the highest hand in this respect have yet upon occasion confessed the right to be in the chapters. And not only the canons of the Church, and the decrees of popes, but the laws and statutes of the land, did expressly reserve the freedom of elections to the cathedral and monastic bodies. The grants of King Wihtried and King Ethelbald say no more in this respect than the statutes of Westminster in the reign of King Edward I., and the *Articuli Cleri* in the reign of King Edward II. Acts of parliament were not thought such inflexible things two or three hundred years ago as they are at present. Sir H. Spelman published this council from two MS. copies; one whereof was Joceline's, the famous antiquarian. It is true, some monks, and perhaps they of Canterbury, had made some enlargements of King Ethelbald's privileges, and drawn formal confirmations and alterations of them, which the reader may see in Sir H. Spelman, vol. i. p. 256\*. Mr. Somner, in his notes on these charters, gives a transcript of another edition of the following council, found, indeed, in the archives of Christ's Church, Canterbury, in very ample form, with the subscriptions of fourteen bishops, besides Cuthbert, one Offa Patricius, four dukes, one abbot, and five others†. This last is drawn in such miserable Latin, that I scarce know any thing of this sort to be compared to it. I take them all to be certainly spurious. But I have before observed, that they used to graft such spurious imps upon true old genuine stocks: and the copy here translated by me, I take to have been that stock.

\* [The document there given is a distinct grant of King Ethelbald, A.D. 749. See *Cod. Dipl. No. 99.*]

† [This grant of King Ethelbald, A.D. 742, is given with these signatures in Wilkins' *Concilia*, p. 86, but without any other important variation from the text of Spelman, here trans-

lated; also in Kemble's *Codex Diplomaticus*, vol. i. p. 105, No. 87, from *Chart. Antiq. Cantu. M. 363.* MS. *Claud.*, ii. f. 30, b. MS. *Lambeth*, 1212. fol. 308. Mr. Kemble gives both grants as genuine notwithstanding the badness of the Latin. See the Appendix to this volume.]

## A.D. DCCXLII.

LATIN.  
Sir H.  
Spelman,  
vol. i.  
p. 230.  
[Wilkins,  
vol. i.  
p. 86.]  
[Cod. Dipl.  
No. 87.]

THIS year a great council was held at Cloves-hoo, Ethelbald king of the Mercians presiding, with Cuthbert archbishop of Canterbury, and the rest of the bishops sitting with them, to examine all necessary points of religion, and of the creed, delivered to us by the ancient institutes of the holy fathers. And they diligently enquired how matters were ordered here in relation to religion, and particularly as to the creed in the infancy of the Church of England, and in what esteem monasteries then were according to equity.

While we were making this enquiry, and reciting ancient privileges, there came to hand that privilege of the churches and ordinance of the glorious King \*Wihtrred concerning the election and authority of [the heads of] monasteries, in the kingdom of Kent; how it is ordered to be confirmed by the command and option of the metropolitan of Canterbury. And the said privilege was read at the direction of King Ethelbald, and all that heard it said there never was any such noble and wise decree so agreeable to ecclesiastical discipline; and therefore they enacted that it should be firmly kept by all.

\* See the council held at Becanceld, A.D. 692\*, and observe how Wihtrred, the king of the least in extent of all the seven kingdoms into which England was then divided, was here honoured by Ethelbald, the greatest of the present English monarchs, for his zeal and devotion to the Church.

Therefore I Ethelbald, king of the Mercians, for the health of my soul and the stability of my kingdom, and out of reverence to the venerable archbishop Cuthbert, confirm it by the subscription of my own munificent hand, that the liberty, honour, authority, and security of the Church of Christ be contradicted by no man; but she, and all the lands belonging to her, be free from all secular services, except [military] expedition, and building of a bridge, or a castle.

\* [Compare Saxon Chronicle, A.D. 694, and Cod. Dipl., No. 996 quoted in Appendix to this volume.]

And we charge, that this be irrefragably and immutably observed by all, as the aforesaid King Wihtrud ordained, for him and his<sup>t</sup>.

<sup>t</sup> Joceline's copy says Sir H. Spelman ended here.

If any of the kings my successors, or of the bishops or princes, attempt to infringe this wholesome decree, let him give account of it to Almighty God at the tremendous day.

If an earl, priest, deacon, clerk, or monk oppose this constitution, let him be deprived of his degree, and separated from the participation of the body and blood of the Lord, and be far from the kingdom of God, unless he first make amends for his insolence, by agreeable satisfaction; for it is written, 'Whatever ye bind on earth,' &c.

[Mat. xvi.  
19.]

A.D. DCCXLVII.

CUTHBERT'S CANONS AT CLOVES-HOO.

PREFACE.

[<sup>1</sup> rather,  
in 680.]

BONIFACE, an Englishman, born in the year 670<sup>1</sup>, but of great fame for his piety and learning, especially for his zeal in converting infidels, was made archbishop of Mentz in Germany, and legate of the apostolical see: he writes a letter to Ethelbald, king of Mercia\*, commending him for his charity and justice, and for the preservation of peace in his kingdom, but reprehends him with great severity, for his looseness with women, and particularly with nuns. He charges him also with sacrilege, in robbing churches, and monasteries, and terrifies him with the example of his predecessor Ceolred, king of Mercia, and of Osred, king of Northumberland, (the two first English kings who, if we may believe Boniface, violated ecclesiastical privileges,) for he affirms it as a thing very certain and notorious, that they both came to a miserable untimely end. This letter was sent inclosed in another to Heresfride the priest†, who was probably a domestic to king Ethelbald, if not his confessor: for Boniface tells him he had heard that the king had sometimes given ear to his admonitions, and therefore he had made choice of him to read and explain the letter to king Ethelbald, as being one that regarded the persons of men: and concludes that it was his love to his native country which was grievously corrupted by this royal example, which prompted him to this undertaking; and that he had sent him a piece of incense, and an handkerchief, as a token of his love and benediction.

He wrote also a long letter to Cuthbert, archbishop of Canterbury‡, wherein he gratefully mentions a letter received from him by the hands of his deacon, and reminds

\* [Conc. Brit. Spelman, vol. i. p. 232; Wilkins, vol. i. p. 87. A.D. 745.]

† [Spelman, p. 238; Wilkins, p. 90.]  
‡ [Spelman, p. 237; Wilkins, p. 90.]

him of the singular duty of a bishop that wears a pall, beyond what is required of them who have only the care of their own parishes; he gives him a copy of the decrees made in a German synod, at which he presided; which was a handsome way of recommending them to Cuthbert's imitation: he insists largely, and with vehemence, on the burdensomeness of the office of a metropolitan; and declares himself disposed to quit his dignity, if he could find any thing in the Scripture, or the fathers, to countenance him in so doing: he cries out, 'let us not be dumb dogs, and silent watchmen\*:' as if he thought his brother Cuthbert wanted the spirit of reprehension, which he thought necessary to be exercised upon a licentious king. He complaineth of the bishops here, as being very defective in their duty, though they received the daily oblations, and the tithes from the people. He calls upon him to stop all nuns and other women from going in pilgrimage beyond sea; because, says he, there is scarce a city in France or Lombardy, where there is not an English whore. He declares the necessity of excommunicating even kings and emperors, if they are guilty of usurping bishoprics or abbeys; and gives them very hard names. He inveighs against gaudy apparel, and declares it to be a sign of the coming of antichrist. He calls upon him to assemble a synod, and condemn all drunkenness in clergymen, and gives a broad hint, that even our bishops, here in England, were not altogether free from this vice. And lastly, he complains heavily, that monks were forced to work for the king, and particularly in his buildings, which he asserts was done no where in Christendom, but in England only. Hereupon a council was called.

\* ["Non simus canes muti, non simus taciti speculatores, non simus mercenarii lapum fugientes; sed pastores sollicitè vigilantes supra gregem Christi, prædicantes majori et minori, diviti et pauperi omne consilium Dei, omnibus gradibus vel ætatibus, in quan-

tum Deus donaverit posse, opportune inopportune, eo modo quo sanctus Gregorius in libro Pastoralis conscripsit." Ep. Bonifacii Mogunt. Archiep. ad Cuthbertum Archiep. Cant. Wilkins, vol. i. p. 98.]

A.D. DCCXLVII.

LATIN.  
Sir H.  
Spelman,  
vol. i.  
p. 245.  
[Wilkins,  
vol. i.  
p. 94.]

IN the perpetual reign of our Lord Jesus Christ, who orders all things at the command of the Father, and by the lively grace of the Holy Spirit. The under-written acts were done in synod, at the beginning of September, near the places called Cloves-hoos; these prelates of the churches of Christ, beloved of God, being present, viz. ; the honourable archbishop Cuthbert; and the venerable prelate of the church of Rochester, Dun; and the most reverend bishops of the Mercians, Totta, and Huita, and Podda<sup>u</sup>; and the most approved prelates of the West [Saxons], Hunferd, and Herwald; and the venerable priests Heardulf of the East-Angles, and Ecgulph of the East-Saxons, and Milred of the Huiccians<sup>v</sup>; also the honourable bishops Alwik of the province of Lindisse<sup>x</sup>, and Sigga of the South-Saxons, in the year of our Lord's incarnation 747, indiction 15, the 32nd year of the reign of Edilbald, king of the Mercians, who was then present, with his princes and dukes.

[Addenda.] <sup>u</sup> [Totta of Leicester, Huita of Lichfield, and Podda of Hereford, are styled Mercian bishops; Milred and Alwick had their sees within the Mercian kingdom, yet they were not called Mercian bishops. However, by this it appears that at, and before this time, Theodore's division of the Mercian diocese took effect.]

<sup>v</sup> Worcester, and all the adjacent country to the Severn.

<sup>x</sup> Now Lyndsey. It is evident that this was only a provincial synod: not one of the Northumbrian bishops were present. It was purely an ecclesiastical assembly, the king and great men were there only to give countenance and protection to the ecclesiastics. Lyndsey is called a province, (see c. 9.) that is, a parish, or diocese.

When the said prelates of the sacred order of divers provinces of Britain, with many priests of the Lord, and of those of the ecclesiastical order in lesser dignities, met the venerable archbishop Cuthbert at the place of synod, and they were set down to treat of and settle the unity of the Church,



and the state of Christianity, and a peaceable agreement, after a devout mutual salutation, the writings of Pope Zachary, (the pontiff, and apostolical lord, to be venerated throughout the world,) in two papers, were in the first place produced, and publicly recited, and explained in our own tongue, as he himself, by his apostolical authority enjoined : in which writings the famous pontiff Zacharias admonished, in a familiar manner, the inhabitants of this isle of Britain, of our stock of every rank and degree of quality, and authoritatively charged them, as present before him, and lastly, in a loving manner intreated them, and hinted among other things that a sentence of anathema should be certainly published against them that persisted in their pertinacious malice, and contempt of all this ; as is evident to those who read [these papers]. After the reading thereof, and the terrible invective admonition, the prelates who were promoted by God to be masters to others, betook themselves to mutual exhortations : and contemplated themselves and their office (by which others were to be instructed in the service of God)<sup>7</sup> in the Homilies of the blessed father Gregory, and in the canonical decrees of the holy fathers, as in a bright mirror.

<sup>7</sup> I delete the full-point before *in*, and the conjunction *quoque* \*.

1. And then, in the front of their decrees, they established it with an authentic sanction, that every bishop be ready to defend the pastoral charge entrusted with him ; and the canonical institutions of the Church of Christ (by God's protection and assistance) with their utmost endeavour, against the various and wicked assaults [that are made upon them] ; nor be more engaged in secular affairs (which God forbid) than in the service of God, by looseness in living, and tardiness in teaching ; but be adorned with good manners, with the abstemious virtues, with works of righteousness, and with learned studies, that so, according to the Apostle, they may be able to reform the people of God by their example, and instruct them by the preaching of sound doctrine.

2. In the second place, they firmly agreed with a testification, that they would devote themselves to intimate peace, and

\* [Wilkins also deletes the full-point before 'in' but retains 'quoque.']

sincere charity, perpetually, every where amongst them to endure\* ; and that there be a perfect agreement of all in all the rights of religion belonging to the church, in word, in work, in judgment, (without flattering of any person,) as being ministers of one Lord, and fellow-servants in one ministry ; that though they are far distant in sees, yet they may be joined together in mind by one spirit, serving God in faith, hope and charity, praying diligently for each other, that every one of them may faithfully finish their race.

\* My learned friend reads *juris* for *viris*, and it should be *juribus*. This is but a small error, if compared with some others of this blundering transcriber. By rights, or rites of religion, they mean the sacraments, sacramentals, and discipline of the Church ; so *jura* signifies again, in Ecgbriht's Excerpt. 740. c. 1—20. It seems to me a perfect Saxonism ; that is, a Latin rendition of the Sax. Rihca. See Ca. 11.

\* That is, inflicting penance.

b See Can. 27.

3. In the third place they enacted that every bishop do every year visit his parish, by travelling through, going about, and making an inspection into it ; and that he call to him at convenient places the people of every condition and sex, and plainly teach them who rarely hear the Word of God ; forbidding them, among other sins, the Pagan observances, diviners, sorcerers, auguries, omens, charms, incantations, or all the filth of the wicked, and the dotages of the Gentiles.

4. In the fourth article of agreement they have determined that the bishops do admonish the abbots and abbesses within their parishes, that they be examples of good life, and take diligent care that their subjects be regular in their conversation ; yet so as that they remember to love them as their own families in the Lord ; to treat them not as servants, but as children ; to provide necessaries for them, according to the monastic way of life, and to their utmost ability ; that they fully discharge their trust as to the estates of their monasteries, and by all means take heed<sup>c</sup> that they be not robbed of them.

° Latin. *Ne aliqua subripiat illos*, which makes no sense. Sir

\* [Secundo loco, sibi testificatione que inter eos perpetuo permaneat. S. quadam confirmaverunt: ut pacis in- W.]  
timate et sincere charitatis devotio ubi- † [juribus. W.]

H. Spelman corrects it thus, *ne aliquis subripiat illas [res\*]*: and this must, I conceive, be the sense, however you correct the words.

5. It was argued in the fifth place that it is necessary for bishops to go to the monasteries (if they can be called monasteries, <sup>d</sup>which in these times cannot be in any wise reformed according to the model of Christianity, by reason of the violence of tyrannical covetousness) which are <sup>e</sup>we know not how possessed by secular men; not by divine law, but by presumptuous human invention; yet they ought to go, for the health of the souls of them who dwell therein; and that they provide among their incitements [to reformation] lest what is already in a declining state, be farther risked for want of the ministry of <sup>f</sup>a priest, by the help of their present possessors.

<sup>d</sup> I delete *quamvis*, as perfectly superfluous.

<sup>e</sup> The true reading, is *utrunque*; not *utrumque* †.

<sup>f</sup> By priest here is, I suppose, meant bishop; as in the acts, or preface, and frequently in all writers. It can scarce be supposed that these monasteries which are governed by laymen, were destitute of an officiating priest.

6. It is ordained by the sixth decree that bishops ordain no monk, or clerk, to the degree of a priest till they first make open enquiry into his former life, and into his present probity of manners, and knowledge of the faith. For how can he preach sound faith, or give a knowledge of the Word, or <sup>g</sup>discreetly enjoin penance to others, who has not earnestly bent his mind to these studies; that he may be able, according to the Apostle, to “exhort with sound doctrine.” [Tit. i. 9.]

<sup>g</sup> Here you see for what purpose men in this age confessed their sins to the priest, viz., because he alone knew what penance was to be enjoined for every sort and degree of sin, not in order to obtain absolution. Petit's Collections, published with Theodore's Penitential, are full of proof as to this point.

7. They decreed in the seventh article of agreement, that bishops, abbots, and abbesses, do <sup>h</sup>by all means take care, and diligently provide, that their families do incessantly apply

\* [Ne aliquis subripiat illas. W.]

† [Both these suggestions are followed by Wilkins.]

their minds to reading, and that it be made known by the voices of many to the gaining of souls, and to the praise of the eternal King. For it is sad to say, how few now-a-days, do heartily love and labour for sacred knowledge, and are willing to take any pains in learning; but they are from their youth up, rather employed in diverse vanities, and the affectation of vain-glory; and they rather pursue the amusements of this present unstable life, than the assiduous study of the holy Scriptures. Therefore let the boys be confined, and trained up in the schools, to the law of sacred knowledge, that being by this means well-learned, they may become in all respects useful to the Church of God. And let not the rectors,<sup>1</sup> be so greedy of the worldly labour [of the boys] as to render the house of God vile, for want of spiritual adornment.

<sup>b</sup> Sir H. Spelman read, *omi . . . . u*, my friend reads, *om . . . . u*. He supposes three letters wanting, viz., *nin*, and that *u* is put for *o*, (as five lines below *putius* is put for *potius*,) and that therefore the word should be *omnino*•.

<sup>1</sup> *Rectors* were the heads of religious houses and incumbents, as we now speak, in lesser churches, who had their schools for training up young monks and clerks, and who obliged their scholars to bodily labour: therefore they were not here forbidden absolutely to labour, but only so far as was inconsistent with their learning.

[1 Cor. iv.  
2.]

8. Under the eighth head, they admonished priests incessantly to remind themselves to what purpose they are promoted above others, by divine ordination, that they are called "God's ministers, and stewards of the mysteries of Christ," and then that "it is required of stewards, that a man be found faithful:" therefore let them know, that it is necessary for them, in regard to God, to desist from secular business and <sup>a</sup>causes, so far as they can, to discharge their duty at the altar, and in divine service, with the utmost application; that they carefully preserve<sup>1</sup> the house of prayer, and all its furniture; that they spend their time in reading, celebration of masses and psalmody: that they be mindful, according to their duty enjoined them by God, to be <sup>m</sup>assistants to their abbots, and abbesses, with diligence and fidelity, whensoever there <sup>n</sup>seems to be occasion for it; that is, in

• [omni conatu, W.] •

admonishing, reprehending, and exhorting their subjects; that others, by their example and advice may be incited to the service of God.

<sup>k</sup> One great affectation of the clergy of old, was to become lawyers; and this is very often condemned in the ancient canons.

<sup>l</sup> Lat. *Oratorii domum conversare*, read *conservare* \*.

<sup>m</sup> By this it seems evident, that the main of the priests were yet in monasteries.

<sup>n</sup> The word here wanting in Sir H. Spelman, is *viatur*, in the MS. for *videatur*, as I suppose†.

9. They added orderly, in the ninth head, that priests<sup>o</sup> in places and districts assigned to them by the bishops of the province, take care to discharge the duty of the apostolical commission in baptizing, teaching, and visiting, according to lawful rites, with great diligence, that they may, according to the Apostle, "be accounted worthy of double honour." And [1 Tim. v. 17.] let them by all means take care, as becomes the ministers of God, that they do not give to the seculars or monastics, an example of ridiculous or wicked conversation‡; that is, (to say no more,) by drunkenness, love of filthy lucre, or obscene talking, and the like.

<sup>o</sup> This is meant of secular priests, in their parishes, as we now speak; though it is not certain that any priests were yet settled in such churches during life. See law of Wihtrud the fourth, 696. Monks in priest's orders were sometimes sent, in this age, to officiate in country districts.

10. In the tenth decree they taught that priests should learn to know how to perform, according to the lawful rites, every office belonging to their orders: and then let them who know it not, learn to construe and explain in our own tongue the Creed and Lord's Prayer, and the sacred words which are solemnly pronounced at the celebration of mass, and in the office of baptism; let them also take care to learn what those sacraments which are visibly performed in the mass, baptism, and other ecclesiastical offices, do spiritually signify; lest they be found dumb and ignorant in those intercessions which they make to God for the atonement of the

\* [*conservare*, W.]

† [*videatur*, W.]

‡ [*contemnendæ ac pravæ conversationis*, S. W.]

sins of the people, or in their own ministerial offices, if they do not understand the meaning of their own words, [nor] the sacraments, by which others, through them, are making proficiency to eternal life.

[Heb. xi. 6.] 11. They went on with an eleventh mandate, that all priests perform every sacerdotal ministry, everywhere, in the same way and fashion, in baptizing, teaching, and judging; and, which is the principal point, that their sentiments concerning the belief of the Trinity be right and sincere; and that they do, in the first place, teach all that come to take directions concerning their own life from them, that "without faith it was impossible to please God:" and that they instil the Creed into them, that they may know what to believe, what to hope for; and that they propose it "to infants, and to them who undertake for them in baptism, and teach them the renunciation of diabolical pomps, and auguries, and divinations, afterwards teach them to make the established professions.

<sup>p</sup> The questions in the baptismal office were always supposed to be put to the child, not to the sureties. Now, indeed, the surety is asked, "Dost thou, in the name of this child, renounce, &c.?" But in the old rituals it was simply, "Dost thou renounce, &c.?" So it was in our Common Prayer-book before the Rebellion: and I cannot think that this alteration was for the better. This is sometimes called catechizing.

12. They added in the twelfth article, that priests do not prate in the Church, like secular bards, nor dislocate or confound the composure and distinction of the sacred words by a pronunciation like that of tragedians, but follow the plain song, or holy melody, according to the custom of the Church. Let him who cannot attain to this, simply read, pronounce, and rehearse the words, as the present occasion requires.

<sup>q</sup> And let them not presume upon what belongs to the bishop\*.

<sup>q</sup> These two lines seem plainly to have been the rubric or title of the following short canon: and it is to be observed, that there is a rubric to every one of these canons in the old Cotton MS., which I have omitted, for brevity's sake. The following lines are the canon itself. Sir H. Spelman has made both the rubric and canon a part of the former.

\* [et qui episcopi sunt non præsumant, S.—et quæ episcopi sunt non præsumat, W.]

It seems plain from this, that the numbers and the short preface to every canon, was the addition of a transcriber, or of the actuary.

In the mean time, let priests not presume or attempt in any wise to perform any of those things which are peculiar to the bishops in some of the ecclesiastical offices.

13. It is determined by the thirteenth decree, that the holy festivals of our Lord's economy in the flesh be uniformly observed, viz., in the office of baptism<sup>r</sup>, and the celebration of masses, in the manner of singing<sup>s</sup>, according to the written copy which we have from the Roman Church. And that the nativities of the saints, through the circle of the whole year, be venerably kept on the same day, according to the martyrology of the said Church of Rome, with their proper psalmody.

<sup>r</sup> Viz. That baptism be administered at Easter and Whitsuntide only, not at Christmas; though perhaps at Epiphany, and at any time, in case of danger.

<sup>s</sup> This is meant of what was done by John the precentor of the church of St. Peter's, Rome; of which see my preface to this volume<sup>o</sup>.

14. In the fourteenth place it is ordained, that the Lord's day be celebrated by all, with due veneration and wholly separated for divine service. And let all abbots and priests, on that most sacred day, remain in their monasteries and churches, and say solemn mass; and laying aside all external business, and secular meetings, and journeyings, except the cause be invincible, let them by preaching instruct the 'servants † subject to them, from the oracle of the holy Scripture, the rules of religious conversation, and of good living. It is also decreed that on that day, and the great festivals, the priests of God do often invite the people to meet in the church, to hear the word of God, and be often present at the sacraments of the masses, and at preaching of sermons.

<sup>†</sup> Probably their clerks and scholars.

15. In the fifteenth head they have determined, that the seven canonical hours of prayer, by day and night be diligently observed, by singing proper psalms and canticles; and that the uniformity of the monastic psalmody be every

<sup>o</sup> [p. xvi.] † [Lego cum Walk. 'familiis' pro Spelmani 'famulis,' W.]

where followed, and nothing be read or sung, which is not allowed by common use; but only what is derived from the authority of holy Scriptures, and what the custom of the Roman Church permits; that so men may unanimously praise God with one mouth. In this they also agreed, that ecclesiastics and monastics <sup>u</sup>remember to intreat the pity of the divine clemency, not only for themselves, but for kings, and for the safety of Christian people, at the proper hours of prayer.

<sup>u</sup> This seems only a general hint, that all such as are here mentioned should have kings in their thoughts, when they were offering their devotions for others. See c. 27.

16. They agreed in the sixteenth head, that the litanies, that is, rogations, be with great reverence kept by the clergy and all the people on these days, viz., the <sup>z</sup>seventh of the kalends of May, according to the rites of the Church of Rome, where this is called the greatest litany; and also according to the custom of our ancestors, on the three days before our Lord's ascension into heaven, with fasting till <sup>v</sup>noons and celebration of masses, not with a mixture of vanities, as is the fashion of many, who are either negligent or ignorant; that is, with games, and horse-races, and great banquets; but rather with fear and trembling, with the sign of Christ's passion, and of our eternal redemption carried before them, together with the relics of saints. Let all the people with bended knees, humbly intreat the pardon of God for their sins.

<sup>x</sup> St. Mark's day: but these litanies were not intended in honour to that saint, but were instituted by Pope Gregory I. in time of great extremities.

<sup>y</sup> The ninth hour; which was one of the seven hours of prayer; now three in the afternoon.

17. It was constituted in the seventeenth precept, that the birth-day of the blessed Pope Gregory, and also the day of the <sup>z</sup>deposition, of St. Augustin, the archbishop and confessor, (who being sent to the nation of the English by the said pope our father Gregory, first brought the knowledge of faith, the sacrament of baptism, and the notice of the



heavenly country,) which is the seventh of the kalends of June, be honourably observed by all; so that each day be kept with a cessation from labour, by ecclesiastics and monastics; and that the name of our said blessed father and doctor Augustin be always mentioned in singing the litany, after the invocation of St. Gregory.

\* Birth and deposition here signify the same thing, viz., the day [Addenda.] of their death. Litany has two significations in this canon, viz., processions, with cross and relics carried before the people; and in the last clause it signifies prayers; superstition was now growing apace in this island. It should seem the feast of St. Augustin was now lately instituted, and for that reason the day is here particularly expressed; but Gregory's was more ancient, and better known, and therefore there was no occasion to name the particular day.

[The manner of Augustin's being sainted is no where discovered to us. But it is reasonable to suppose, that it was done by the inclination and consent of the clergy and people only. The editor of King Alfred's life, who cannot be suspected of disaffection to the authority of the see of Rome, declares that the first instance of canonization by the pope, which he had observed, was that of Swibert of Nottingham, performed by the pope at the instance of Charles the Great and in his presence, A.D. 803. It is not improbable that this too was a fiction; especially because it is confessed, that Innocent the Second and Alexander the Third, were the first popes that assumed this privilege as peculiar to themselves, and they both reigned in the twelfth century. This writer further says, that archbishops first took this work of canonizing saints out of the hands of the people; but he gives no instances of this sort. The monk who wrote the life of King Offa, tells of a proposal made in a great council at Verulam, that a petition should be offered to the pope for the canonization of Alban, though he owns that he had been sainted long since; and indeed Bede gives him the title of a saint a hundred years before. For this council is said to have been held in the year 793. See Sir H. Spelman, p. 309, 310, and Vita Ælfredi, in p. 171 in marg.\*]

18. It was constituted in the fifth<sup>1</sup> mandate, that none neglect the \*times of the fasts; that is, of the fourth, seventh, and tenth month; but that the people be informed of them every year before they begin, that so they may know and observe the established fasts of the universal Church, and that all may do it in an uniform manner, and make no difference in the observance; but take care to celebrate it

\* [The passage is from a note by Obadiah Walker, Master of Univ. Coll., in his Latin translation,—Oxon., A.D. 1678, p. 171,—of the Life of Alfred the Great, written in English by J. Spelman.]

according to the rites of the Church of Rome, of which we have a written copy.

\* It seems unaccountable that Cuthbert here should speak of the Ember weeks in so different a manner from Ecgbriht, answ. 16, when they were both of them archbishops at this same time, and both of them cite Pope Gregory's books for their authority. But in truth, I look on the difficulty to be really none at all. Cuthbert did not mention the Lent Ember as being part of the great lenten fast. But Ecgbriht considered it as a fast abstracted from that of Lent, though in theory only, not at all in fact. So Gelasius mentions only the three Embers here set down by Cuthbert; yet he adds, that priests and deacons might be ordained in the first, or middle week of Lent, and on the holy Sabbath, that is, Easter-eve. Dist. 75. c. 7.\*

19. It was given in charge in the nineteenth place, that monks or nuns be humbly subject to their superior, regularly constituted, and lead a quiet regular life, and without dissension, and firmly retain those things which are agreeable to the design of their habit: and let them not use gorgeous apparel, or such as savours of vain-glory, like seculars; but a simple habit, and such as agrees with their profession.

20. It is enacted by the twentieth decree, that bishops, by a vigilant inspection in their parishes, take care that monasteries, as their name imports, be honest retreats for the silent, and quiet, and such as labour for God's sake; not receptacles of ludicrous arts, of versifiers, harpers, and buffoons, but houses for them who pray, and read, and praise God. And that leave be not given to every secular to walk up and down in places which are not proper for them, viz., the private apartments of a monastery, lest they take an occasion of reproach, if they see or hear any indecency in the cloisters of a monastery; for the customary familiarity of laymen, especially in the monasteries of nuns, who are <sup>b</sup>not very strict in their conversation, is hurtful and vicious: because by this means occasions of suspicions do not only arise among <sup>c</sup>adversaries, or wicked men, but are in fact committed, and spread abroad, to the infamy of our profession. Let [not], therefore, nunneries be places of secret rendezvous for filthy talk, junketing, drunkenness, and luxury, but habitations for

\* [See above, p. 174, first note.]

such as live in continence and sobriety, and who read, and sing psalms : and let them spend their time in reading books, and singing psalms, rather than in weaving and working party-coloured, vain-glorious apparel.

<sup>f</sup> <sup>b</sup> *Minus regulariter conversantium*, MS. ; not *Mimis, &c.*, as Sir H. Spelman.

<sup>c</sup> *Diversorum sive nefandorum*, MS. ; not . . . *arum*, as Sir H. Spelman.

21. It is ordained in the twenty-first place, that monastics and ecclesiastics do not follow nor affect the vice of drunkenness, but avoid it as deadly poison, since the Apostle declares that “drunkards inherit not the kingdom of God :” and at another place, “be not drunk with wine, in which is luxury.” Nor let them force others to drink intemperately, but let their entertainments be cleanly and sober, not luxurious, nor with any mixture of delicacies or scurrilities, lest the reverence due to their habit grow into contempt and deserved infamy among seculars ; and that, unless some necessary infirmity compel them, they do not, like common tiplers, <sup>d</sup>help themselves or others to drink, till the canonical, that is, the ninth hour, be fully come.

[1 Cor. vi.  
10.]  
[Eph. v.  
18.]

<sup>d</sup> *Lat. potationibus non serviant.*

[What effect this canon had in our province I know not. But it is said that in the other province, the monks of Lindisfarne, who had hitherto contented themselves with water and milk, did about ten years after this first begin to drink wine. Spelman, vol. i. p. 289.]

22. It was decreed in the twenty-second head, that all monastics and ecclesiastics be admonished to keep themselves always prepared for the holy Communion of the body and blood of our Lord ; and that rectors take diligent care that none of their subjects lead such dissolute wretched lives, as to be separated from the participation of the altar, (their sins so requiring,) or be careless in confessing, and doing penance for their crimes. If any one be found so, let him be sharply reprov'd.

23. It was added, in the twenty-third place, that lay boys be also admonished often to communicate, while they are not yet corrupted, as not being of the lustful age ; also those of a

riper age, whether bachelors or married men, who refrain from sin, are to be exhorted to the same purpose, that they frequently communicate, lest they grow weak for want of the salutary meat and drink, since our Lord says, "Except ye eat the flesh of the Son of man," &c.

[John vi.  
53.]

24. It was enacted in the twenty-fourth head, that if any secular desire to enter into the service of the <sup>e</sup> holy profession, he do not receive the tonsure before his conversation and moral qualifications (according to the prescript of the monastic rule) be clearly tried, according to the apostolical precept, when he says, "try the spirits, whether they are of God;" unless some reasonable cause plead for his being admitted into the congregation before. Further, let bishops of churches, and rectors of monasteries, know that they ought the more diligently to try and examine every one, while he is in the lay habit, before his 'conversion to the monastic life', that he may the better bear with him, being such as he had upon trial found him, if after his admission he displease, and prove indocible; <sup>nor</sup> by any means rashly expel him, for any cause, so as that he scandalously go from one layman's house to another, to the reproach of our profession\*; unless the cause be such as, if it does happen, <sup>ha</sup> a decree of a synod has determined that he be dismissed and anathematized by all, in all places, unless he come to satisfaction.

[1 John  
iv. 6.]

\* Monkery.

<sup>f</sup> I read, *conversionem cœnobialem*, not *conversationem*, as Sir H. Spelman and the MS., though the other word may serve. Taking a monk's frock was conversion in this age.

<sup>g</sup> *Docuerit vel docet*, I omit. The place is corrupted, and I have not skill enough to restore the true reading; but the translation contains the main of the sense, and what is lost can be of no great consequence.

<sup>h</sup> The sixteenth canon of Chalcedon excommunicates monks or nuns for marriage †.

25. It was determined in the twenty-fifth head, that bishops coming from synods, assembling the priests, abbots,

\* [Cæterum sciant episcopi ecclesiarum sive rectores monasteriorum, eo diligentius unumquemque ante <sup>1</sup> cœnobialem conversionem, adhuc in laico habitu constitutum, tentare ac perscrutare se debere, quo (post susceptionem si displicet, et indoctus existeret) eum

talem tolerare, qualem antea tentaverant, ac <sup>2</sup> decet nec ullo modo eum statim abjicere qualibet ex causa, ut per laicorum domùculas ad infamiam necessarise conversationis criminose vagetur.—W.]

† [Concil., toni. vii. p. 365.]

and chiefs\* [of monasteries and churches] within their parish, and laying before them the injunctions of the synod, give it in charge that they be kept<sup>1</sup>. And if there be any thing which a bishop cannot reform in his own diocese, let him lay it before the archbishop in synod, and publicly before all, in order to its being reformed.

<sup>1</sup> It is probable that here is an end of the canons, as they were first drawn by the archbishop: what follows, was added at the time and place of synod.

26. In the twenty-sixth place, the sentiments of the fathers concerning the profitableness of alms were produced; as that they are necessary to be done daily by faithful men, that so past sins may the sooner and more fully be forgiven by God, to offenders who are doing penance by alms; and that the divine protection may by them be obtained, that they may not again commit the same sins, nor any other such like; and by all that live religiously, that the purity of their innocency being graciously preserved by God, a recompense of things eternal may be made to them hereafter in heaven, in consideration of their freely disposing of their temporal things here on earth. And certainly they are not to be given to the intent that a man may commit any the least sins with the greater liberty, on account of the alms given by him, or by any other in his behalf. But [let them be given] in the manner aforesaid; for alms is a name and work of mercy: therefore, let whosoever desires to do mercy truly to his own soul, not give alms out of his unjust plunder †, but out of his own well-gotten substance: for if it be given out of what is gotten by cruelty or violence, divine justice is rather provoked than pacified by it, because, according to the Scripture, the alms that is done out of the substance of the poor, is like killing the son in presence of the father\*. Nor let a man give alms to the needy to the intent that he may more freely immerse himself in gluttony and drunkenness, beyond all bounds; lest by putting God's justice to sale, he be not only more sharply, but more speedily condemned by it. And, to speak in general, let not any men's

\* [præpositis, S. W.]

† [non sit eleemosyna illius ex injusta aliorum rapina, S. W.]

alms be daily given to God with this view, that they may with impunity act their bodily lusts. For they do in vain give alms that are entirely their own and free from any mixture of wicked dealing, who desire and hope, through the blindness of their fancy, by this means to bribe the supernal Judge\*: for they who act and think in this manner, while they seem to give their own to God, do undoubtedly, by their crimes, give their selves to the devil. † Lastly, then let not alms be given (according to the new invented conceit of men's own will, grown into a custom dangerous to many) for the making an abatement or commutation of the satisfactory fastings, and other expiatory works, enjoined to a man by a priest of God, for his own crimes, according to the † canon-law; but rather as an increase of his own satisfaction, that the divine wrath which he hath provoked by his own demerits, may the sooner be pacified. And withal, the more unlawful° things a man hath done, the more he ought to abstain from things that are lawful; and the greater sins he hath committed, the greater fruit of good works he ought to yield to God; and not to drop or lessen some good works, by practising others in their stead. For it is good to be assiduous in psalmody, and often to bow the knee with a sincere intention, and daily to give alms; yet abstinence is not to be remitted; fasting, once imposed by the rule of the Church, without which no sins are forgiven, is not to be remitted on account of these. Let these and such like be done as † additions for the more full expiation of sin. For it is necessary that the jolly flesh, which drew us into sin by its incontinence, being afflicted by fasting, should hasten our pardon; for such sins as exclude us from the kingdom of heaven, if they are not corrected, are to be expiated with all the pious‡ actions that a man can do. For one knows not

\* [Quia frustra suas tantum elemosynas, et non intermixta flagitia supernum pensare judicem cæco suo libitu volunt et optant.—W. The meaning of this, as well as in Sir H. Spelman's text, is clearly "because in vain in their own blind fancy they wish and desire that the Judge above should weigh their alms alone, and not the excesses that are mingled with them."]

† [Sed hæc et his similia, sunt augmenta ad majorem expiationem peccatorum, quia necesse est ut caro quæ nos læta per incontinentiam traxit ad culpam afflicta per jejunium reducat ad veniam; festinanter etenim, quibuscunque prævaleat piis actibus homini expianda sunt talia piacula, quæ videlicet regnum Dei claudere, si non corrigantur, aperte describuntur.—W.]

what the following day may bring forth, and for how long a time he may be in a condition to do any good deeds for his former evil ones: for He who hath promised pardon to the sinner hath not promised him another day.

<sup>k</sup> Ecclus. xxxiv. 20. is here meant.

<sup>l</sup> *Non intermixto flagitio*, MS., not *flagitia*, as Sir H. Spelman.

<sup>m</sup> Monsieur Petit, Pag. 119 of his dissertation, entitled, *Theodori de penitentia doctrina ab omni novitatis suspicione vindicata*, observes, that this canon does not condemn the practice of giving alms by way of penance, with a purpose of leaving sin, but giving them in hopes to purchase licence to sin: yet it must be allowed that this canon forbids the commutation of fasting by alms, which yet Theodore's penitential as published by Petit allows, as likewise the penitential canons ascribed to Bede, 14, 15\*.

<sup>n</sup> By the canon law here, is meant, the canons of the Latin Church, and the penitentials now in use.

<sup>o</sup> *Inlicita*, MS., not *inlyta*, as Sir H. Spelman †.

<sup>p</sup> *Augmenta*, MS., not *argumenta*, as Sir H. Spelman.

<sup>q</sup> *Pis*, MS., not *plus*, as Sir H. Spelman: delete colon at *homini*, put it after *festinanter*.

27. In the twenty-seventh †, when they were thus discouraging much of those who sing psalms, or spiritual songs profitably, or of those who do it negligently, psalmody (say they) is a divine work, a great cure in many cases, for the souls of them who do it in spirit and mind. 'But they that

\* [Conc. Brit. Spelman, vol. i. p. 287, 8.]

† [illicita.—W.]

‡ [The translation of the first part of this canon is unsatisfactory, but the Latin is obscure:

XXVII. *De sanctæ psalmodiæ utilitate*. Vicesimo septimo: multa sive de his, qui sanctam psalmodiam ac spiritalium cantilenam utiliter, sive de his, qui negligenter præsumunt agere, multa disserentes in hunc modum: "Psalmodiæ, inquit opus divinum spiritu et mente agentibus, magnum est et multiplex animarum medicamentum suarum." Voce <sup>1</sup>autem sine sensu cordis canentibus, sonitum <sup>2</sup>aliquid rei facere simillimum <sup>3</sup>est, unde quamvis psallendo Latina quis nesciat verba, suas tamen cordis intentiones, ad ea, quæ in præsentî poscenda sunt a Deo, suppliciter referre, ac pro viribus detinere debet. Nam psalmi a

Sancto Spiritu jam olim ad solatium generi humano per os prophetæ prolati, cum intima intentione cordis et corporis congrua humilitione, ad hoc canendi sunt; quatenus per divinæ laudis oracula, et nostræ salutis sacramenta et humillimam quoque confessionem delictorum, sive eorumdem suppliciter imploratam remissionem, de quacunque re digna divinæ pietatis exorantes pulsaverunt aures eo digniores exaudiri mereantur, quo ipsi Deo appropinquare vel placere gestiunt, per ea quæ prædixi tam sacrosancti ac divini specialiter famulatus officii servitium; sive pro se ut faciant in illa sancta modulatione, Deum multiplici modo et laudant et orant; sive pro aliis, viventibus seu mortuis, cum expleta quantalibet psalmodia, genu flectentes in orationem, et lingua Latina, vel qui eam non didicerunt, sua Saxonica dicunt: "Domine miserere, &c."—W.]

sing with voice, without the inward meaning, may make the sound resemble<sup>a</sup> something: therefore, though a man knows not the Latin words that are sung, yet he may devoutly apply the intentions of his own heart, to the things which are at present to be asked of God, and fix them there to the best of his power. For the psalms which proceeded of old through the mouth of the prophet, from the Holy Ghost, are to be sung with the inward intention of the heart, and a suitable humiliation of the body, to the end that <sup>†</sup>[by the oracles of divine praise, and the sacraments of our salvation, and the humble confession of sins, or by devoutly imploring the pardon of them, they that touch the ears of divine pity by praying for any valuable thing, may the more deserve to be heard, by their desiring and affecting to draw near to God, and to appease Him by the means which <sup>†</sup>I before mentioned, especially their most holy and divine service]; while they offer variety of prayers and praises to God in that sacred modulation, either for themselves or for others, quick or dead, while at the end of every psalmody they bow their knees in prayer, and say in the Latin, or, if they have not learned that, in the Saxon, "Lord have mercy on him, and forgive him his sins, and convert him to do Thy will:" or, if for the dead, "Lord, according to the greatness of Thy mercy, grant rest to his soul, and for Thine infinite pity vouchsafe to him the joys of eternal light with Thy saints." But let them who pray for themselves have a great faith in psalmody [performed] with reverence, as very profitable to them, when done in manner aforesaid (on condition that they persist in the <sup>a</sup>expiation of their crimes, and not in the <sup>†</sup>allowance of their vices\*) that is, they may the sooner and the more easily deserve to arrive at the grace of divine reconciliation by prayers and intercessions, while they worthily sing and pray; or that they may improve in what is good<sup>†</sup>; or that they may obtain what they piously ask: not with any intent that they may for one moment do evil, or omit good with the greater liberty, or relax fasting enjoined for sin, or give the less alms, because they believe others sing psalms or fast for

\* [Si tamen ipsi in <sup>a</sup>expiatione debita suorum facinorum, et non in <sup>†</sup>passione consistunt adhuc vitiorum.—W.]

† [sive ut ad meliora proficiant.—S. W.]



them. For let every one certainly know that his own self-same flesh, which hath been the causes of unlawful wicked desires\*, ought to be restrained from what is lawful; and that a man should punish it at present in proportion to its guilt, if he desire not to be punished hereafter by the eternal Judge. Let himself first importune the divine clemency with groanings of heart for the restoration of himself, and then bring as many servants of God as he can to make their common prayers to God for him. For <sup>a</sup>if they promise, or believe, or act otherwise than hath been before said, they do not lessen sins, but add sins to sins; because by this means (above all the rest) they provoke the anger of the supernal Judge; because they dare set His justice to sale every day <sup>a</sup>by an unmeasurable flattery, and the excessive blandishment of luxurious conversation. We must speak at large of this, because a worldly rich man of late, desiring that speedy reconciliation might be granted him for gross sin affirmed by letters, that that sin of his, as many assured him, was so fully expiated, that if he could live three hundred years longer, his fasting was already paid by the [new] modes of satisfaction, viz., by the psalmody, fasting, and alms of others, abating his own fasting, or <sup>b</sup>however insufficient it were. If then divine justice can be appeased by others, why, O ye foolish ensurers! is it said by the voice of truth itself, that it is “easier for a camel to go through the eye of a needle, than <sup>[Mat. xix. 24.]</sup> for a rich man to enter into the kingdom of heaven,” when he can with bribes purchase the innumerable fastings of others for his own crimes? O that he might <sup>c</sup>perish alone, ye that are deservedly called the gates of hell <sup>d</sup>—before others are ensnared by your misguiding flattery†, and led into the plague of God’s eternal indignation. Let no man deceive himself, God deceives none when He says by the Apostle, “We shall <sup>[Rom. xiv. 10.]</sup> all stand before the judgment-seat of Christ,” &c.

\* *Autem* <sup>1</sup>, MS., not *hanc*, as Sir H. Spelman.

• The MS. has *adcujus rei*, not *ad cuius*, as Sir H. Spelman. I take the liberty to read it *alicujus*<sup>2</sup>, &c. and understand *est* as *licet*<sup>3</sup>. I conceive

\* [quæ illicita ac nefanda contraxit desideria.—S. W.]

† [Utinam vos soli <sup>1</sup>perceatis <sup>2</sup>persuasores peccatorum et nomine porta-

rum inferni merito vocati antequam plures vestra errabunda adulatione implicentur. W.]

the sense to be obvious enough, though the words are oddly put together. The fathers in this canon, seem clearly to speak of spiritual singing and prayer, as if it consisted in putting a certain reasonable meaning upon words that were said or sung, but not understood. I believe it may easily be maintained that this notion is as true as that which has of late years prevailed, viz. that praying *extempore* is praying by the Spirit. Indeed it must often happen, that to pray *extempore*, and to pray in words not understood by the people, to which yet they give some reasonable meaning, are the very same thing. This clearly explains what is meant by saying psalms for other men, which is so often mentioned in ecclesiastical canons and constitutions.

<sup>†</sup> What is here enclosed in hooks, has no certain syntax, nor clear sense in the Latin.

<sup>‡</sup> Either Cuthbert, or some one of the bishops drew up this, and here forgot that he was speaking in the name of a synod, and so used the singular number: or else it was left to be drawn by the actuary, and forgotten to be reviewed by the archbishop or bishops. This latter seems most credible to me; and it is probable that the actuary added the short preface to every canon.

<sup>§</sup> *Expiatione*<sup>4</sup>, as MS., not *expectatione*, as Sir H. Spelman.

<sup>¶</sup> Lat. *passione*<sup>5</sup>; which they understood as we do sufferance.

<sup>‡</sup> This will be best explained by the canons of King Edgar, in the year 963. c. 74.

<sup>•</sup> I conjecturally read the Latin thus, *immensa adulatione atque illecebrosæ excessu luxuriosæ conversationis, &c.*<sup>\*</sup> I suppose these words alluded to the great treats or entertainments made by these wealthy offenders, to them who took a share in these mock-penances.

<sup>b</sup> *Utrunque*, as MS., not *utrunque*, as Sir H. Spelman.

<sup>c</sup> *Pereatis*<sup>6</sup>, MS., not *pietatis*, as Sir H. Spelman.

<sup>d</sup> *Per suas fortes*<sup>7</sup>, *peccatorum*, are the words here omitted.

28. In the twenty-eighth mandate they charged that no [head of a monastery] admit a greater congregation than he can maintain, and find in necessaries. If any have unwarily done this, let them exact the less work of them, till they can give them food and raiment suitable to their habit of profession. And among other observances of the regular life, let them use the accustomed apparel of those who have been before them, whether they are clerks or monks: and let them not imitate seculars in the fashionable gartering of their legs†, nor in having shags round about their heads, after the fashion of the layman's cloke, contrary to the custom of the Church. Likewise, that nuns, veiled by the priest,

<sup>\*</sup> [This, as well as the next reading, is followed by Wilkins.]

† [in vestitu crurum per fasciolas.—W.]

and having taken the habit of their holy profession, ought not to go in secular apparel, or in gaudy gay clothes, such as lay-girls use, but take care always to keep the garb of chastity, which they have received, to signify their humility and contempt of the world; lest the hearts of others be defiled with the sight of them; and they by this means be found guilty of this defilement in the sight of God.

\* *Lat. priorum.* It may signify their priors or governors.

† *Lat. coculas in circumdatione capitis.* See *coccula* in Spelman's Glossary, *cock-bote* in Kennet's. It seems plain, from this and other passages, that the outward garment of laymen as well as clergymen, covered the head as well as whole body: and it is likewise probable, that the clergymen and monks had the same habit at this time: or indeed, that there were very few clergymen but what were monks, which appears especially from the next canon.

29. They decreed in the twenty-ninth canonical edict, that clerks, monks, and nuns, may not after this synod, dwell in the houses of seculars, with laymen, but return to the monasteries where they first took the habit of the holy profession, out of which they departed of their own accord, or were ejected by the violence of others, as hath certainly been done in many places; nor let free ingress be denied them, upon their return, on account of any past fault. But if any of either sex, not being under a curse, but [going away] with the licence, and benediction of [their superiors] have afterwards been peaceably admitted by others into their society; and yet since that run up and down roving and unsettled, among the laity, the return<sup>s</sup> aforesaid enjoined to them, relates not to the house, from which they regularly departed; but to the place where they had been regularly received into society, by mutual consent and licence.

‡ *Predicta*, MS., not *predicata*, as Sir H. Spelman \*.

30. As to the thirtieth head, <sup>h</sup>a long debate was publicly made between the priests of God and those of an inferior degree <sup>l</sup>of dignity, consulting how they might in the present state wholly silence the jealousies, or suspicious words of some (when the internal discernor of secrets was witness, that the notion was vain and false) viz., that kings, with their <sup>k</sup>dukes and princes, and many lesser potentates, use

• [*prædicta reversio.* W.]

to speak of them as though they were not only unsincere in their affections towards them, but rather envied their abundance, and prosperity in things present, with a malignant mind, rather than rejoiced at it with a devout heart; and did not cease their detractions against their way of living. For they thought that any man of eminence and honour did very undeservedly, for some causes, speak and think thus of them; because this was not only contrary to the vow of their habit, but to the evangelical and apostolical doctrine, viz., that he who is a preacher of love to God and man (who is created after the image of God) should for the least moment of time admit the fuel of hatred or envy to lurk within him. That therefore the accusers might certainly be made to confess that they were wholly free from this vice, so detestable, not only before God, but man, they ordained, that henceforth ecclesiastics and monastics should, in their 'canonical hours, intreat the divine clemency, not only for themselves, but for kings, dukes, and for the safety of all christian people, that they may deserve to lead a quiet and peaceable life under their pious protection: and that they should for the future be unanimous in faith, hope, and love toward God, and in mutual good affection toward each other; that after the course of this pilgrimage, they all together may merit to arrive at the country which is above; and that the divine clemency should more earnestly be intreated in behalf of such as do most often extend their pious patronage to the Church while they are alive; and that the atoning celebration be often piously performed, by the ministration of great numbers of priests of Christ for the rest of their souls, when they are dead; on condition that they remember to prepare themselves for this benefit, while they are living.

<sup>b</sup> *Sermo diutius prolatus*<sup>2</sup> est, not *prolatum*, as MS., much less *probatum*, as Sir H. Spelman\*.

<sup>i</sup> *Dignitatis*<sup>1</sup>, MS., not . . . . *tes*, as Sir H. Spelman.

<sup>k</sup> *Duces* seems to be the Latin word for *Hepe-rogar*, leaders of the army; for dukes, as we now take that title, were scarce in being here in England at this time. The earl was the highest of the nobility.

<sup>l</sup> The canonical hours signifies here, not only the times of the day and night used for public devotions, but the stated forms then used. I sup-

\* [sermo diutius inter sacerdotes Dei atque minoris gradus 'dignitatis, in medio<sup>2</sup> prolatus est, quærentes. W.]

pose it evident that there were then no prayers for kings or potentates among these forms : if there had, they would have been used before this council ; and then there could have been no occasion to order prayers for kings and potentates in this canon. Yet though prayers are ordered to be offered for them, no new forms are enjoined : and I conceive it certain that no prayers were then publicly read or pronounced, but such as were contained in their books. If it then be asked, how prayers were to be made for kings and potentates ? I answer, just in the same manner that they were to be made for other particular men : for which see Can. 27 above. They either by virtue of a strong imagination fancied that the Latin words sounded their wishes for the prosperity of their civil governors, or (if they understood Latin) did in their thoughts take in their civil governors when they were praying for general blessings and divine favours ; or else, after the end of their psalmodies or other offices, they kneeled down and every one singly, or as many as pleased, prayed privately according to the words of this canon, for 'kings, dukes and potentates, and for the safety of all christian people, that they may deserve to lead a quiet and peaceable life under their protection.'

N.B. Sir H. Spelman's printed copy varies from the Cotton [Post-script.] MS. (Otho A.1.) in about one hundred and fifty particulars, all these variations, excepting those above observed, which are near twenty, seem to me to be proper obvious emendations made by Sir H. Spelman of a very unaccurate transcript, though the only one we have. Generally speaking, Sir H. Spelman's corrections are only of gross misspellings, therefore I did not think worth while to take notice of them, no more than of those which were printed without correction, which are very many ; but which every Latin reader can want no help to rectify.

It is observable, that though in many particulars this council copied after the pattern which Boniface had set them, yet in the first and main part they desert it ; I mean in this that they profess no subjection to the pope, nor make any recognition of his sovereign authority, as they in Germany had done. Nor do they countenance that horrible reproach cast upon the female pilgrims by Boniface, by forbidding that sex to travel into foreign countries : though I think they had in doing this last, acted for the honour of religion and of their country, if there was any such occasion for it as Boniface pretended. But Archbishop Cuthbert had so great an honour for Boniface that he ordered the day of his martyrdom to be observed in a general synod.

A.D. <sup>m</sup>DCCLXXXV.

LEGATINE CANONS AT CEALCHYTHE.

PREFACE.

Sir H.  
Spelman\*,  
vol. i. p.  
292.

ABOUT this time, Gregory, bishop of Ostia, and another of the same order, named Theophylact, were sent hither, in the quality of legates, from Rome, by pope Adrian, to exercise the papal authority. They call themselves the first priests that had been sent from Rome, since Augustin the first archbishop of Canterbury; and it were to be wished they had been the last too, that came upon such an errand. They were honourably received by Janbyrht, (otherwise called Eanbert, and Lambert,) from thence they proceeded to the court of Offa, king of Mercia: from thence Gregory, with Wighod, an abbot, whom Charles the emperor sent to attend the legates, proceeds to the kingdom of Northumberland, and there holds a council. It is evident, the legates had all ready drawn, and put neither the ecclesiastics nor seculars to the trouble of debating any single point. Both councils subscribe to the same form of words; which is too sad an evidence of the tame implicit faith and obedience of the church and state, at this time of day. These are called the constitutions of Cealchythe, and though it have four or five other names, which differ in two or three letters, yet the place, as well as constitutions, are agreed to be one and the same. Whether

<sup>m</sup> But Sir H. Spelman dates it, 797. I rather choose to follow the Saxon Chronicle.

\* [The reference is so placed in the first edition, doubtless because the facts stated in Johnson's preface are chiefly taken from the first part of the letter of Gregory to Pope Adrian,

which precedes the canons in the copy of the 'Concilium Calchuthense,' given by Spelman and afterwards by Wilkins from Magdeburg, Cent. viii. c. 9. p. 575.]

this place was in the kingdom of Northumberland, or of Mercia, is not certainly known. The monk of St. Albans, who wrote king Offa's life, speaks of it as in Mercia, yet others think it was more northward. The learned bishop Gibson observes, that there is a town in Lancashire, on the borders of Cheshire, called Kelcheth\*. This being on the confines of the two kingdoms, might sometimes be in the dominion of the king of Northumberland, at other times of Mercia. Offa was very much disposed to enlarge his bounds; as appears by his attempts on the kingdoms of Kent, West-Saxony, and East-Angles: he was an ostentatious prince, and might be willing to shew the legates the utmost bounds of his kingdom, that they might report his grandeur to the pope and emperor, his great ally. But if the Mercians' council was held at Kelcheth, the Northumbrian council must have been at some place lying farther northward. -

All the farther account I shall give of this synod, and its acts and canons, shall be by translating the last clause of the letter sent by Gregory the legate, to the pope, upon the conclusion of it, and the constitutions there made, as you have them in Sir H. Spelman, vol. i. p. 293.

\* [Chron. Sax. Nom. loc. explic. p. 18, 9.]

A.D. DCCLXXXV.

LATIN.  
[Wilkins,  
vol. i. p.  
145.]

WE wrote a capitular of all the particulars, and rehearsed them all in order in their hearing, who with all humble submission, and with an appearing willingness, embracing the admonition, and our parvitude, promised in all particulars to obey: then we delivered to them your letters to read, obtesting them, that they would see that the holy decrees be observed, both by themselves and their subjects. Now these are the heads which we produced to be observed by them.

1. That the holy inviolate faith of the Nicene council, be faithfully and firmly held by all that are devoted to the holy service: and that the priests of every church, who are to teach the people, be diligently examined by the bishops every year, in their synodical assemblies, concerning the faith: so that they may profess, hold, and teach the apostolical catholic faith of the six synods, which is approved of by the Holy Ghost, and not fear to die for it if there be occasion; and that they receive all such men as the universal councils have received, and reject and condemn all those heartily, whom they have condemned.

2. That baptism be practised according to the canonical statutes, and not at any other time, except in great necessity; that all in general know the Creed and the Lord's Prayer: and that all who undertake for children at the font, know that they are sureties to the Lord, according to their sponson, for the renouncing of Satan, his works, and pomps; and for their believing of the Creed; that they may teach them the Lord's Prayer aforesaid, and the Creed, while they are coming to ripeness of age: for if they do not, what is promised to God, in behalf of them that cannot speak, shall be with rigour exacted of them. Therefore we enjoin,



that this be charged on the memories of all the people in general\*.

\* At Easter and Whitsuntide only.

° Or rather, take them out of the font, for this was formerly the sponsor's part. Lat. *Qui parvulos de sacro Fonte suscipiunt* †.

3. That there be two councils every year, according to the canonical institutions; that the briars and thorns may be cut off from the hearts of all offenders, as spurious branches are by good husbandmen. And let every bishop go round his parish once every year; carefully appointing places of assembly at convenient distances; that all may meet to hear the word of God, lest any one, through the neglect of the shepherd, ignorantly going astray, suffer the bites of the roaring lion. Let him with watchful care preach to [and] confirm the flock committed to his charge: let him separate the incestuous, coerce soothsayers, fortune-tellers, enchanters, diviners, wizards, and <sup>p</sup>such as are guilty of sacrilege; and suppress all vices. And let no man affect to feed the flock committed to him for filthy lucre's sake, but in hope of an eternal recompense; and what he has freely received, let him freely give to all, as the Apostle obtests, saying<sup>1</sup>, (2 Tim. iv. 1.) as the prophet says<sup>2</sup>, (Isai. xl. 9.) that so he may excel in merit as he does in dignity. And that he may not be cramped by fear while he is teaching, let him hearken [to these words], "Lift up thy voice"<sup>3</sup>, &c. Jeremiah also says, "Gird up"<sup>4</sup>, &c. Jer. i. 17 †. Alas! for this lamentable lukewarmness,

\* [et illi qui parvulos de sacro fonte suscipiunt, et pro non loquentibus respondent, ob renunciationem Satanæ, et operum ac pomparum ejus, seu fidei credulitatem, sciant se fidejussores ipsorum esse ad Dominum pro ipsa sponse: et dum ad perfectionem ætatis pervenerint, doceant eos prædictam orationem dominicam et symbolum; quia nisi fecerint, districtè ab eis exigetur, quod pro non loquentibus Deo promittitur. Ideo generaliter omni vulgo præcipimus, hoc memoriæ mandari.—W.]

† [The words of the rubric on this point in the "Ritus Baptizandi" of the Church of Salisbury are, "Tunc patrini accipientes infantem de manibus sacerdotis levant eum de fonte."

But see Maskell, Mon. Rit. Eccl. Angl., vol. i. pp. 22, 23, 30, 31.]

‡ [These passages are given at length in the Latin,

"Testificor coram Domino et Christo Jesu, qui judicaturus est vivos et mortuos, et per adventum ipsius, et regnum ejus, prædica verbum; insta opportune inopportune; argue, obsecra, increpa, in omni patientia et doctrina." Sicut propheta dicit: "Super montem excelsum ascende tu qui evangelizas Sion:" scilicet ut ita præmineat merito, sicut et gradu. Et ne forte debeat a docendo timore restringi, audiat: "Exalta in fortitudine vocem tuam, et noli timere." Hieremias quoque dicit: "Accinge lumbos tuos, et surge et

(as many considering men say) why will ye be involved in the love of secular things, or out-braved in opening the word of truth? if the prelates of the church are silent through fear, or worldly friendship, and do not reprove sinners, or run away like false shepherds that care not for the sheep, when they see the wolf coming, why are they not more afraid of the King of kings, and Lord of lords? who reprehends shepherds by the prophets, saying, "Ye have not gone up\*," &c. Ezek. xiii. 5. Lastly, as the watchful shepherd guards the sheep against the wild beasts, so the priest of God ought to be solicitous for the flock, lest the enemy spoil, the persecutor annoy; lest the ravening of the powerful disturb the life of the poor; since the prophet says, "If thou givest not warning†," &c. Ezek. iii. 18. "for the good Shepherd layeth down His life for His sheep;" endeavour my fathers, and brethren, that ye bear these things in mind, lest it be said to you, as to the shepherds of Israel, "Ye feed yourselves," &c. but that ye may deserve to hear, "Well done good and faithful servant‡," &c. †

[John x. 11.]

[Ezek. xxxiv. 2.]

[Mat. xxv. 21.]

\* *Sacrilegos*, Lat. I should rather read, *sortilegos*, sorcerers‡.

4. That bishops take great care, that canons live canonically, and monks and nuns behave themselves regularly, both as to diet and apparel, that there may be a distinction between a canon, a monk, and a secular. Let the monks use the habit that the †Orientals do, and the canons also; and not garments dyed with Indian tinctures, or very costly. But let bishops, abbots, and abbesses, give good example to their subjects, as Peter says, "Be ye a pattern to the flock¶," &c. Therefore we advise, that the †synodal edicts of the six general councils, with the decrees of the Roman pontiffs, be often read with attention, and that the ecclesiastic state be

[1 Pet. v. 3.]

loquere ad eos: ne formides a facie eorum; nec enim timere te faciam vultum eorum."—W.]

\* [Non ascendistis ex adverso, neque opposuistis murum, ut staretis in prælio in die Domini." W.]

† [Si non annuñciaveris iniquo iniquitatem suam, sanguinem ejus de manu tua requiram; si autem annuñciaveris, et non egerit pœnitentiam, tuam animam liberasti, ipse in peccato

suo morietur." W.]

‡ [Hæc namque recolentes, patres mei et fratres, operam date, ne de vobis dicatur, ut pastoribus Israel: "Qui pascunt semetipsos," etc., sed audire mereamini: "Euge bone servus et fidelis, intra in gaudium Domini." W.]

§ [sortilegos, W.]

¶ ["Estote forma facti gregis, secundum Dominum," etc. W.]

reformed, according to the pattern prescribed there; that so no novelty be introduced, lest there be a schism in the Church of God.

\* It is hardly credible, that Roman legates should propose the example of the Eastern people to be imitated by the English, unless by the Eastern or Orientals they meant the Italians and neighbouring people, who were indeed sometimes called Orientals in this age. See Can. 19.

† Here the Church of England clearly received the whole body of canons and codes contained in the second volume of the clergyman's *Vade-Mecum*, which Adrian the first, now Pope, presented to the Emperor Charles the Great; and which he sent to King Offa. Sir H. Spelman indeed, as well as others, supposes the synodal statutes, which Charles sent to Offa, to have been the decrees of the second council of Nice; yet he owns they seem to have been sent some years before the sitting of that synod; and it is evident that the writer of Offa's Life could not mean these Nicene decrees, for he says they were sent for the informing the minds of the English prelates, which he believed to be rude and unpolished, and that Offa received it as a gift from heaven. But though Charles did afterwards send the Nicene decrees hither, it could not be to inform our churchmen; for he himself did not approve of them, and therefore could not be desirous that others should imbibe the doctrine contained in them: nor does it appear that either our kings, clergy, or people, did well relish these horrible innovations, we have a great deal of reason to believe the contrary; but what Sir Henry\* applies to the decrees of Nice may very justly be understood of the code of canons, &c.

5. That if an abbot or abbess depart this life, (which often happens,) religious pastors of approved life be chosen from among themselves in the Lord, (who may take care of the souls committed to them) with the advice of the bishop, within whose parish the monastery is situate. But if such a man is not to be found in that convent, let such an one be sent them from another, to govern them in the Lord; that they may with humility, and obedience, day and night, be employed in fulfilling the vow they have made to God, "having their loins always girt about, and their lamps burning †," &c.

6. That no bishop presume to ordain a man priest, or deacon, unless he be of an approved life, and sufficient for the full discharge of his office; and let them continue in that

\* [Conc. Brit. vol. i. p. 306.]

† ["Parati semper præcinctis lumbis, ardentibusque lucernis patrem familias expectantes ut dum vigilantes

invenerit, faciat eos æterni convivii esse participes." W.—See Luke xii. 35—40.]

title to which they were consecrated; so that none presume to receive a priest, or deacon, from the title that belongs to another, without a reasonable cause, and letters commendatory.

7. That all public churches have their course [of divine service] at the canonical hours with reverence.

8. That ancient privileges conferred on churches by the holy Roman see be preserved by all. But if any have been granted contrary to the canonical institutes, in compliance with wicked men, let them be \* cancelled.

\* One would think that the legates here exceeded their commission, or that they were not in earnest when they drew this canon.

9. That no ecclesiastic presume to eat in secret, unless on the account of great infirmity; for this is hypocrisy\*, and [the way of] the 'Saracens'; therefore we are advised not to be "whited sepulchres<sup>2</sup>," &c., especially since our Saviour [Mat. xxiii. 27; vi. 1.] says, "See that you do not your justice before men<sup>3</sup>," &c. From hence we may see how little it signifies to pretend to fast before men, but swallow an ox or horse in secret; since our good works are commanded to be done in secret, that we may be rewarded by Him in whose Name they are done.

† Saracens or Mahumedans are said to fast in the day but revel in the night. Their profession is to abstain from wine, but their practice to drink it immoderately in private. But perhaps it should be *Sarabattarum*, for *Saracenororum*. *Sarabattæ* were *Monachi sibi viventes . . . qui quicquid putaverint vel elegerint hoc dicunt sanctum, et quod noluerint hoc putant non licere*. Benedict calls them *nulla regula approbati*. See Sir H. Spelman's Glossary †.

\* This is a literal version of Matt. vi. 1, and a just one, says Dr. Mill, in *loc. et prolegom*, p. 42 †.

10. Let no minister of the altar presume to go celebrate

\* [quia hypocrisis hoc 'Saracenororum est. Ideo hortamur, "Ut non simus forinsecus sepulchra dealbata, intus autem pleni cadaveribus mortuorum;" maxime cum salvator dicit: "Attendite, ne justitiam vestram faciatis, coram hominibus, ut videamini ab eis; alioquin mercedem non habebitis apud patrem vestrum, qui in cælis est." W.]

† [p. 500. cf. Regula S. Benedicti, c. i. Holstenii Codex, vol. i. p. 115.]

‡ [Δικαιοσύνη. Steph. C. Cant. Vulg. plerique antiquorum patrum inquit Jun. nec dubito, quin Mathæi Tzedekah sic reddiderit hoc loco g. interpres; ελεημοσύνη autem e margine codicis cujusdam in contextum irrepsisse N. Test. Græc. Millii, p. 12. Justitia sc., hoc loco, non est stricte beneficentia erga panperes, sed justitia evangelica in genere; cujus species ελεημοσύνη, preces, jejunium, &c. ibid. Proleg. p. xlii.]

the mass with naked legs, lest his filthiness appear and God be offended. For if this was forbid in the law, we know it ought more carefully to be observed in the sacrament of Christ. Let \*bread be offered by the faithful, not crusts. We have also forbidden the chalice or paten for sacrificing, to be made of an ox's horn, ——— ' because they are of blood\*. \*We have also there seen bishops in their councils judging secular matters; and we forbade them with the apostolical saying †, 2 Tim. ii. 4; we have also earnestly entreated that prayers be assiduously made for the Church of God, that God and our Lord Jesus Christ may exalt, corroborate, protect, defend, and preserve her, without spot, to the praise and glory of His Name, for ever and ever. Amen.

\* It seems plain that hitherto the people here in England brought to church and offered the Eucharistical bread, and that therefore it was not provided either by the priest or any other officer.

† Lat. *Quod de sanguine sunt.* It is true, with a little breach of concord, which is no uncommon thing with our forefathers, this may be understood of the ox's horn, of which the chalice and paten were, it seems, sometimes made; and this does, indeed, grow from the blood of the ox. But it may perhaps, seem more probable to others that these words were part of a clause against clergymen's judging in causes of blood, but curtailed by the transcriber, though Sir H. Spelman takes no notice of it. What follows favours this.

\* From hence it appears, that the bishop's sitting on the bench with the alderman, was so far from being an imposition of the pope, that he, by his legates, would have broken this practice.

11. Our address to kings is that they administer their government with caution and discretion, and that they judge righteously, as it is written, " \* Take hold of discipline, O ye kings †," &c. Further as we have above directed bishops to speak the Word of God with a divine authority, faithfully and truly, without fear or flattery to kings, princes, and all dignities, never declining the truth, sparing no man, condemning no man unjustly, excommunicating none without cause, and to shew the way of salvation to all, both by word

\* [Vetimus etiam, ne de cornu bovis calix aut patina fieret ad sacrificandum, quod de sanguine sunt. W.— There is no ground for supposing an omission in this place.]

† [" Nemo militans Deo implicet se

negotiiis secularibus ut ei militet cui se probavit." W.]

‡ ["Apprehendite disciplinam, ne quando irascatur Dominus et pereatis," etc. W.]

and example; so we have also admonished kings and princes, that they from the heart with great humility obey their bishops, 'because the kingdom of heaven is committed to them\*, and they have the power of binding and loosing, as it is written, "Ask thy Father, and He shall shew thee; thy belders, and they shall tell thee," Deut. xxxii. 7. And the Apostle elsewhere †, "Obey your prelates<sup>1</sup> as the Lord, for they watch for you, as they that are to give account of your souls," Heb. xiii. 17. Our Saviour Himself says to doctors, "He that heareth you, heareth me<sup>2</sup>," &c. "The lips of the priest preserve knowledge<sup>3</sup>," &c. "For he is the angel of the Lord of hosts<sup>4</sup>." If then priests are called angels, they cannot be judged by secular men. As the Apostle says, "for me it is a very small thing that I should be judged of you ‡." Also it is said by the psalmist, "He reproveth even kings for their sakes; touch not mine anointed, and do my prophets no harm." And the Apostle [says], "Know ye not that we shall judge angels, how much more the things of this world?" 1 Cor. vi. 3. For as kings are above all dignities, so are bishops in things pertaining to God.

[Luke x.  
16.]  
Mal. ii. 7.

[1 Cor. iv.  
3.]

[Pa. cv.  
14, 16.]

\* Psalm ii. 12, according to the vulgar.

<sup>b</sup> *Presbyteros*, Vulg. Lat. It was probably intended by the authors of these canons, to be understood of priests.

<sup>c</sup> Therefore we exhort with all earnestness that all do indeed honour the Church of God, which is the spouse of Christ; and not put on her an unrighteous yoke of servitude, nor wax proud with secular power, nor oppress others with violence, as it is written, "The king's power loveth judgment §," Psalm xcix. 4. Let every one of them consider how he expects that his spouse should be honoured by his subjects; and let him see in this earthly example, how much the spouse of the King of heaven ought to be revered; lest it be said of them, (which God forbid,) "They have reigned, but not by

\* [quia illis claves cœli datæ sunt, W.]

† ["Obedite<sup>1</sup> præpositis vestris tanquam Domino; ipsi enim vigilant pro vobis, quasi pro animabus vestris rationem reddaturi." Dominus ipse doctoribus ait: "Qui vos audit, me audit; qui autem vos spernit non spernit vos, sed eum qui misit vos."

Item per prophetam: "Labia sacerdotia custodiunt scientiam, et legem requirunt ex ore ejus, quia angelus Domini exercituum est." W.]

‡ [Mihi autem pro minimo est, ut a vobis judicer, aut ab humano die: qui autem me judicat, Dominus est. W.]  
§ ["Et honor regis judicium diligit." W.]

Me\*," &c. Hos. viii. 4. But that they may rather deserve to have it said, "I have found a man after Mine own heart †," &c. Ps. lxxxix. 19—21. That [God] may grant them the eternal glory of the kingdom which is to come: and let kings have wise counsellors, fearing the Lord, of commendable manners, that the people being instructed and reformed by the good example of kings and princes, may improve to the glory and praise of Almighty God.

\* This and the following canon were drawn with an eye to prince Ecforth's being anointed king, in his father Offa's lifetime, but with his consent; which was either actually done, or, however, resolved upon in this synod, as the historian informs us.

12. That in ordaining kings, none permit the votes of wicked men to prevail. But let kings be lawfully chosen by the priests and elders of the people; not such as are born in adultery or incest; for as in our times according to the canons, none can arrive at the priesthood who is of an<sup>d</sup> adulterous brood, so neither can he who is not born in lawful marriage, be the Lord's anointed, king of the whole kingdom, and heir of the country, since the prophet says, "Know [Dan. iv. 25.] ye, that the Lord ruleth in the kingdom of men †," &c. We have admonished all in general, that with unanimous voice and heart they pray to the Lord, that He who elects him to the kingdom, would give him the Spirit of discipline for the governing of his people: and let honour be paid him by all, since the Apostle says §, "Honour the king<sup>1</sup>," &c. 1 Pet. ii. 17. 13. Let none be guilty of detraction toward the king, [Rom. xiii. 1, 2<sup>d</sup>.]

\* ["Ipsi regnaverunt, sed non ex me; principes extiterunt, et non cognovi." W.]

† ["Inveni virum secundum cor meum, qui facit omnes voluntates meas; ideo posui adjutorium super potentem, et odientes eum in fugam convertam, ut longævitatem felicitatemque regni sibi suisque nepotibus distribuam." W.]

‡ ["Scitote, quia Dominus dominator est in regno hominum, et ipsius est regnum, et cuicumque voluerit dabit illud." W.]

§ ["Regem honorificate?" et alibi: "sive regi quasi præcellenti, sive du-

cibus tanquam ab eo missis, ad vindictam malefactorum, laudem vero bonorum." Item apostolus: "Omnis anima sublimioribus potestatibus subdita sit quia non est potestas data nisi a Deo. Quæ autem sunt, a Deo ordinatæ sunt. Igitur qui resistit potestati, Dei ordinationi resistit; qui autem resistunt, ipsi sibi damnationem acquirunt." Nullus regi detrahat, dicente Salomone: "In ore tuo ne detraxeris regi et in corde tuo ne male dixeris principi; quia aves cæli portant illud, et qui habet pennas, annuntiabit verbum." W.]

since Solomon says, "Detract not from the king with thy mouth, nor curse the prince in thine heart<sup>3</sup>," &c. Eccl. x. 20. And let none conspire the death of the king, because he is the Lord's anointed. If a bishop, or any of priestly degree, consent to such a crime, let him be thrust out, as Judas was from the apostolical degree: and whoever approves of such sacrilege, shall perish in the eternal bond of an anathema, and being a comrade of Judas, shall burn in everlasting fire, as it is written\*, "not only they who do it, but who approve it<sup>4</sup>," &c. Rom. i. ult. The two eunuchs, who desired to kill king Ahasuerus, were hanged on a gallows<sup>5</sup>, Esth. Apoc. xii. 3. Observe what David did<sup>6</sup>, 1 Sam. xxiv. 5, 7. 2 Sam. i. "and this was imputed to him for righteousness, and to his seed after him<sup>7</sup>." It has been proved by many examples among you, that whoever have been [the authors] of killing their lords, have shortly ended their own lives and been outlawed, both in church and state<sup>8</sup>.

[Esther  
ii. 22.]

<sup>4</sup> *Lat. Adulter.* See Can. 16.

18. That the great and rich judge righteously, and accept not the person of the rich, nor despise the poor, nor decline from right, nor take bribes against the innocent; but [proceed] according to truth and justice; since the prophet says, "Judge the thing that is right, O ye sons of men!" Ps. lviii. 2. Also elsewhere†, Lev. xix. 15, as also<sup>9</sup> Isa. i. 17, 18; and at

\* ["Non solum qui faciunt, sed qui consentiunt facientibus, judicium Dei non effugiunt." <sup>3</sup>Duo namque eunuchi Aserum regem interficere cupientes, in patibulum suspensi sunt. <sup>6</sup>Animadvertite quid fecerit David pæfecto, cum ei Dominus dixerit: "Ego tradam Saul in manus tuas:" dum invenit dormientem, et hortatus a milite ut occideret eum, dixit: "Absit a me hoc peccatum, ut extendam manum meam in christum Domini." Illum autem militem, qui post mortem ejus venit ad eum, protestans quod ipse occiderat Saul, capite truncavit; <sup>7</sup>et reputatum est illi ad justitiam, et semini ejus post eum. <sup>8</sup>Exemplis namque apud vos sæpe probatum est, quod quicumque internecionis dominorum fuere causa, in spatio vitæ finierunt, et utroque jure caruerunt. W.]

† [Item alibi "Non facies, quod

iniquum est, nec injuste judicabis: non stabis contra sanguinem proximi tui." Item ait Isaias: "Querite judicium, subvenite oppresso, judicate pupillo, defendite viduam, et venite et arguite me dicit Dominus. Si fuerint peccata vestra ut coccinum, quasi nix dealbabitur; et si fuerint rubra quasi vermiculus, ut lana alba erunt." <sup>10</sup>Item alibi: Solve omnem nodum iniquitatis, solve fasciculos deprimentes: demitte eos, qui confracti sunt, liberos, et omne onus dirumpe. Tunc erumpet quasi mane lumen tuum et sanitas tua citius orietur: <sup>11</sup>dicente Domino in evangelio; In quo enim iudicio judicaveritis, judicabimini: mensura, qua mensi fueritis, metietur vobis." <sup>12</sup>Nec vi alicui rapietis, quod suum est, <sup>13</sup>ut dictum est: non concupisces rem proximi tui, nec desiderabis uxorem ejus, non villam, non bovem, non



another place<sup>10</sup>, lviii. 6, 8. The Lord says in the Gospel<sup>11</sup>, Mat. vii. 2; nor shall you by violence take from another that which belongs to him<sup>12</sup>, as it is said<sup>13</sup>, Exod. xx. 17; for the prophet threatens, saying, <sup>14</sup>Isai. v. 8. Again, a prophet cries, saying<sup>15</sup>, Ps. lxxxii. 4. Remember what he deserves, [Mat. xviii. 6, 8.] who scandalizes a little one; but he who receives one of these, receives Christ. May you deserve to have it said to you at the judgment, "Come ye blessed, take possession of," &c. \* [Mat. xxv. 34.]

\* This is, according to the Vulgar, Ps. lvii. 1.

14. Let fraud, violence, and rapine, be abhorred, and let not unjust tributes be imposed on the Church of God, nor greater than those allowed by the Roman law, and the custom of former emperors, kings, and princes, and let them endeavour to keep themselves wholly free from this vice of violence, who desire to keep themselves in communion with the holy Church of Rome, and blessed Peter, the prince of the Apostles. Let there be concord and unanimity every where, between kings and bishops, ecclesiastics, and laymen, and all Christian people, that the Churches of God may be at unity in all places, and that there be peace in the one Church, continuing in one faith, hope and charity, having one Head, which is Christ, whose members ought to help each other, and to love with a mutual charity, as He Himself hath said †, John xiii. 35.

15. All unrighteous marriage is forbidden, as also such as are incestuous, as well with the handmaids of the Lord, or other unlawful persons, as with those that are too near akin; as also with foreign women: and let him who does such things be struck with the sword of anathema, unless correcting himself, he repent of his wicked presumption, and correct and reclaim himself according to right law, in obedience to his bishop.

† Nuns.

ovem, non agrum, nec omnia quæ illius sunt" <sup>14</sup>Propheta namque comminatur, dicens: "Væ qui conjugitis domum ad domum, et agrum ad agrum copulatis usque ad terminum loci: numquid soli vos habitabitis in medio terræ? In auribus meis sunt hæc dicit Dominus exercituum." <sup>15</sup>Rursum clamat propheta, dicens. "Eri-

pite pauperem, et egenum de manu peccatoris liberate." W.]

\* ["Venite benedicti, possidete paratum vobis regnum ab origine mundi." W.]

† ["In hoc cognoscent omnes, quia mei discipuli estis, si dilectionem habueritis ad invicem." W.]

16. Sons of whores are deprived of lawful inheritance; and we judge those that are born in adultery, or of nuns, to be spurious and illegitimate: for we do not stick to call a virgin, that has devoted herself to God, and put on, as it were, the garment of the holy Mary, the spouse of Christ. Now it is manifest, in heavenly respects, as well as earthly, that he<sup>b</sup> who takes a spouse, [from one more powerful than himself,] shall not escape unpunished\*: therefore the Apostle says, "He that profanes the temple of God, him shall God destroy,"<sup>1</sup> 1 Cor. iii. 17; and the same Apostle says, Eph. v. 5. † Consider whether secular inheritance be not cut off from such by the Scripture, when it says, "The son of the bondwoman shall not be heir," &c. ‡, Gal. iv. 30. But an adulterer may say, my whore is not a bondwoman, but a free. To these we answer, with apostolical authority, "Know ye not, that to whom ye yield yourselves servants to obey, his servants ye are, whether of sin unto death," &c. § Rom. vi. 16. Therefore we have commanded, in the words of the Apostle, that "for the avoiding of fornication, every" layman "have his own wife; and every woman her own husband," 1 Cor. vii. 2, that so they may have lawful heirs in the Lord, who may be also heirs of God, and coheirs in Christ. Farther, as it is prescribed in the canon, and in the Gospel, and in the decrees of the Apostles, concerning lawful marriages, and the appointed time of marrying, and abstaining; we presume to add nothing to these decrees: "If any seem to be contentious, we have no such custom," &c. ¶

[1 Cor. xi.  
16.]

*s Adulteros, Lat.*

<sup>a</sup> *Quia non potentiorē se sponsam tulerit*, says Sir H. Spelman's copy. I read by conjecture, *Qui a potentiorē se sponsam tulerit*. There is nothing depends upon it.

<sup>1</sup> Marrying here signifies not matrimony, properly so called, but the conjugal act, as in Ecgbriht's Excerption 106, in the year 740. See Pope Gregory's Answer to Augustine's 8th Question, Art. 6. By the Apo-

• [quia qui potentiorē se sponsam tulerit, et suo sibi eam matrimonio copulaverit, nunquam impunitus evadet. *Walker, legit*: quia qui a potentiorē se sponsam. W.]

<sup>1</sup> † [Templum enim Dei sanctum est etc. et idem Apostolus: "Hoc nāque scitote, intelligentes, quod omnis

fornicator, aut immundus, aut adulter aut avarus non habet hæreditatem in regno Christi et Dei." W.]

‡ ["cum filio liberæ." W.]

§ ["sive justitiæ ad sanctificationem." W.]

¶ ["neque ecclesia Dei." W.]

stolical decree may be meant, 1 Cor. vii. 5. I find no prohibited times so early as this; I mean for the solemnity of marriage.

17. As to paying tithes, it is written in the law, "The tenth part of all thine increase\*——<sup>k</sup>If thou bring thy first-fruits into the house of the Lord"<sup>l</sup>——Again by the prophet<sup>2</sup>, "Bring ye all the tithe into the store-house," &c. Mal. iii. 10. As a wise man says, "No man can justly give alms of what he possesseth, unless he hath first separated to the Lord, what he from the beginning directed to be paid to him." And on this account it often happens, that he who does not pay tithes is himself reduced to a tenth; therefore we do solemnly enjoin, that all take care to pay the tenth of all that they possess, because that peculiarly belongs to God: and let them live and give alms out of the nine parts; and we advise, that alms be given in secret, because it is written, "When thou givest alms sound not a trumpet," &c. † Matt. vi. 2.

<sup>k</sup> Here seems to be an *hiatus*.

We have also forbidden usury, since the Lord says to David, that "he shall be worthy to dwell in his tabernacle, [Pa. xv. 5.] who hath not lent money upon usury<sup>3</sup>." And Augustine † says, "Who can have unjust gain, without justly deserved loss<sup>4</sup>?" Where there is gain, there is loss: gain in the coffers, loss in the conscience<sup>5</sup>.

<sup>l</sup> For *quis* read *quis*; with a note of interrogation at *damno* §.

We have also ordained that equal measure, and equal

\* ["Decimam partem ex omnibus frugibus tuis<sup>1</sup> seu primitias deferas in domum Domini Dei tui." <sup>2</sup>Rursum per prophetam: "Adferite," inquit, "omnem decimam in horreum meum ut sit cibus in domo mea; et probate me super hoc, si non aperuero vobis cataractas cœli, et effudero benedictionem usque ad abundantiam: et increpabo pro vobis devorantem, qui comedit et corrumpit fructum terræ vestræ; et non erit ultra vinea sterilis in agro dicit Dominus." W.]

† [ante te, W.]

‡ ["Nolo sitis fœneratores, et ideo nolo, quia Deus non vult. Nam si ego nolo et Deus vult, agite: Si autem Deus non vult, etiamsi ego vellem

malo suo ageret qui ageret. Unde apparet Deum hoc nolle? Dictum est alio loco, <sup>3</sup>' Qui pecuniam suam non dedit ad usuram.' Et quam detestabile sit, quam odiosum, quam execrandum, puto quia et ipsi fœneratores noverunt," etc. In Psalm. xxxvi. (xxxvii.) 26. S. Aug. Op., tom. iv. p. 285. f. <sup>4</sup>Nemo habet injustum lucrum sine justo damno. Verbi gratia, qui furatur acquirit vestem, sed cœlesti iudicio amittit fidem. Ubi lucrum, ibi damnum; visibiliter lucrum, invisibiliter damnum: lucrum de sua cœcitate, damnum de Domini nube. Sern. viii. ad pop. ibid., tom. v. p. 44 d. cf. <sup>5</sup> tom. iv. p. 1408 e.]

§ [So Wilkins.]

weight, be enjoined to all, since Solomon says, "Diverse weights, and diverse measures the Lord hateth," Prov. xx. 10, that is, buying by one weight and measure, and selling by another: for God every where loves justice, "His countenance beholds the thing that is right."

18. That the vows of Christians be fulfilled; for by this means the ancient patriarchs and prophets pleased God. Abel the Just, with a faithful mind offered a vow of his fatlings: and this was more acceptable to God, than that of that parricide, therefore God with a fire from Himself, consumed those acceptable holocausts, but despised what was offered without a good mind [by Cain], who being therefore condemned with a curse, deserved [the divine] wrath: but the younger was crowned with a happy martyrdom. Remember Enoch, who paid the vow that he had made, and was translated quick in the body: so did the righteous Noe, and he alone, with seven of his family, was delivered from the inundation of the world. What need I speak of Abraham, who paid all his vows and his tithes to Melchisedech the priest? for he triumphed over his enemies, therefore he deserved not only to adore, but also to entertain with his hospitality, the Lord in Trinity, Gen. xviii. 2, and to have a son of promise, by a woman that was ninety years old: and he refused not to sacrifice that son of promise, (though the Lord had said, "In Isaac shall thy seed be called," &c. \*) yet he certainly trusted that his son was to live: "therefore faith wrought with his works, and it was imputed to him for righteousness, and he was called a friend of God." Jacob vowed a vow, and he paid it. Remember <sup>m</sup> Manoe, what he did with his daughter †, and his memory shall be everlasting. David, when he paid his vow, charged us saying ‡, Ps. lxxvi. 11. Solomon also says §, Eccl. v. 4, 5. We therefore beseech you, that every one call to mind what he has vowed, in prosperity or adversity, lest being again involved in difficulties, you deserve to have it said, <sup>n</sup> He hath

[Gen. xxi.  
38.]  
James ii.  
22, 23.

\* [et in semine tuo benedicentur omnes gentes terræ. W.]

† [Recordamini Jephthæ de filia sua, W.]

‡ ["Vovete et reddite Domino Deo vestro, omnes qui in circuitu ejus sunt: afferte munera terribili, et ei,

qui aufert spiritum principum, terribili apud omnes reges terræ." W.]

§ ["Salomon quoque ait cum feceris votum, festina reddere illud, ne forte Dominus irascatur tibi." Item: "melius est non votere, quam votum non reddere." W.]

failed in what he promised long ago\*. "According to your hardness and impenitent heart, you treasured up wrath<sup>1</sup>," &c., Rom. ii. 5, "therefore I will laugh at your destruction, and mock<sup>2</sup>," &c. Prov. i. 26. We can give or promise nothing to God but what He first gave us: therefore the prophet being touched with this says, Ps. cxvi. 12; "What shall I repay to the Lord,<sup>3</sup> for all that He hath given to me?" If any one have vowed and delayed to pay it, we are afraid that he will not escape without vengeance, as it is said, "it is a fearful [Heb. x. 81.] thing to fall into the hands of the living God."

\* I suppose he means Jephthæ, Judg. xi.

† This seems to be cited as Scripture, yet I find nothing like it there.

19. That every faithful Christian take example by catholic men: and if any pagan rite remain, let it be plucked up, despised, and rejected. For God created man comely and sightly, but pagans, by the instinct of the devil, scarify themselves †, as Prudentius says,

° *Tinxit et innocuum maculis sordentibus humor 1.*

He seems to do an injury to the Lord, who defiles and depraves His workmanship. If any one should undergo this blood-letting for the sake of God, he would on that account receive great reward §, but whoever does it out of heathenish superstition, does no more advance his salvation thereby, than the Jews do by bodily circumcision without sincere faith.

• I have not Prudentius by me, but have ventured thus to correct the printed copy of this council, which has it thus,

*Tinxit et innocuam maculis sordentibus humum 2.*

• ["Quod dudum pollicitus est in interitu vestro ridebo, et subsannabo, cum vobis, quod tinebatis, advenit." W.]  
 duritiam tuam et cor impenitens, thesaurizasti tibi iram in die iræ, et revelationis justiciæ Dei. 2 Ideo † [cicatrices teterrimas superinduxerunt. S. W.]

† [Adam, W.]

Eva columba fuit tum candida; nigra deinde  
 Facta, per anguinum malesuada fraude venenum,  
 Tinxit et innocuum maculis sordentibus Adam.  
 Dat nudis ficulna draco mox tegmina victor.

Prudentii, Enchiridion, l. 1—4.]

§ [Certe si pro Deo aliquis hanc tincturæ injuriam sustineret, magnam inde remunerationem acciperet. S. W.]

Ye wear garments like those of the Gentiles<sup>p</sup>, whom your fathers by the help of God, drave out of the world by arms; a wonderful stupid thing! to imitate the example of them whose manners ye hate.

\* Are the Britons here called heathens?

Ye also by a filthy custom, maim your horses, ye slit their nostrils, fasten their ears together, make them deaf, cut off their tails, and render yourselves hateful, in not keeping them sound when ye may\*.

We have heard also that when you have any controversy between yourselves, ye use sorcery, after the manner of the Gentiles, which is accounted sacrilege in these times.

Many of you eat horse-flesh, which is done by none of the<sup>q</sup> Eastern Christians; take heed of this too. Endeavour that all your doings be honest and done in the Lord.

† See Can. 4.

20. We have directed all in general to act according to the prophetic voice, which says, "Make no tarrying to turn unto the Lord, and put not off from day to day," Ecclus. v. 7. And again, "Turn to the Lord with all your heart, with fasting, weeping, and mourning," Joel ii. 12. † And according to the Apostle, "Confess your sins one to another, and pray one for another, that ye may be saved," Jam. v. 16, lest death should find any of you unprepared; which God forbid. And receive the Eucharist according to the judgment of the priests; and [do penance according to] the degree of the guilt ‡, and bring forth fruits worthy of repentance. For a fruitful repentance consists in bewailing misdeeds, and not committing them again.

But if any man die without repentance and confession, (which God forbid) prayers must not be made for him: for none of us is without sin, "not an infant, born but a day since." As the Apostle says, "If we say we have no sin," &c. §,

[1 John  
1. 8.]

\* [Et quia illos illesos habere potestis hoc nolentes cunctis odibiles redditis. S. W.]

† [Item: "Convertimini ad me et ego convertor ad vos." W. om. Johnson.]

‡ [et juxta judicium sacerdotum, et

modum culpæ, Eucharistiam sumite. S. W. i. e. let the time at which you return to communion be determined by the judgment of the priests and the degree of the offence: Johnson's insertion seems uncalled for.]

§ [Si dixerimus quia peccatum non

therefore since death lingers not, repent, and be converted, that your sins may be blotted out, and that ye may deserve, together with the holy angels, to enjoy that life that is without end, through Him who liveth and reigneth, for ever and ever.

\* The LXX translators have turned Job xiii. 4, 5, to this sense\*. Many of the ancients take it so from them, and Clement of Rome† is the first of these.

*The legate proceeds in his letter to the pope.*

We proposed these decrees, most blessed Pope Adrian, in a public council before Alfwald the king, and Eanbald the archbishop, and all the bishops and abbots of the country, and the senators and dukes, and people of the land: and they, as we before said, vowed with all devotion of mind, that they would keep them to the utmost of their power, by the help of the supernal mercy. And they \*confirmed their vows with the sign of the cross, [which we held] in our hands in your stead; as afterwards also they did carefully, with a † style, put the sign of the cross to this written paper.

\* The meaning of this is, that they swore to observe them; for one of the most solemn forms of making oath in this age, was by laying hands on a cross, holden in the hand of a bishop, or other prelate. If the cross were consecrated the oath was esteemed the more solemn: but laying the hand on the bishop's hand (without any cross) was thought more solemn than swearing by an unconsecrated cross, not holden by a bishop.

† A pen made of some metal.

I Alfwald, king of the nation beyond Humber, consent, and subscribe with the sign of the cross.

‡ I Dilberch [margin Tilhere] præsul of Autun‡, have gladly subscribed with the sign of the cross.

I Eanbald, by the grace of God, archbishop of the holy Church of York, have, with the sign of the cross, subscribed to the pious catholic \* taxation of this paper.

\* What a bishop of Autun † should do in Northumberland, it is not easy to say, unless Charles the emperor sent him, as he did Wighod, with the legates.

habemus, ipsi nos seducimus, et veritas in vobis non est. W.]

\* [4. τίς γὰρ καθαρὸς ἔσται ἀπὸ βίου; ἀλλ' οἱ θεοὶ, ὅ. Ἐάν καὶ μὴ ἡμέρα ὁ βίος αὐτοῦ ἐπὶ τῆς γῆς. Job xiv. Septuag.]

† [S. Clem. R. ep. ad Cor. ii. c. 17.]

‡ [† Augustadensis ecclesie, S. W. The see was Hexham, and the bishop's name Tilberht. Sax. Chron., A.D. 780.]

But no regard is to be had to these subscriptions. The few names that are genuine are yet so spelt, that the men, if they were now alive, would scarce own them.

\* Taxation, in the language of this age, signified any censure, admonition, or reproof. See Spelman's Glossary\*.

Then Hygwald, bishop of Lindisfarn, Edilbert (margin Ethelbert) of Hwyttern, and two more bishops, probably Scots, subscribe. As also Gosigha, who writes himself Patricius. Then follows,

We also, the priests and deacons of churches, and abbots of monasteries, judges, grandees, and noblemen subscribed, and consented unanimously, in deed and word. Lastly, there are the names of two dukes, two abbots; then the legate proceeds.

After this was finished, and we had given our blessing, we departed, taking with us the legates of the king, and archbishop, that is, Malwyn and Pyttel, readers, men of note, who carried the decrees with them to the council of the Mercians, where the glorious King Offa, with the counsellors of the land, together with Janbyrht, the archbishop of the holy Church of Canterbury, and the rest of the bishops of the country were assembled. The capitula were both read one by one, with a clear voice, in the presence of the council, in Latin, and explained in the Teutonic tongue, that all might understand them: they all with unanimous heart and voice, thanking your apostleship, promised to obey your admonitions, [and] by the divine assistance, to the best of their power, cheerfully to keep the statutes. And farther, according to the above written taxation, as well the king, as great men, [and] archbishop, with his attendants, confirmed [their promise on] the sign of the holy cross, [which we held] in our hands, in your lordship's stead; and afterwards they confirmed this present paper with the holy sign.

I Janbyrht, archbishop of the holy Church of Canterbury, have devoutly subscribed with the sign of the holy cross.

\* [*Taxa*—Cum tamen omnia tributorum genera aspera visa sunt antiquis, et mordasia; *taxare* non solum dicitur pro *tributum imponere*, et certa

summa estimare, ut e *Festo* liquet; sed etiam pro *reprehendere*, *carpere*, *wordere*. Spelm. Gloss. p. 533.]



I Offa, king of the Mercians, consenting to these statutes, have readily subscribed with the sign of the cross.

I Higibert, bishop of the Church of Lichfield, have subscribed with the sign of the holy cross.

Eleven other bishops subscribe, four abbots, three dukes, <sup>[Post-script.]</sup> one earl. This is called a contentious synod, by the Saxon Chronicle\*, and it is commonly said, that Janbyrht, archbishop of Canterbury, did here resign seven dioceses of his province, viz., Lichfield, Worcester, Leicester, Sidnacheſter†, Hereford, Helman, and Thetford‡, to be made a province to the archbishop of Lichfield, which city King Offa resolved to make an archbishopric, in memory of a signal victory, won by him near to this place; though it is said too that he charged Janbyrht with having invited Charles the emperor to make a descent on England, promising him all possible assistance in Kent. But it is certain, that Offa was now in league with the emperor. However, it is evident, that there is nothing in the narrative of the legates, relating to this

\* [A. D. DCCLXXXV.—*Ænð heƿ ƿær gelytfullic ſinð sæt Lealc-hýðe, 7 Janbyrht ƿncebýrceop ƿop-let ſumne ðæl of hýr býceopðome, 7 ſƿom Offan cýnunge ðigebrýht ƿær gecopen, 7 Ecgƿerð to cýnunge gehalgod. Ænð in þær tîð ƿæƿen æƿend-ƿacen geyend of Rome ſƿam ƿpianum papam to Ængla-lanbe, to niſſanne þone gelearan 7 þa riðbe, þe ſer Eƿegopur ur renbe þuph þone býceop ƿugurſinum, 7 hi man mid ƿurðſcipe unbep-ſeng. Hoc item anno fuit litigiosa Synodus apud Cealchythe; et Janbyrhtus archiepiscopus amiſit aliquam partem ſuæ provincie. Ab Offa item rege Higebrithus electus est, et Ecgverthus in regem conſecratus. Is etiam temporibus legati miſſi ſunt a Roma ab Adriano papa in Angliam, ad renovandam fidem ac pacem, quam ſanctus Gregorius nobis mittebat per episcopum Augustinum; ii autem cum honore fuerunt ſuſcepti. Chron. Sax. ed. Gibson, p. 63-4. Compare Kemble's Saxons in England, vol. ii. p. 246. The remainder of the postscript is compiled from William of Malmsbury, De Gest. Reg., lib. i. c. 4, and Codex S. Albani de vita Offæ Regis MS., p. 153 &c. (Matthew Paris, Vita Offæ*

secundi, ed. Wats. p. 979 &c.) as quoted and commented upon by Sir H. Spelman, vol. i. p. 302—15.]

† [Sidnacheſter (ſaid to be Stow near Lincoln in Camden's Britannia, p. 473, 480) was made a ſec, A. D. 678, having once been part of the diocese of Dorcheſter, near Oxford, in which it was again merged before the Conqueſt when Remigius removed the ſee from Dorcheſter to Lincoln. Godwin de præſul. Angl. epiſc. Lincoln, p. 280-1.]

‡ [This is a miſtake for Dunwich, ariſing from the words of the monk of St. Albans, as quoted by Spelman, p. 302, "Episcopi orientalium Anglorum (viz.) Haraldus Helmamensis. Et Tedfordus (Donmunensis),"—which are an incorrect copy from William of Malmsbury who gives—"Alheardus Elmanensis; Tidfrid Dommucensis." The ſee of Dunwich in Suffolk was founded A. D. 680, and, by partition of the diocese about 670, the ſee of Helmbam in Norfolk, which was translated in 1070 to Thetford, but ſoon afterwards all three were merged in the diocese of Norwich, *ibid.* Episc. Norwicen. p. 423—7.]

matter. Janbyrht was so far from receiving any diminution of authority, in this council, that he subscribed before the king himself, and Higibert after both, styling himself barely, bishop of Lichfield, if any credit could be given to the subscriptions in Sir H. Spelman. Yet it is certain in fact, that Janbyrht was, by Offa, deprived of the dioceses above mentioned, and had none but London, Winchester, Sherburn, Rochester, and Seolsey, left to his province; and that his lands in the kingdom of Mercia were seized by the king: it is possible that this project was started in this council, between the king and English bishops, either before the legates entered, or rather, after they had left it. The legates, probably, having no commission to hear this matter, refused to meddle with it. However it were, Offa certainly carried his cause at Rome, and that by dint of money, as the writer of his life freely confesses. And it is not to be wondered that a king so addicted to the pope, should prevail against the archbishop, in this or any other point: for he granted to the pope, a penny by the year, from every fire-hearth in his kingdom; as Ine is said to have done about sixty years before, for the kingdom of the West-Saxons. And it is observable that no kings have treated their bishops and clergy more harshly, than they who have expressed the greatest devotion to the see of Rome. And the occasion of granting the Peter-pence is reputed by Polydore Virgil, to be this, that he had some time before barbarously murdered Ethelbert, king of the East-Angles, and to lighten his penance, gave this tribute to the pope, or rather to the English school at Rome: for this seems to have been Offa's intention, though the Romanists would have it thought, that by this grant he and his successors became tributaries to the pope. Yet Higibert could not procure a confirmation of his metropolitanical authority; but his successor Aldulf did. And though Janbyrht is said to have resigned six of his dioceses; yet I think it is allowed, that he did all he could to recover them. And King Offa and Pope Adrian dying in the same year, viz., 794, his successor Athelard did effectually procure a restitution of King Kenulf, and Pope Leo III., within a few years, as appears by what follows.

[Addenda.] [Higibert did not survive this council much above one year; before he

obtained a settlement of the primacy at Lichfield he certainly died. But Aldulf his successor had the primacy over six dioceses besides his own, confirmed to him by the king and pope, which he enjoyed eight or nine years. Yet the monk of St. Albans raises Higebert from the dead seven years after this, and makes him present at the council of Verulam, in the figure of an archbishop, with two of his suffragans, though he changes his name to Humbert\*. As we have sufficient proof that this is false history, so it were much to be wished that what follows were so too; viz., that King Offa was by his great secular men, as well as by his bishops, advised to go to Rome, in order to procure the pope's consent and authority for founding and endowing the monastery of St. Albans. He was certainly driven thither by the sting of his own conscience, for the murder and rapine which he had committed, and for which he hoped to find a more effectual cure at Rome than he could in England: for he was possessed with the disease of the age, a superstitious devotion to the see of Rome; and the great men, as well as bishops, soothed the dotage of their king. However, he is said to have obtained the privilege from the pope, that no Englishman should be obliged to go in pilgrimage to Rome by way of penance for his crimes, that is, as I take it, by going to the monasteries of Peterburgh, or St. Albans, they were discharged from all obligations to travel to the "limina apostolica." Yet Charles the Great, now emperor, in his letter to this king (which he scarce lived to receive) promises protection to English pilgrims going through his dominions towards Rome. This must have been written in the year 794. For the emperor mentions Pope Adrian's death, and says he had sent a dalmatic to every bishop in England, and a present to each metropolitan, to induce them to pray for the soul of Adrian, which yet, he doubted not, was happy, and at rest. Sir H. Spelman, vol. i. p. 309—315.]

\* [The difficulty as to the succession in the see of Lichfield at this time (Godwin de præsulibus, p. 310; Wharton, Anglia Sacra, tom. i. p. 429, 430, note,) is satisfactorily solved by comparing the Saxon Chronicle, A.D. 785, with the genuine cotemporary charters in Kemble's Codex. Hence we learn (see next note) that Hygebert was the only archbishop of Lichfield, that he held that office about eleven years beginning A.D. 788 or sooner, and ending 799, and that he was succeeded in the bishopric of Lichfield, by Aldulf. Whatever therefore may be the general accuracy of William of Malmesbury's account of the partition of the archbishopric of Canterbury, by King Offa and Pope Hadrian, there can be little doubt that he was mistaken in the name when, without mention of Hygebert, he wrote (A.D.

1120—43); 'Vocabatur autem episcopus, Lichfeldensis Aldulphus,' De gest. reg., lib. i. c. 4. p. 30, and in his list of Lichfield bishops, 'Aldulf qui tempore Offæ regis accepit pallium.' De gest. pont., lib. iv. p. 288. Matthew Paris, 'the monk of St. Albans,' (ob. A.D. 1259) adopting this mistake gives 'Ealdulph' as the name of the archbishop of Lichfield appointed by King Offa and Pope Hadrian, but supposes him soon to have died, because he found in his own monastery authentic records of Hygebert or 'Humbert,' as he calls him, archbishop of Lichfield: 'Iste Humbertus magnæ sanctitatis vir fuit, literaturæ et prudentiæ sæcularis, Regis Capellanus, conscius ejusdem secretorum, et confessor atque morum informator. Vita Offæ II., p. 979.]

A.D. DCCXCVI.

ATHELARD'S CONFIRMATION OF PRIVILEGES.

PREFACE.

ATHELARD had now, for several years been archbishop of Canterbury, but it was not to be expected that he should recover the sees, which King Offa and Pope Adrian had lopped off from his province, so long as they lived: they both died in the year 794. But the wars between the kingdoms of Mercia and Kent, which soon followed, were an obstruction to the reunion of the province, when Kenulf had obtained the sovereignty of Kent, by taking Pren prisoner, both he and Athelard wrote to the new Pope Leo III., upon this affair: yet it appears by the pope's answer, that the king was inclined to make London the metropolis; but the pope declares for Canterbury\*: this letter was, I suppose, written at the

\* [The remainder of this preface and the document it introduces may easily be seen by the help of later researches to be of no value. Charters at this time were usually in the Latin language, as is clear from the first volume of the *Codex Diplomaticus ævi Saxonici* by Mr. Kemble; and the passage here given as Athelard's confirmation of privileges is shewn by Dr. Ingram, in his edition of the *Saxon Chronicle* (A.D. 796, p. 82, note k, p. 83, note a,) to be a Norman interpolation. The decree of Athelard at the council of Bapchild, A.D. 798, Spelman, vol. i. p. 317, Wilkins, vol. i. p. 162, presents difficulties in the names as well as the number of the subscribing bishops, and is given with a mark of doubt. *Cod. Dipl.*, No. 1018; but the passage in the *Saxon Chronicle*, A.D. 796, where there is no mention of the place of the synod, was clearly inserted by one who had some knowledge of a like decree of Athelard respecting monasteries at the council of Cloves-hoo, A.D. 803, (Spelman,

p. 324, 5, Wilkins, p. 167, 8, *Cod. Dipl.*, No. 1024) signed by the archbishop, with twelve bishops, and twenty-five abbots, as a distinct act from the settlement of the primacy at Canterbury on the same day. In the *Addenda* at the end of this volume are the Latin charters of King Wihtred, A.D. 692—4, King Ethelbald, A.D. 742, and of Archbishop Athelard, A.D. 798 (?) and 803, from which the corresponding documents translated by Johnson, are abridged probably more for the information of those to whom the originals were inaccessible, than for any fraudulent purpose. The *Saxon Chronicle*, before the interpolation, mentions the decease of Eanbald, archbishop of York, and the consecration of a successor of the same name; but even if the latter were proved to be the same with "Eadulfus Eboracensis humilis episcopus," whose profession of obedience to Archbishop Athelard is given in Wharton's *Anglia Sacra*, tom. i. p. 78, no argument could be thence drawn for the authenticity of the de-

beginning of this year 796, and it is probable, that at the same time he sent a letter to the archbishop, intimating the

cree in the Chronicle, or for placing the council of Bacanchild or Bapchild, held by King Cenwulf and Archbishop Athelard, in A.D. 796.

To give a connected view of this passage of history would be a work of much difficulty, but a few dates and facts may be set down with some degree of certainty.

A.D. 785. (Saxon Chron. ed. Ingram, p. 78. Kemble's Saxons in England, vol. ii. p. 246.) In this year was held the stormy synod of Cealchyth, where part of the province was wrested from Janberht, by King Offa, and given to Hygebert, who was styled 'archbishop' jointly with Janberht for several years, that is from A.D. 788 to 799. That this, as stated by Collier, (Eccl. Hist., vol. i. p. 136) was a partition, not a translation of the archbishopric, is clear from the following words in a charter at the same place four years later, "Anno dominice incarnationis DCC° LXXX° VIII° indictione vero XII°. qui est annus XXXI. regni Offan strenuissimi Merc. regis factum est pontificale conciliabulum in loco famoso qui dicitur Celeyth presidentibus duobus archiepiscopis Janberhto scilicet et Hygeberhto mediante quoque Offan rege cum universis principibus suis.—Cod. Dipl., No. 156. See also subscriptions, No. 152, 3, 5, 7; 164, 5, 7; 175; 1020.

A.D. 790. (Sax. Chron.) "Janberht archbishop died and the same year was Athelard abbot chosen archbishop," but consecrated (Godwin de præsul., p. 46, note a.) three years later.

A.D. 794. (Sax. Chron.) Pope Hadrian died, as also King Offa, whose son Ecgferth, (elected king nine years before) took the government of the Mercians, but only survived his father about a year. Eadberht, whose other name was Pren, seized the sovereignty of Kent.

A.D. 796. (Sax. Chron.) Cenwulf, now king of Mercia invaded Kent, and took prisoner Eadberht Pren, whom he led bound to Mercia, but soon after set free at the dedication of the church of Winchelcumbe, without however restoration of power, Cuthred being appointed king of Kent. Compare Sax. Chron. ed. Ingram, p. 32, note 1, with Lappenburg's Hist., vol. i. p. 239, notes 1, 2, also Will. Malm. De gest.

reg. Angl., lib. i. c. 4, p. 33.

A.D. 797. (Epist. LX. ad Athelardum, Alcuini Op., tom. i. p. 79, quoted Wilkins, vol. i. p. 159.) Not only was the province of Canterbury at this time dismembered, but Archbishop Athelard had been driven from his see. Circumstances however seemed now to favour his efforts for the recovery of his rights. Eanbald the second, the new archbishop of York, according to the Saxon Chronicle, this year received the pall. He was the disciple of Alcuin, who exhorted the two archbishops to take counsel together for the restoration of the see of Canterbury to its former dignity, and also wrote to the men of Canterbury to recall Athelard. (Ep. LIX., ad gentem et populum Cantuariorum, Alcuini Op., tom. i. p. 78.) The cause was warmly espoused by King Cenwulf, who wrote more than once on behalf of Athelard to Pope Leo III., to whom also a letter was addressed by the bishops of England, stating the succession of the archbishops of Canterbury from the time of St. Augustin. Wilkins, vol. i. p. 163—6.

A.D. 798. Archbishop Athelard probably held a council at Bacanceld, Bapchild in Kent, and another at Cloves-hoo. See this year in Addenda, and Kemble's Saxons in England, vol. ii. p. 247.

A.D. 799. (Sax. Chron.) "Archbishop Athelard went to Rome with Cynebriht, bishop of the West Saxons." The success of his journey is recorded in the letter of Pope Leo to King Cenwulf, (Will. Malm. De gest. Reg., lih. i. c. 4.) This is the last year in which Hygebert signs with the title of archbishop, (Cod. Dipl. No. 1020,) and in this year King Cenwulf (ibid., No. 1021,) formally recognises Athelard as primate of all Britain, in a charter by which he restores lands taken from the Church of Canterbury by King Offa.

A.D. 801. In a synod at Cealchythe, (Cod. Dipl., No. 1023,) Hygebert signs with the title of 'bishop,' but still takes precedence of Archbishop Athelard.

A.D. 803. The synod at Cloves-hoo which lasted from the ninth till the twelfth of October. See Addenda, and Kemble's Saxons in England, vol. ii.

same resolution, and containing also his directions for calling a council, and passing such a decree as here follows. It should appear that Aldulf of Lichfield found the king and Athelard, so firm in their resolutions, and so successful in their negotiations with the pope, that he made no opposition: for he saw himself under a necessity of submission, and therefore attended Athelard in his council at Becancelde, and subscribed the decree proposed there by the pope's command; for without him, twelve bishops were not to be had in this province.

But though the pope had declared for restoring the dismembered dioceses to the archbishop of Canterbury, yet it was three years before this was done in form. Athelard must pay his attendance on the pope at Rome, and his fees to the old gentleman and his courtiers, before the business could be accomplished: and it is not improbable, that the pope deferred the final dispatch of this affair, till the arrearage of his annuity of three hundred and sixty-five marks, which King Offa had promised from himself, and his heirs, was fully discharged: for he reminds King Kenulf of this debt, in his letter before hinted, (*Angl. Sac.*, tom. i. p. 460.) And though this was not brought to perfection till the year seven hundred and ninety-nine yet it was looked upon to be as sure, as if it had actually been done, from the time of the pope's answer to the king's first letter. Not only the bishop of Lichfield obeyed Athelard's summons to Becancelde; but the new archbishop of York made profession of obedience to him: and this must have been this same year, for there was no other succession in the see of York, while Athelard was archbishop of Canterbury, but that only in the year seven hundred and ninety-six. See the profession, *Angl. Sax.*, tom. i. p. 78, and the succession, *Sax. Chron.* 796. Sir H. Spelman's copy of this council is certainly spurious: for it makes seventeen bishops

p. 248. On the day last named, was signed the decree for the settlement of the primacy at Canterbury, and also the decree (*de libertatibus ecclesiarum*) relating to monasteries. From the signature 'Hygebert Ab.' immediately after that of Aldulf, bishop of Lichfield, we may perhaps infer that between the last two dates Hygebert had

resigned his see and become an abbot in his former diocese.

Shortly after this council of Cloveshoo, in the same year according to the Saxon Chronicle, or A.D. 805, according to Kemble's Codex, (No. 189, 200,) archbishop Athelard died and was succeeded by Wulfred.

subscribers; and there were not so many now in England †. But he observes, that the place of the council in one MS. is written Bacanchild; which brings it nearer to the present Bapchild.

† [Unless you will take in Wittern in the shire of Galloway in Scot-[Addenda.] land, which was then a bishop's see, but belonged to the kingdom of Northumberland.]

A.D. DCCXCVI.

SAXON.  
Chron.  
p. 67.  
[Wilkins,  
vol. i. p.  
158.]

ATHELARD, archbishop of Canterbury, caused a synod to sit, and <sup>2</sup>verified and confirmed by command of Pope Leo, whatever had been constituted in the days of <sup>1</sup>Wihtrred, or of other kings, in behalf of God's ministers; and thus he pronounced:

\* I read *getruopriob* \*.

\* Sax. *Wihtrgaper*, by mistake, I suppose †.

I Athelard, the humble archbishop of Canterbury, with the unanimous advice of the whole synod, and of all the congregations of all the ministers, that have had liberties granted them by faithful men in ancient times, do command, in God's name, and by His tremendous judgment, as I am enjoined to do by Pope Leo, that from henceforth none of the <sup>1</sup>laity do presumptuously choose to themselves lords over God's heritage †; but that all things belonging to God's holy ministers do remain inviolate, without contradiction, according to what is contained in the charter granted by the pope, or ordained by the holy men that were our fathers and teachers. If there be any man who refuseth to keep this commandment of God, and of our pope, and of us, and despises and sets it at nought, let them know that they shall give account thereof before God's judgment-seat. And I Athelard, with

\* [*getruþbe*, 'stabilivit,' Gibson; 'ratified,' Ingram.]

† [Doubtless the 'Norman interpolator' (Sax. Chron. ed. Ingram, p. 82, notes k and l.) here refers to King Wihtrred's 'Grant of privileges,' at Baccaceld, A.D. 692—4, (see above pp. 125—8,) which is specially mentioned and confirmed in King Ethelbald's grant, A.D. 742, (see above p. 238.) The originals of both these grants will be found under their respective dates in the Addenda at the end of this volume.]

‡ [Rather, "that henceforth none presumptuously choose to themselves lords from the laity over God's heritage," as is clear from the Anglo-Saxon and Bp. Gibson's translation, *þ heouon-ropð nan ne byþrælice ceo- ran him hlafordas of læþeðan mannan ouer Lober eppyrðnýrre. ne deinceps aliquis audeat sibi eligere dominos ex laicis hominibus super Dei hæreditatem.*—Chron. Sax. ed. Gibson, p. 67, l. 15. Compare A.D. 798 and 803 in Addenda.]



twelve bishops and twenty-three abbots, do establish and confirm the same with the sign of Christ's cross.

<sup>b</sup> This, perhaps, may imply a condemnation of King Offa, for erecting a new archbishopric, but it is no direct condemnation of Aldulf. I am inclined to think, that one point here aimed at was to deprive laymen of the power they had, in making themselves or others, that were not in orders, governors of religious houses. This formerly was a practice very rife in England, but I do not remember any mention of it after this.

A.D. DCCCIII.

THE FINAL SETTLEMENT OF THE PRIMACY AT  
CANTERBURY.

PREFACE.

HE that considers human nature, will not wonder, that though Aldulf of Lichfield, seeing the stream of authority, both ecclesiastical and civil, run so strong against him, ceased to act as a metropolitan, nay, behaved himself as a mere suffragan to Canterbury, yet could not be brought, in less than seven years' time, utterly and expressly to cancel and annul his pretensions to primacy. Alcuin had desired Athelard to connive at Aldulf's exercising his primacy during life\*; but Athelard did not accept this advice; but desired to see a reunion of his own province fully settled; and by the year 803, had worked Aldulf into a compliance, and therefore was willing to meet him half way, at Cloves-hoo, now Abbindon, in order to clinch the reunion in a provincial council. They who suppose Clift, in the hundred of Hoo and diocese of Rochester, to have been the place of congress, must allow that this was a very hard penance enjoined by the archbishop, not only to his old rival Aldulf, but to all the comprovincials; for there is not a more unhealthy spot in the whole province, I may say in all Christendom, especially in the autumnal season; (and both

\* [Alcuin does not mention the name Aldulf, and his words in his letter to Athelard are quite consistent with the evidence of the Saxon Chronicle and cotemporary charters, (see above,) to the effect that Hygebert was the only archbishop of Lichfield; "Et ut Ecclesie unitas, quæ partim discissa est non rationabili, ut videtur, consideratione, sed quadam potestatis cupiditate, si fieri possit, pacifice adunetur, et scissio resarciatur, bonum videtur

esse cum consilio omnium sacerdotum Christi, et coepiscopi Eboracensis Ecclesie deliberare; ita tamen, ut pater plus pallio diebus suis non exuatur, licet ordinatio episcoporum ad sanctam et primam sedem recurat. Hæc omnia tua sanctissima sapientia consideret, ut caritatis concordia fiat, inter primos pastores ecclesiarum Christi."—Ep. ad Athelardum, A.D. 797; Alcuini Op., tom. i. p. 30; Wilkins, vol. ii. p. 160.]

copies agree that this synod was held in October.) And it was Athelard's part to take all measures that were obliging, both to Aldulf and the rest of his brethren.

<sup>c</sup> [I find some worthy gentlemen still of opinion, that Cliff (so it should [Addenda.] be spelt) in the hundred of Hoo, was not unhealthy in the age when these councils are reported to have assembled at Cloves-hoo. For the cause of the present unwholesomeness of the air, they justly conceive to have been the recess of the sea from that coast, which they suppose to have happened several ages after. But the Text. Roff. contains a demonstrative confutation of this supposition. For therein is contained a donation of Ecgbert (some write him Egfert) king of Kent, bearing date 778, by which he grants a place called Bromhege to the church of St. Andrew's, Rochester; and Bromhege is there bounded "on Eastan Clift-wara gemær, on Westan Culinga gemær;" and this Bromhege itself is said there to be *aqua pene undique circumperfusa*. Janbert, archbishop, is witness to this donation. The next year the same king makes an addition to this donation, and thus describes it. Bromhege, *ante a me tradita adjiciam mariscam pertinentem ad aridam, et ad aqua ripam Jaenlade habentem quasi quinquaginta jugerum*. It is therefore indisputable that the sea had made its recess from this shore in the eighth century, and that Cliff had the marshes near it then, as at present, and was therefore altogether unfit for a stated place of synod. As Cliff in Hoo was never a place of great note itself, so it lies, and ever did lie, out of the road to any place of note. It is indeed a parish most singularly exempt; for the incumbent is the archbishop's immediate surrogate. But the reader may satisfy himself that this is no proof that Cliff was for this reason a notable place, by looking into a rescript of Walter Reynolds, archbishop of Canterbury, dated 1317, (in Somner's *Antiq. of Cant.*, p. 354.) For by this it appears that the rectors of eighteen churches, fourteen of which lay in the diocese of Canterbury, had the exercise of all spiritual jurisdiction within their several parishes, till the archbishop by that rescript extinguished their privileges. And as none of the parishes there mentioned were places at that time eminently remarkable, except Maidstone, so some of them, as Monkton, Adisham, Ickham, Westwell, Woodchurch, Wittersham, are as private and unresorted places as most in the diocese. I am persuaded that whoever considers the occasions of the several synods held at Cloves-hoo, and the persons there present, will discern sufficient cause to believe that all these councils were held in Mercia. It seems probable that this town lost its old name upon occasion of the abbey or monastery's growing so famous as it did in the age after this; for no one can doubt but the present name was taken from the abbey. The first memorial in which I find this place called Abindon, is the remains of the council of Kirtlington, held 977, for re-establishing the monks at Abindon, and to give leave to people to go in pilgrimage thither. Sideman, bishop of Kirton, in Devonshire, died at this council, and was buried at Abbindon, by King Edward and Archbishop Dunstan's order, though he had desired to be laid

in his own church. Spelman, p. 493. Clofes-hoo is a name that occurs not after this time\*.

I always suspected the copy of this council of Cloves-hoo, as published by Spelman, to be spurious; not only because Wermund of Rochester, who died the year before the date of it, is made a subscriber, and because what was done seven years before at Becanceld is represented as done here again at Cloves-hoo; but because I could find no reason, from the acts of this council, as printed in vol. i. p. 824 of Spelman, why the final settlement of the primacy at Canterbury, to which the pope had given consent seven years before, should be deferred till the year 803; therefore I had omitted it in my collection†. But a learned gentleman who knew something of the design I had in hand, sent me a copy of this council, as he accidentally found it in the Cotton library, which answers all these objections‡. For the name of Wermund is not among the subscriptions, nor the decree at Becanceld in the acts: and it contains a direct and abso-

\* [Cloves-hoo is supposed to be Abingdon by Somner, (Dict., art. Abbandune,) and Gibson, (Chron. Sax. nom. loc. expl., p. 20, 21,) who rests the conjecture upon the description of Seovescham, afterwards called Abingdon, in a chartulary of the monastery at that place. See Dugd. Monast., vol. i. p. 512.]

† [A confusion is here made between two distinct documents given by Spelman, neither of which can properly be called spurious or fraudulent. The one is a mere abstract of the 'Settlement of the primacy at Canterbury,' A.D. 803, Oct. 12, without the signatures, and contains nothing which is not in the original in Cotton MS. Aug. 11, 56, which is here translated and fully appreciated by Johnson, and is printed at length, Wilkins, vol. i. p. 166, and in Kemble's Codex, No. 185: the other is the 'Decretum Adelardi Archiepiscopi de libertate ecclesiarum,' on the same day, which is also given next in order in Wilkins's Concilia, and is very carefully printed by Mr. Kemble as a genuine document, 'deserving the highest attention.' See Addenda, A. D. 803; and Kemble's Saxons in England, vol. ii. p. 248. This decree seems intended to remedy abuses

in the government of monasteries, complained of in the time of Bede and Eggbriht, (see above p. 168,) and was signed by Archbishop Athelard with his twelve suffragans, and also by the abbots and many of the clergy in the several dioceses. It is drawn up in words very like the doubtful decree at Becanceld, A.D. 798, but will be found to bear a different sense. The decree of Becanceld forbid laymen to take the rule over churches; but the decree at Cloves-hoo, which Johnson here confounds with it, is addressed more directly to monasteries, and forbids them to elect for themselves lay rulers. The name of 'Weremund, bishop' occurs in another undoubted charter dated Cloves-hoo, Oct. 6, while in this of Oct. 12 we meet with the name of 'Beornmod, priest' in the diocese of Canterbury. It may therefore be inferred that Weremund, bishop of Rochester, was still alive, but the reason of his not signing the 'Settlement of the primacy at Canterbury' must be left to conjecture.]

‡ ["F. Mr. George Smith who was at this time employed in publishing Bede, and has printed this council just as it is in MS. Cott., in append. N. XXVII." MS. note, Wrangbam.]

lute abolition and annihilation of the primacy assumed by Aldulf at Lichfield, and so affords us a sufficient reason, why the final settlement of this affair was so long deferred, viz., because it was so hard to bring Aldulf to a renunciation of the privileges of his see, granted by the former king and pope. It may seem strange that twelve bishops should be mentioned in the body of the council, and yet but eleven names of bishops should actually be subscribed; but this difficulty will vanish upon this rational supposition, viz., that this copy was taken upon the spot by Beornmod, now bishop of Rochester, who thought it needless to subscribe his own name to a paper taken for the information of his own private memory. It would be no great difficulty to account for the confusion made by the monk, from whose copy Sir H. Spelman published his edition of this council. I think it sufficient to have shewed the reasons why that seems not genuine, and why this does. And it is some satisfaction to me, that I can gratify my reader with so considerable a monument of antiquity as this, by which the primacy of the whole province was finally fixed at Canterbury.

A.D. DCCCIII.

LATIN.  
Cot. MS.  
Aug. 11, 56.  
Sir H.  
Spelman,  
vol. i. p.  
324.  
[Wilkins,  
vol. i. p.  
166.]

GLORY to God on high, peace on earth to men of good will. We know (what is notorious, but what seems not at all pleasing to many who dwell in the nation of the English, that faithfully trust in God) that Offa, king of the Mercians, in the days of Janbert, archbishop, presumed by very indirect practices to divide, and cut in sunder the honour and unity of the see of our father St. Augustin, in the city of Canterbury; and how after the death of the said pontiff, archbishop Athelard his successor, by the gift of divine grace, after several years happened to visit the apostolical thresholds, and Leo, the blessed pope of the apostolical see, in behalf of many rights belonging to the churches of God. He among other necessary negotiations did also declare, that the partition of the archiepiscopal see had been unjustly made: and the apostolical pope, so soon as he heard and understood that it was unjustly done, presently ordered an authoritative precept of privilege, as from himself, and sent it into Britain, and charged that an entire restitution of honour should be made to the see of St. Augustin, with all the parishes belonging to it, according as St. Gregory, the apostle and master of our nation, settled it, and that it should in all respects be restored to the honourable archbishop Athelard, when he returned into his country. And Kenulf, the pious king of the Mercians, brought it to pass.

1. And in the year of our Lord's incarnation 803, indiction the eleventh, on 4 id. of October, I Athelard, archbishop, with all the twelve bishops subject to the holy see of the blessed Augustin, in a synod which was held by the apostolical precepts of the lord pope Leo, in a famous place called Cloves-hoo, with the unanimous consent of the whole sacred synod, in the name of almighty God, and of all His saints, and by His tremendous judgment, we charge that neither kings, nor bishops, nor princes, nor any men who abuse their power, do ever presume to diminish or divide, as to the least particle, the honour of St. Augustin, and of his holy see: but that it always remain most fully, in all

respects, in the same honourable state of dignity as it now is, by the constitution of the blessed Gregory, and by the privileges of his apostolical successors, and as appears to be right by the sanctions of the holy canons.

2. And now, by the help of God, and of the apostolical lord pope Leo, I Athelard, archbishop, and other our fellow bishops, and all the dignitaries of our synod with us, do unanimously confirm the primacy of the holy see, with the standard of the cross of Christ. And we give this in charge, and sign it with the sign of the cross, that the see archiepiscopal from this time forward never be in the monastery of Lichfield, nor in any other place but the city of Canterbury, where Christ's church is, and where the catholic faith first shone forth in this island, and where holy baptism [was] first celebrated by St. Augustin. Further also, we do by consent and license of our apostolical lord pope Leo,<sup>d</sup> forbid the charter sent from the see of Rome by Pope Adrian, and the pall, and the see archiepiscopal in the monastery of Lichfield, to be of any validity, because gotten by surreption, and unsincere suggestions. Therefore we ordain, by canonical and apostolical monuments, with the manifest signs of the celestial King, that the primacy of the monarchy do remain where the holy Gospel of Christ was first preached by the holy father Augustin in the province of the English, and was from thence, by the grace of the Holy Spirit, widely diffused.

But if any dare to rend Christ's garment, and to divide the unity of the holy Church of God, contrary to the apostolical precept, and all ours, let him know that he is eternally damned, unless he make due satisfaction for what he has wickedly done, contrary to the canons.

<sup>d</sup> Lat. *Præscribimus aliquid valere*. If the verb will not bear this version, then *non* must be added.

These are the names of the holy bishops and abbots who confirmed the above-written charter, in hand-writing, at the synod which was at Cloves-hoo, with the sign of the cross, in the year of our Lord's advent 803.

N.B. The names here stand as in the Cotton MS. The number next following each name, shews the order in

which it stands in the copy of Sir H. Spelman. Where there is any considerable variation in the spelling, the name according to Sir H. Spelman's spelling is added immediately after the number; and after that the see to which every bishop belonged. Which is only in Sir H. Spelman's copy\*.

Aethelheardus, 1. Athelheardus, Archiep. gratia Domini Dorobernensis Civitatis, signum Stæ Crucis subscripsi.

Alduulfus, 2. Lychelfeldensis Ecclesiæ Episc. signum Crucis subscripsi.

UUerenberhtus, 3. Legorensis Civitatis Episc. &c.

Alcheardus, 9. Elmhamis Ecclesiæ Episc. &c.

Huuigerhtus, 7. Wigberht Sciraburnensis Civitatis Episc. &c.

Almundus, 8. Wintanæ Civitatis Episc. &c.

Osmundus, 11. Lundonensis Civitatis Episc. &c.

Eadulfus, 4. Syddensis Civitatis Episc. &c.

Deneberhtus, 5. Dænebreht, Wegorarensis Civitat. Episc. &c.

UUihthunus, 13. Weohtun, Seolesegia Ecclesiæ Episc. &c.

Tidfrithus, 10. Dammacæ Civitatis Episc. &c. (Fidfr. in Sir H. Spelman is a slip of the Press.)

UUlfheardus, 6. Herefordensis Civitatis Episc. &c.

————— 12. Wærmund, Hrofensis Civitatis Episc. &c.

Four priest-abbots are added in the Cott. MS. In Sir H. Spelman, there are several abbots and priests, and some deacons, subscribe after every bishop. But I take this singularity to be only the garnish of the monk who drew those false pieces. There are four priest-abbots subscribers in the Cott. MS. All these are put in the same paragraph with Werenbert, bishop of Leicester, in Sir H. Spelman. For Beomia in Sir H. Spelman, is only a mistake for Beonna, as it is in the Cott. MS. Though I omit the names of the abbots as of no use, yet I thought proper to give the name of the sees and bishops, for though the acts of this council, as published by Sir H. Spelman, are not genuine; yet the reader will scarce

\* [As in the preface so in this post-script, a confusion is made between two distinct documents. See above p. 294, note †, and Addenda A. D. 803.]



meet with a better list of the sees, as they were in this age. Alheard's see was Elmham in Norfolk, Wigbert's was Shirburn in Dorsetshire; Eadulf's was Sidnachester, or Hatfield\*, in Lincolnshire, (I think;) Denebert's was Worcester; Wihthun's was Seolsey in Sussex; Tidfrith's was Dumoc, or Dunwich, in Suffolk. The rest are obvious.

The scribe of Sir H. Spelman's copy put the date after the subscriptions, contrary to the common form. But the date itself is the same with that in the Cott. MS. 4 id. Oct. 803.

There is another act of this council, or rather of a committee of it, extant in Sir H. Spelman, p. 326, whereby the bishop of Worcester has two half procurations granted him every other year, in two monasteries, which the bishop of Hereford alleged to be situate in his diocese. Another controversy was here determined, between Werenbert, the bishop of Mid-England, above styled the bishop of Leicester, and Eadulf, bishop of Hatfield †, above called Syddensis, Ep. Another between Wigbert of Shirburn, and Almund of Winton. The archbishop and seven bishops subscribe. A memorial of the first of these acts was entered into a book of the church of Worcester ‡: and this is a standing proof that a council was held at Cloves-hoo, and at the date above mentioned. See Sir H. Spelman, vol. i. p. 327.

A half procuration (*pastus*, in the Latin) was, I conceive, entertainment for the day only: a whole procuration, for the day and night too, for the bishop and all his retinue.

\* [Eadulf was bishop of Sidnachester, which was certainly in Lincolnshire, and was probably Stow, near Lincoln, (see above p. 283 note †), but the mention of Hatfield in this place seems to be a mistake arising from the words 'Aulfus Hatfeldensis præsul' in the abridged charter; Spelman, p. 326, quoted below, for which the original document, as printed in Cod. Dipl. No. 184, has 'Aldulfus Licetfeldensis præsul.']

† [See last note.]

‡ [The words of Sir H. Spelman's note are, *Reperio inter analecta plurima libri ecclesiæ Wigornensis hanc notam e charta quadam donationis eidem ecclesiæ*

*in hoc concilio corroboratæ, viz. fol. 23. Æthelheard Archiepiscopus, Aldulph, Werenberht, Eadulf, Deneberht, Alheard, Tidferth, Wigberht, Episcopi subscripserunt at Clofeshoum, Anno 803. Indictione xi. Anno 7. Cenwulf Regis Merciorum, die 4 Iduum Octobrium, feria 5. Spelm. Conc., vol. i. p. 327. This memorandum agrees fully with the signatures and date of the charter last quoted, as printed at length Cod. Dipl. No. 184, from MS. Cott. Tib. A. xiii. f. 22, b; but in the abstract of the same charter, Spelman, p. 326, Wilkins, p. 168, the order of the names is changed and the day of the month and week is omitted.]*

## A.D. DCCCXVI.

### WULFRED'S CANONS AT CEALCHYTHE.

LATIN.  
Sir H.  
Spelman,  
vol. i. p.  
327.  
[Wilkins,  
vol. i. p.  
169 \*.]

IN the reign and government of our Lord Jesus Christ, who disposes of the world in equity, whose power penetrates through heaven and earth, and every creature, and who does and determines every thing, above and below, at the command of His Father, and by the grace of the Holy Spirit, and in the year of our Lord's incarnation, 816, the ninth of the indiction, by the Lord's permission this synod was assembled on the sixth day before the cal. of August, at a famous place, called Celichyth, Wulfred the archbishop presiding, and the other southern bishops of the English sitting by; that is, Beornmod of the church of Rochester, Ethelwulf of Selesege, Wigthign, and Wigbert of the West-Saxons, Dæneberht of the Wiccians, also Wulfheard the prelate of Hereford, together with Heremmius † and Rathunus, the most reverend bishops of the Mercians; and moreover Eadulf of Lindsey ‡, and the honourable bishops of the East Angles, Sibbane and Tidfrith, and Ethelnoth bishop of the city of London: farther, it was in the twentieth year of Kenulf, king of the Mercians, who was then present with his princes, dukes, and grandees; while the presidents of the sacred order [were] treating with the abbots, priests, and deacons, concerning what was necessary and useful for the churches.

1. We expounded the catholic faith, and the orthodox Christian rule, and the canonical precepts, which, as we have been

\* [Ex MS. Cott. Vespas. A. 14. f. 147.]

† [Hereuuino, W.]

‡ [insuper Eaduulfo, Lindisfarorum episcopo.—S. W. Johnson had translated 'Eadulph of Lindisfarn,' but in his addenda wrote the following correction; "In Latin preface to this council read 'Eadulf bishop of Lindsey,' or Lincoln, so Lindisfarorum often sig-

nifica. The great similitude of names occasioned this mistake." Eadulf was bishop of the 'Lindisware' or inhabitants of Lindsey, (the north-east part of Lincolnshire,) and his see was at Sidnachester, (see above p. 283, note †); Lindisfarn was Holy Island, lying off the extreme north coast of England. Cf. Chron. Sax. ed. Gibson, Nom. loc. expl., p. 36. Rask. Gr. 104. 295.]

taught, were ordained by the holy fathers. We declare ourselves willing to keep them all diligently, inviolate, uncorrupted; and to teach, instruct, and confirm others in the same, that by this means we may deserve forgiveness of our sins\*.

2. When a church is built, let it be consecrated by the bishop of its own diocese; let the water be blessed and sprinkled by himself, and [all things] be thus accomplished in order, according to the ministerial book; 'afterwards let the Eucharist, consecrated by the bishop in the same ministration, be laid up in the same repository, with the other relics in the 'royal house; and if he can find no other relics, this may serve as well, because it is the body and blood of our Lord Jesus Christ†. And we charge every bishop, that he have it written on the walls of the oratory, or in a table, as also on the altars, to what saints both of them are dedicated.

\* Here the eucharistical symbols are set on a level with the relics of saints, and scarce that neither. For if relics could be found, they were necessary for the consecration of a church; and they that could not find them could make them.

† Lat. *Basilica*, church.

3. That a settled unity, and devout inward peace and charity, remain amongst us; that all have but one will, in deed, and word, and judgment, without flattery or dispute, because we are fellow-servants in one ministry, fellow-workers in one building, members of one body, of which Christ is head; therefore it becomes us, as we are joined together in one Spirit, by faith and love, to keep our words and actions free from dissimulation, in the fear and love of God Almighty, and diligently to pray for each other, that by this means we may deserve to receive a crown, which God hath promised to them that love Him.

4. That every bishop have power of electing the abbots

\* [ut per hoc mereamur nostrorum percipere indulgentiam peccatorum. S. W.]

† [Postea Eucharistia, quæ ab episcopo per idem ministerium consecratur, cum aliis reliquiis condatur in capsula ac servetur in eadem basilica. Et si alias reliquias intinere non potest,

tamen hoc maxime proficere potest quia corpus et sanguis est Domini nostri Jesu Christi. W. Spelman's text is the same except 'tam' for 'tamen,' which however does not justify Johnson's translation, or the observation in his note.]

and abbesses in his own diocese, with the consent and advice of the family; and let diligent enquiry be made by all, that the innocency of such an one [as is to be chosen] be freed from all imputation of capital crimes; that is, that he be not defiled with homicide, or begetting children, or with grievous public theft; but that he have led his life regularly, and within the cloisters of a monastery. [Let him be] prudent, and acute in speech, lest the flock committed to him [suffer] for his <sup>s</sup>folly and silence\*: and let the bishop look to it, lest he be chosen out of favour, or affection, or for a sum of money, or out of greater respect to kindred than ought to be, <sup>h</sup>nor [let it be done] at all without the consent of the family, nor let the family [do it] without consent of the bishop; but let them set about it conjointly and orderly, in all respects.

\* I read *insipientiam*, not *instantiam*.

<sup>h</sup> For *hæc* I read *nec*, and presently after for *increpare* I read *inceptare* †.

5. That none of Scottish extract be permitted to usurp to himself the sacred ministry in any one's diocese; <sup>1</sup>nor let it be allowed such an one to touch any thing which belongs to those of the holy order, nor to receive any thing from them in baptism, or in the celebration of the Mass, or that they administer the Eucharist to the people; because we are not certain, how, or by whom, they were ordained. We know how it is enjoined in the canons, that no bishop or presbyter invade the parish of another without the bishop's consent: so much the rather should we refuse to receive the sacred ministrations from other nations, where there is no such order as that of metropolitans, nor any regard paid to other [orders] †.

<sup>1</sup> The Latin here is very odd; *Negue ei consentire liceat ex sacro ordine aliquod attingere, vel ab iis accipere in Baptismo, aut in celebratione Missarum, vel etiam Eucharistiam populo præbere.* I translate almost according to the letter, and suppose that Scots are forbidden to attend the priest that celebrates, or to do any thing that belonged to those in the inferior orders, in the administration of these sacraments.

\* [Prudens et acutus in sermone ne per ejus insipientiam (MS. instantiam,) et taciturnitatem pereat grex ei commissus. W.]

† [So Wilkina.]

‡ [cum quibus nullus ordo metropolitanis nec honor aliquis habeatur. W. Spelman read 'alii,' not 'aliquia.']

<sup>1</sup> Lat. *Nullus ordo metropolitanis*, I read *metropolitanus*. It is well known there was no metropolitan in Scotland till after the middle of the 15th century, when St. Andrew's was created into an archbishopric. Nay, their bishops had no distinct dioceses before the middle of the eleventh century.

[I am sensible that after dioceses were settled in Scotland, the bishop of [Addenda.] St. Andrew's was always esteemed the first bishop of that kingdom: and in the letter written to Eadmer (who was nominated to that see, but never possessed of it) by Nicolas, prior of Worcester, about the year 1123, it is said that the bishop of St. Andrew's was *summus pontifex Scotorum*, (*Anglia Sacra*, vol. ii. p. 235,) yet he never had the power of a metropolitan till the year 1472, when Patrick Graham, then bishop, first obtained the pall, as his successor Spotswood testifies in his *History of the Church of Scotland*, p. 58\*. It is true, the Scots in Ireland had not yet archbishops; but it is most reasonable to understand this canon of the Scots in North Britain.]

6. That the judgments of bishops which have been confirmed by us or our predecessors by a synodical decree, be not infringed, but remain firm and irrefragable. And in all cases, whatever has been corroborated with the sign of the cross, we charge that it remain in full force. And <sup>1</sup>if perad-<sup>1</sup> [Nisi.] venture any king, or prince, account the hand-writing of his ancestors as nothing, and stick not to alter or cancel it; may he and his heirs be paid in their own coin, as it is written, "with what judgment ye judge, ye shall be judged." If any <sup>2</sup>one be summoned to synod by his plaintiffs, and do not delay <sup>2</sup> [Mat. vii.] to meet them at the first, second, or third call, being ready to give an account [of himself,] but the plaintiff flinches, and delays to open his cause, we will give sentence that nothing farther be demanded, but let him be content with his own.

7. That it be not lawful for bishops, nor abbots, nor abesses, (who receive the government and territories of monasteries, to be preserved by them,) to diminish the estates of their churches, nor to grant away the inheritance of them, for any longer time than for one man's life, (and this with the consent and licence of the family,) that it may again be restored to the church. And notwithstanding [the demise] let the original grants, with the other written evidences, be preserved, lest they endeavour afterwards to raise scrupulous contradictions; for it is very dangerous for those who are

appointed to be guardians and defensors of convents, to give or take away what is granted to others for the health of their souls to God, and the rest of the holy ones\*, as their proper inheritance, unless a just cause require it, as relief against famine, or against the depredations of the <sup>k</sup> army, or for obtaining liberty. Otherwise let [the estate] be kept entirely undiminished, lest [the monks] run the risk of perishing by poverty. Let every one rather be content with his own; and give that to those who are, or who are not akin to them, according to their merits.

\* The army, in the writers of this age, commonly signifies the Danish forces, which first infested our coasts, A.D. 787†. A council was called to put a stop to this, at Finchall, in the bishopric of Durham, 788, and in A.D. 833 another at London‡.

8. Let the monasteries which have been once dedicated with the advice of the bishop, and in which the regular life is settled, and an abbot or abbess blessed by the bishop, remain so for ever, as also the things which belong to it; unless they cannot continue inviolate by reason of poverty, through the rapacity of seculars<sup>1</sup> ————— that the bishop, with his authority, do rather defend the flock of Christ, than let them be swallowed as a prey by the jaws of wolves. And we charge this to be done for the great necessity of the family ——— where the regular life is, upon examination, found to have been first settled ——— The election of abbots and abbesses, and the consecration of them by the — of the bishops ——— and that they be not henceforth, in any respect, made the property or habitation of seculars. Let no one think this point now newly ordained by us. Let none think it a trouble to find it in the synod of <sup>m</sup> Chalcedon§, if he desire it: therefore by our authority we confirm it:

\* [et sanctorum reliquiis, W. Spelman reads 'reliquis.']

† [Chron. Sax. p. 64.]

‡ [cf. Wilkins, vol. i. p. 153, 176.]

§ [The two canons to which Johnson refers as being the source of the above passage are,

15. Παρθένον εαντήν αναθείσαν τῷ δεσπότη Θεῷ, ὡσαύτως δὲ καὶ μονάζοντα, μὴ ἐξίνα γάμω προσομιλεῖν. εἰ δέγε εὐθεδίην τοῦτο ποιοῦντες, ἕστωσαν ἀκουσίητοι. Ἐρίσαμεν δὲ ἔχειν τὴν αὐ-

θεντίαν τῆς ἐν' αὐτοῖς φιλανθρωπίας τὴν κατὰ τόπον ἐπίσκοπον.

κδ'. Τὰ ἅμαξ καθιερωθέντα μοναστήρια κατὰ γνώμην ἐπίσκοπου, μένειν εἰς τὸ διηκεῖς μοναστήρια, καὶ τὰ προσήκουσα αὐτοῖς πράγματα φυλάττεσθαι τῷ μοναστηρίῳ καὶ μηκέτι δύνασθαι γίνεσθαι ταῦτα κοσμικὰ καταγόνια· τοὺς δὲ συγχωροῦντες τοῦτο γίνεσθαι, ὑποκείσθαι τοῖς ἐκ τῶν κανόνων ἐπιτιμίαις. Chalcedon. A.D. 451. Actio xv. c. 16. 24. Concil., tom. vii. p. 365 A. 368 D.]

and in the name of Almighty God, we charge it to be observed, as we find it ordained in ancient canons, and as we have learned it to be enjoined by apostolical men in the beginning of the primitive Church \*. But if any priest, deacon, clerk, or handmaid of the Lord, dare despise this our mandate, or the institutions of apostolical men, and to set them at nought; let them know that they are deposed from their degree, and sequestered from all participation with the Church of God, and anathematized from the communion of all the elect; and that they are to render an account at the day of judgment, before the tribunal of our Lord Jesus Christ, unless they will first make amends, by humble satisfaction.

<sup>1</sup> The following clauses of the text being very much corrupted, I cannot entirely enter into the sense, much less into the coherence of them; therefore I translate so much only as seems to me intelligible, and put the Latin here in the margin: *Indicabimus episcopo cum sua auctoritate magis licuisse ovile Christi defendere, quam luporum faucibus in prædam dimittere. Et hoc fieri præcipimus pro magna necessitate familia, ne ex cupiditate avaritiæ causa intelligatur. Ac etiam † ubi investigatur primitus constituta regularis vita, et in ea electione; abbatum, vel abbatissarum, et eorum consecratio a suorum episcoporum §, nec ultra ullatenus fieri dominium, nec habitatio secularium ¶.*

I am inclined to think that it may fairly be concluded that monasteries formerly possessed by laymen, or at least, governed by them, were now wholly resigned to religious men; and that this is fully intimated in the last clause, and by what follows.

<sup>2</sup> See Canon 16, 24. Chal. in the second part of the *Vade-mecum*. The printed word is *Calcidanese*; but Sir H. Spelman hath justly observed that the synod of Chalcedon is here meant.

9. We enacted in this synod aforesaid, that every bishop ought to set down the judgment decreed in every synod, or that concerns his parish. We also ordain that he do discreetly, and according to order, set down what year of the Lord it is, according to computation, and by what archbishop, and other bishops sitting with him, the judgment was devised and confirmed; lest any man in his parish, whose cause has

\* [Here follow these words in the Latin, omitted in the translation; Sic ea regula et observantia, monastica sua disciplina et ecclesiastica jura sine macula observare præ-

cipimus. S. W.]

† [attamen, W.]

‡ [electio, W.] ;

§ [a suis episcopis, W.]

¶ So W. except in words noted below.

been rightly adjudged, do by false fictions and wicked fraud decline the sentence; but that it may always remain firm and immoveable by the evidence\* of the archbishop and the bishop, of whose diocese he is; who is to take one copy of it to carry to his see, and he who is concerned in the sentence, another; that no tricks of iniquity may be made use of †.

10. And we firmly ordain it to be observed in our times, as well as those of our successors, who may in any future times be ordained in the sees in which we now are; that when any bishop passes out of the world, then according to our precept, a tenth part of his substance be given for his soul's sake, in alms to the poor; of his cattle and herds, of his sheep, and swine, and also of his provisions within door, and that every English man [of his] who has been made a slave in his days be set at liberty, that by this means he may deserve to receive the fruit of retribution for his labours, and also forgiveness<sup>1</sup> of sins. Nor let any person oppose this point, but rather let addition be made to it by successors as it ought: and let the memory of such an one be always kept and honoured in all Churches, subject to our jurisdiction, with divine praises. [As soon as a bishop is dead] let prayers and alms forthwith [be offered] according to what is agreed among us, viz., That at the sounding of the <sup>a</sup> signal in every church throughout our parishes, every congregation of the servants of God, meet at the royal house ‡, and there sing thirty Psalms together for the soul of the deceased; afterwards let every prelate and abbot sing six hundred Psalms, and cause one hundred and twenty masses to be celebrated, and set at liberty three slaves, and give three shillings to every one of them, and let all the servants of God fast one day: and for thirty days, when the canonical hours are

<sup>1</sup> [indulgentiam.]

\* [in conscientia. S. W.]

† [ne in posterum aliquod scrupulum iniquitatis applicetur. S. W.]

‡ [ut statim per singulas parochias in singulis quibusque ecclesiis, pulsato signo, omnis famulorum Dei castus ad basilicam conveniat.—S. W. The meaning would be better expressed thus, "that straightway, throughout the several dioceses, in all the several churches the signal having been beaten, the whole company of God's servants come together to the church." That

'parochia' was the usual word for the district of a bishop, answering to the present meaning of diocese, may be seen in the next canon, and above, p. 91, 93, 167, 188, 9. The 'basilicæ' among the Romans were the public halls or courts of judicature, which about the time of Constantine began to be used for Christian assemblies, and hence 'basilicæ' came to be a general name for 'churches' in after ages. See Bingham's Antiquities, Bk. viii. c. 1. § 5.]



finished in the assembly, let seven ° belts of Pater-nosters also be sung for him : and when this is ended, let his *obit* be renewed on the thirtieth day, as the Apostles use to be on their birth-day ; and let them act with as much fidelity in this respect in all Churches, as they do by custom for the ° faithful of their own family, by praying [for them] \*, that by the favour of common intercession, they may deserve to receive the eternal kingdom, which is common to all saints.

\* I think it is allowed that bells were used in England a pretty while before this ; but it is not certain that they were universally in all churches, as at present. This is no proof of the use of them ; for the Latin word here used is *signum*, which may signify no more than a board, or iron plate with holes, to be knocked with a hammer, which is retained still among the Greeks.

° VII. *Beltidum Pater noster*. This seems to imply that they had, in this age, a certain number of studs fastened into their belts or girdles, which were then used, as strings of beads now are, by the Papists, for the numbering of their prayers ; but with this difference, that the studs were all of one size, and that every one of them stood for a *Pater noster* ; whereas the modern fashion is to have ten lesser beads, which stand for *Ave Marias*, to one larger, which stands for a *Pater noster*.

† Lat. *Pro eorum domestica fidei*.

11. That (as it is found in old times by tradition from ancient fathers) it be unlawful for any bishop to invade the parish of another †, or to draw any ministrations to himself, which belongs to another, in the consecration of churches, or of priests, or deacons, excepting only the ° archbishop, because he is the head of his own bishops. But let others be content with their own, or [act] with the license and consent of the bishop, in whose diocese they minister. If any one transgress in this respect, let him make satisfaction accord-

• [et xxx. diebus canonicis horis expleto synaxeos, et vii. beltidum Pater noster pro eo cantetur ; et hoc expleto, tricesima item die obitus sui tam bene reficiantur, sicut in cujuslibet apostolorum natali die refici soleant, et per omnes ecclesias tam fideliter pro eo agant, sicut moris habeant pro eorum domestica fidei exorando facere. W. The word 'beltidum' is here obscure, for both Spelman and Ducange in their glossaries refer only to this passage ; and the latter says that rosaries were not in use at this time ; but the transla-

tor has certainly mistaken the meaning of the next clause, which should thus be rendered, " And this having been fulfilled, let them also on the thirtieth day of his obit, be as well served in the refectory as they be wont to be served on the birth-day of any one of the apostles."—Cf. Ducange, *Gloss. art. obit*. 'Pro eorum domestica fidei' is clearly the right reading and is rightly translated by Johnson. Cf. *Gal. vi. 10*. Vulgate.]

† [See above p. 91.]

ing to the judgment of the archbishop, unless he be willing first to be reconciled to the proper bishop of the diocese.

\* By this it should seem, that the archbishop had not only a visiting authority over his suffragans in this age, but likewise a concurrent authority to be exercised at discretion; otherwise he could not have consecrated churches, or ordained clergymen, that were not of his diocese.

And we give the same in charge to priests, that no one covet more business than is allowed him by his proper bishop, excepting only in relation to baptism and the sick: but we charge all priests, that they deny nowhere to perform the ministry of baptism; and if any one do refuse it through negligence, let him cease from his ministry, till the time of correction, and that he be reconciled to his bishop by humble satisfaction. Let priests be taught when they minister baptism, not to pour water on the heads of the infants, but that they be immersed in the font; as the Son of God hath in His own person given an example to all the faithful, when He was thrice immersed in Jordan. In this manner it ought to be observed.

[Post-script.]

These Latin councils at Cloves-hoo and Cealchythe, are but sad proofs of the want of learning here in England, in these ages; they have suffered much by the ignorance and negligence of transcribers; but in such parts of them as are not liable to any suspicion of misreadings, the style is barbarous, full of redundant, not to say insignificant words, with a strange neglect of the rules of the syntax, and even of concords. It would have been endless to have taken notice of all these errata in my notes, or to observe every superfluous word, or trespass upon Priscian: nor ought any one to affect a fine translation of such uncorrect originals.

I cannot but observe to my reader, that we are informed of four synods, in the four year's reign of Beornulf, king of the Mercians. Of two of these we have an account from ancient MSS. \* In that held A. D. 822, or rather 823, Wulfred complains of great injuries done by Kenulf to him and his see. For all which Beornulf and Cendryth, son and

\* [Spelman, vol. i. p. 332—5; Wilkins, vol. i. p. 171—5; compare Kern-ble's Saxons in England, vol. ii. p. 249.]

daughter to Kenulf, make satisfaction. But it is complained of, among other things, that not only archbishop Wulfred was deprived of his original authority, but that the whole nation wanted the ministration of baptism for almost six years together. I conceive there is no account of any interdict so ancient as this, nor yet so severe: for baptism is allowed to children, even when their parents are under interdict by the canon law. Yet it should seem that the pope was the author of this interdict: because it is said to have been done by means of the accusations and discords which the king caused; and which were brought before the apostolical see. But the story is taken from an anonymous MS., Sir H. Spelman, p. 332\*. And it is scarce to be supposed that any but the pope should suspend or interdict the archbishop.

\* [The same document is printed as two MSS. in the Cotton Library and one genuine and of the date A.D. 825 from at Lambeth in Cod. Dipl. No. 220.]

A.D. DCCCLXXVII.

KING ALFRED'S LAWS ECCLESIASTICAL.

PREFACE.

COUNCILS of all sorts were rare in this age, (but especially synods for regulating and restoring the discipline of the Church) by reason of the frequent invasions of the Danes. They first infested our shores in the year DCCLXXXVII. \*, but grew more terrible still for almost an hundred years together, by intervals, and the efforts made against them were but feeble, excepting these of the two most religious princes whom this age produced; the first was Ethelwolf, who gave the tenth part of his lands to the Church: by this some understand the tithe of all his dominions; but I cannot believe that he would give what he esteemed to be the Church's before, and that by a divine right; he was a clergyman before he was a king, and we may be sure that his tutor, the famous Swithun, had sufficiently instructed him that tithes were not to be disposed of by kings, but were the grant of God to the clergy, and we are sure they had been paid and received several ages before, here in England: to give the tenth part of his land, when he had such urgent occasions for money to stop the progress of the Danes, was a sufficient testimony of his piety: (I say nothing of his giving the Peter-pence of Northumberland to the pope, for this was lavish superstition,) but what some would have thought a weakening of his power proved an increase of it: for he worsted the Danes in several battles. Next to him King Alfred put a stop to the Danish depredations, which yet they afterwards renewed. They were for many years so violent, that they did in effect extinguish not only law but religion, and reduced this nation to so great a degree of ignorance, that King Alfred declares when he came to the throne, he

\* [Chrou. Sax., p. 64.]

knew not one on the south side of the Trent that could construe Latin. But Alfred was a prodigy of a prince, who though he was of such a martial spirit, that he fought above fifty battles with the Danes, by land and sea, yet found time to spend in his books, and became one of the greatest scholars and divines in the kingdom. Plegmund, afterwards archbishop of Canterbury, Asserius, bishop of Shirburn, with Grimbold and John, his chaplains, taught him the Latin tongue. And he says with great satisfaction in his preface to his translation of Gregory's Pastoral, That he had now every where learned prelates.

The following laws could scarce be made before King Alfred's first league with the Danes, A.D. 876, because till that time he was wholly engaged in wars for the defence of his kingdom, and was sometimes reduced to great straits, and must have been made before his other laws upon Godrun's baptism, A.D. 878. See Sax. Chron. King Alfred's reign began A.D. 871, and ended 900.

SAXON.  
 Sir H.  
 Spelman,  
 vol. i. p.  
 354.  
 [Wilkins,  
 vol. i. p.  
 186.  
 Thorpe,  
 p. 20.]  
 [Exod.\*  
 xx. 1, 2.]

A. D. DCCCLXXVII.

THE Lord spake this word to Moses, and thus He said, I am the Lord thy God, I led thee out of the land of Egypt, and out of their bondage.

- [3.] 1. Love thou not other strange gods beside Me.
- [7.] 2. Call not thou on My Name in vain †: for thou art not guiltless before Me, if thou callest on My Name in vain.
- [8—11.] 3. Remember that thou hallow the day of rest: work thou six days, and rest thou on the seventh, 'thou and thy son, and thy daughter, thy man-servant, and thy maid-servant, and thy working beast, and the stranger that is within thy gates ‡, for in six days Christ made the heavens and the earth, seas, and all creatures that are in them; and He rested on the seventh day, and therefore the Lord hallowed it.
- [12.] 4. Honour thy father, and thy mother, whom the Lord God hath given thee, that thou mayest be long lived § on the earth.
- [13.] 5. Slay thou not.
- [15.] 6. Steal thou not.
- [14.] 7. Lie not down clandestinely ¶.
- [16.] 8. Speak thou not false witness against thy neighbour ||.
- [17.] 9. Covet not unrighteously thy neighbour's possessions.
- [23.] 10. Make thou not gods of gold or of silver.
- [xxi. 1—6.] 11. These are the dooms which thou shalt appoint them,

\* ["It will be proper to observe that the Anglo-Saxon text is not as a whole a translation of the Vulgate, or of any other known Latin version." T. p. 25, note a. Mr. Thorpe takes the text of King Alfred's laws from a MS. in the library of Corpus Christi College, Cambridge, marked in the catalogue 173, (S. 11), with variations from another MS. in the same library, numbered 384; the Cottonian MS. Nero, A. 1, and the Textus Roffensis, (see above, p. viii. note a.) The first and last of these are the MSS. used by Wilkins.]

† [II. Ne minne nomæn ne cig þu

on iðelnerre, Utter not thou My name idly.—T.]

‡ [This part of the commandment is omitted by Thorpe as not in the MSS., though added by Lambard.]

§ [þy leng libbende, the longer living. T.]

¶ [In the order of these two commandments, 6, 7, Johuson follows Lambard; Thorpe gives them in the usual order.]

|| ['Against thy neighbour,' omitted by Thorpe, but given in Lambard's text.]

If thou buy a Christian servant, let him serve thee six years, the seventh year let him be free without pay: with such clothes as he came in, with such let him go out, *and so on, as in the Latin vulgar translation of Exodus xxi. 1—6; only instead of,* "his master shall bring him to the judges," (*Dis in the Latin*) Alfred says, "he shall bring him to the door of the temple," ver. 6, *and in the same verse,* "to my wife and children," *he adds* "my goods."

12. *Is* Exod. xxi. 7—11, *omitting the first and last clause of verse 8, the last clause of the ninth, the first of the tenth verse, and* "three," *and* "without money," ver. 11.

13. *Is* Exod. xxi. 12—14.

14. *Is* Exod. xxi. 15.

15. *Is* Exod. xxi. 16, 17.

16. *Is* Exod. xxi. 18, 19.

17. *Is* Exod. xxi. 20, 21, *and adds,* If he die the first day, then let guilt rest upon him.

18. *Is* Exod. xxi. 22, 23, *omitting,* As the woman's husband will lay upon him.

19. *Is* Exod. xxi. 24, 25.

20. *Is* Exod. xxi. 26, 27.

21. *Is* Exod. xxi. 28—32, *for thirty shekels King Alfred has,* thirty shillings.

22. *Is* Exod. xxi. 33, 34.

23. *Is* Exod. xxi. 35, 36.

24. *Is* Exod. xxii. 1, *only instead of five oxen, King Alfred says two oxen, and adds,* If he have none to give, let himself be sold for that price\*.

25. *Is* Exod. xxii. 2—4.

26. *Is* Exod. xxii. 5, *but thus varied,* If one do any the least damage to the vineyard or field of another, let him make satisfaction, according as men shall value it. *I read,* ꝥꝥa hit mon geeahtige †.

27. *Is* Exod. xxii. 6, *abridged.*

28. *Is* Exod. xxii. 7—12, *thus varied,* If one deposit goods

\* [Lif he næbbe hæst he yelle ꝥe he rely beoht ꝥð þam ꝥeo. If he have not what he may give, be he himself sold for the cattle. T.]

† [XXVI. Lif hpa geþeþe oðþer munner ꝥin-geaþb, oþþe hit æþþa,

oþþe hit landes aþuht, gebete ꝥa hit mon geeahtige.

26. If any one injure another man's vineyard, or his fields, or aught of his lands; let him make 'böt' as it may be valued. T.]

with his friend, and he himself make away with them, let him make twofold satisfaction. If he knew not who stole it, let him purge himself that he hath used no deceit. If it were living stock, and he say That the [*Danish*] army\* took it, or that it died of itself, and he have witness of it, then he ought not to make satisfaction; if he have no witness, and cannot prove it, let him take his oath on it.

29. *Is* Exod. xxii. 16, 17.

30. *Is* Exod. xxii. 18, *paraphrased*.

31. *Is* Exod. xxii. 19.

32. *Is* Exod. xxii. 20.

33. *Is* Exod. xxii. 21.

34. *Is* Exod. xxii. 22—24.

35. *Is* Exod. xxii. 25.

36. *Is* Exod. xxii. 26, 27.

37. *Is* Exod. xxii. 28.

38. *Is* Exod. xxii. 29, *according to the vulgar*.

39. *Is* Exod. xxii. 31, *omitting the first clause*.

40. *Is* Exod. xxiii. 1, )

41. *Is* Exod. xxiii. 2, ) *paraphrased*.

43. *Is* Exod. xxiii. 3, )

42. *Is* Exod. xxiii. 4.

44. *Is*, Always avoid lying †.

45. *Is*, Never put to death the upright and innocent †.

46. *Is*, Take no bribes, for they full oft blind the judgment of the wise, and pervert their words<sup>1</sup>.

47. Allow not of any unkindness toward foreigners and strangers, nor molest them with injurious dealings<sup>2</sup>.

48. Swear not by heathen gods, and nothing, neither call upon them †<sup>3</sup>.

\* I have made no reflections on King Alfred's singular way of translating and transposing the Ten Commandments, and the judicial laws of Moses, for I thought it sufficient to shew the reader how the Scriptures were treated in this age. I have the rather been sparing of my censures, because I consider this preface as the work of an English king who had a

\* [þ hit hepe name, that the 'here' hath taken it, T. exercitus, W. This might mean not only the Danish army as suggested by Johnson, but any gang of robbers thirty-five in number or upwards. See above, Laws of King Ine, p. 135, first note.]

† [Exod. xxiii. 7 (Vulgate) 18, 29.]  
‡ [XLVII. Ne sƿerigen ge nāƿpe unben hæðene godas, ne on nanum þingum ne cleopien ge to him. Swear ye never by heathen gods, nor cry ye unto them for any cause. T. Exod. xxiii. 13.]



great zeal for Christianity ; a thing so rare, that wherever it is found in princes, it ought to be admired and venerated. In truth, had it not been for King Alfred in this age of war, confusion, and ignorance, there is just cause to suspect that Christianity itself had been extinguished here in England.

It is not easy to say, with what view King Alfred put this scriptural preface to his laws, if it were not to shew his great esteem for God's word. There is no hint given, that he expected his people should make the judicial precepts of Moses the rule of their actions, though he had, no doubt, this end in his eye, when he begins his preface with the Ten Commandments, and delivers them, as he had been taught at Rome, in his younger days, that the moral law of God should be known and practised by his people.

We know not by what steps and degrees the worshipping of images was introduced in this nation : but by this king's dealing with the second commandment, we may be sure it was now an established practice\*.

49. These are the dooms which God Almighty Himself spake to Moses, and enjoined him to observe.

† After the only-begotten Son of the Lord our God, that is, Christ our Saviour, came into the world, He declared He came not to break, or repeal these commandments, but to enlarge them with every thing that is good : and He taught mercifulness and humility.

Then after His passion, before the Apostles were to go through all the earth to preach, while they were yet all at one place, they converted many heathen people to God. Then while they were yet altogether, they sent messengers to Antioch, Syria, and Cilicia, to teach the laws of Christ. Then they understood what had happened to them †. Then sent they this epistle to them, who from being heathen, were become Christians.

The Apostles and elder brethren, wish you health, and give you to understand that we are grieved, that some of our companions came to you in our name, and heavily charged you to observe what we had charged you to observe § ; yet led you into error with various commandments, and rather turned your souls aside than set them right. Upon this we assem-

[Acts xv.  
23—29.]

\* [Compare Spelman, vol. i. p. 363, note, with Alford's Annals, vol. iii. p. 171—2. S. Aug. Op., tom. v. p. 41—8.]

† [Here begins the old Latin version. See Thorpe, p. 491.]

‡ [Ūa hi Ūa ongearon ꝥ him belampe, Cum hi resciscerent quid illis acciderit,

W. Ūa hie ꝥa ongearon ꝥ him ne rpeop, But when they understood that it speeded them not, T.]

§ [and have commanded you to observe a heavier rule than we commanded them, T.]

<sup>1</sup> [tasting,  
T.]  
[Mat. vii.  
12.]

bled ourselves, and with unanimous approbation, we have sent to you Paul and Barnabas, men that are willing to offer their souls for the Lord's sake; with them we have sent Judas and Silas to tell you the same thing. It seemed good to the Holy Ghost, and us, that we would lay on you no burden, but such as was necessary for you to keep; that is, that ye forbear to celebrate devil-worship, and from eating<sup>1</sup> blood, and strangled, and from clandestine copulation, and that ye do not that to other men, which ye would not that they should do to you: a man ought to consider this doom that he may determine every thing aright, and he needs no other. Let him resolve not to pass such a sentence on others, as he should be unwilling another should pass on him, if he undertook to judge him\*.

Afterwards it came to pass, that many people received the faith of Christ, then were many synods of holy bishops, and other famous wise men through the whole earth, and also among the English, after they had received the faith of Christ. Then they, out of that tenderness which Christ taught towards the greatest crimes whatsoever decreed, That secular lords might with their leave take pecuniary mulcts, at their appointment (\* with a reserve to the sin † [itself] and the principal guilt) excepting for 'treason against their lord. Toward that they durst not shew any tenderness, because God had decreed none to such as despised Him; nor did Jesus Christ the Son of God decree any toward him who betrayed Him to death. And He has commanded to love one's master as one's self. These men in many synods have settled the satisfactions [due] for many human crimes, 'and they have, in many synodical books, commanded to be writ down, in what case [there shall be] one doom, in what another †.

\* ['Let him remember that he adjudge to no man that which he would not that he should adjudge to him, if he sought judgment against him.' T.]

† [This interpretation is not followed by Wilkins, who renders *butan rýnne* 'absque crimine,' and the whole sentence is thus edited and translated by Thorpe, *Die þa gæretzon for þære mib-heortneffe þe Lpirt læpðe, æt mærcra hpelcpe mirðæbe, þ þa porulb-hlayopðar moztan mib biopa*

*leasfan, buton rýnne, æt þam forpan gýlce þære riob-hote onron þe he þa gæretzan, buton æt hlayopð-rcæppe.* "They then ordained, out of that mercy which Christ had taught, that secular lords, with their leave, might, without sin, take for almost every misdeed, for the first offence, the money-'bôt' which they then ordained; except in cases of treason against a lord."—]

† [γ on monega renoð-bec hix pmiton hræp ænne dom hræp oðernæ. And in many synod-books they wrote, at one

\* This seems to me to be the sense of these words, with submission to better judgments; the meaning is, that the bishops notwithstanding their consenting to these mulcts, yet retained to themselves and the priests the power of enjoining penance, and giving absolution from the crime, as it regarded the conscience of the offender.

† Yet in the fourth of the following laws, as they stand in Lambard, (for you have here only the ecclesiastical laws,) there is mention of the king's weregild: It was a sum of old fixed and determined, and well known, and to be paid by the relations if the traitor made his escape, or if he appeared, as a fee, necessary in order to get admission to a purgation: the words of law the fourth are, in English, If he will purge himself, let him do it for the king's weregild\*.

Then I Alfred the king made a collection of them, and commanded many of them which our predecessors had observed, [and] which I approved, to be transcribed; and those which I approved not, altered, with the advice of my counsellors, and commanded them to be observed in another manner; for I durst not presume to set down in writing very many of mine own, because I know not what would please them that were to be after us. What I found in the days of Ine my kinsman, or of Offa king of the Mercians, or of Ethelbert, (who first of the English nation received baptism,) which seemed to me most righteous, I have here collected, and passed over the rest. Then I Alfred, king of the West-Saxons, shewed them to my counsellors, and they declared that they approved the observance of all of them.

\* The laws of Offa seem to be lost.

place one doom, and at another another. T.]

\* [Mr. Thorpe gives the same text of King Alfred's fourth law as Lambard, *Archænomia* p. 23, 4, and translates it thus:

Of plotting against a lord.

4. If any one plot against the king's life, of himself, or by harbouring of exiles, or of his men; let him be liable in his life, and in all that he has. If he

desire to prove himself true, let him do so according to the king's 'wergild.' So also we ordain for all degrees, whether 'ceorl' or 'eorl.' He who plots against his lord's life, let him be liable in his life to him, and in all that he has; or let him prove himself true according to his lord's 'wēr.' *Ancient Laws, &c.*, p. 28, 9; see also p. 79, 80, 133.]

THE LAWS ECCLESIASTICAL OF KING ALFRED,  
SEPARATED FROM HIS CIVIL LAWS.

[SAXON.  
Sir H.  
Spelman,  
vol. i. p.  
364.  
Wilkins,  
vol. i. p.  
191.  
Thorpe,  
p. 27.  
LATIN,  
V. A. p.  
492.]

1. FIRST, we teach what is most necessary, that every man strictly observe his oath and covenant. If a man be wickedly bound either to treason against his lord, or to support wrong, then it is more righteous to break one's word than to fulfil it. If one covenant to do what is righteous and then falsify, then let him resign his arms, and his estate, to be kept by his friends, and be a prisoner for forty nights, in the place of royal residence, and do such penance as the bishop enjoins him, and let his kindred feed him 'if he want meat\*. If he have no kindred, or they† have no meat, let the king's reeve feed him. If he must be compelled by force, or else will not [comply] then if he be overpowered, let him forfeit his arms and his estate; if he be slain, let him lie without any wergild. If he run away before the time assigned by law, [be expired] and be taken, let him be outlawed, and excommunicated from all the Churches of Christ. 'If he have any surety, let satisfaction be made for breach of suretyship, as the law directs; and for †breach of covenant, as the shrift shall require †.

\* This is very observable, that he who was surety for the good behaviour of another, in relation to the State, was also answerable to the Church, so far as to pay any forfeiture incurred by the principal, for acting contrary to good conscience.

2. If any one betake himself to the †minster-house, for any

\* [gif he feþ meze næbbe, if he himself have no food, T.]

† [oþþe þone meze næbbe, or have no food, T. Rather, 'or have not the food.']

‡ [Lif þær þonne oðer menniyc boþh ꝛe, bete þone boꝛg-þꝛýce ꝛpa him nýht ꝛiꝛe, ⁊ þone weð-þꝛýce ꝛpa him lif ꝛeꝛiꝛt ꝛeꝛiꝛe. If however, there be another man's 'borh,' let him make 'bōt' for the 'borh-bryce,' as the law may direct him, and the 'wed-bryce,' as his confessor may prescribe

to him. T.

"According to a well-known rule of law, if the defendant made default, the borhs or sureties were amerced by the court; and this fine he is here directed to make good. For the wed or gage he was bound by an oath, the *fopeað*, *præjuramentum*, which occurs hereafter, in person; and perjury being a matter of ecclesiastical cognizance, the censure was to be fixed by the Church." *Ancient Laws, &c.*, p. 27. note b.]

open crime whatsoever, which does not concern the king's estate, or 'some honourable family favoured [by the king\*] let him have the time appointed by law, of three nights to provide for himself except he will compound. If any one distress him during the appointed time, by slaying, or binding, or wounding him, let satisfaction be made by weregild, or mulct †, for every one of these in due form, and with one hundred and twenty shillings to \*those of the family, as a satisfaction for breach of the Church's peace ‡.

[Brompton's Latin, and the copy of these laws in *Textus Roffensis* omits [Addenda.] 'non' or 'ne,' and the sense runs clearer without it: therefore for 'does not concern,' read 'concerneth.']

\* It is certain, that religious houses had particular apartments, for the accommodation of those that were in sanctuary: for they were not permitted to eat, or sleep, much less to do other natural actions in the church itself: though *Wynstet hama*, may signify Church protection.

† *Uþerne sƿone hýpēð ðe sƿurpþ ƿý.* John Brompton's Latin version is, *Alteri commodo deserviat et venialis sit §.* It is probable, the copy from

\* [II. *Lij hpa þara mynstet-hama hpelcne for hpelcpe ƿýlþe, geƿece þe cýnnger feorm to-belumpe, oþþe oþerne sƿone hiepeð þe ap-ƿýpþe ƿe,* If any one for whatever crime, seek any of the 'mynster-hama' to which the king's 'feorm' is incident, or other 'free-hired' which is worthy of reverence.—T.

Wilkins with Lambard and Spelman reads, *þe ne cýnnger ƿeome to-belumpe,* and interprets 'quæ ad regis firmam non pertinet.'

Mr. Thorpe in a note on this obscure passage says, "I prefer the insertion of 'ne' as in Lambard, conceiving the sense to be as follows: 'If any one, &c., seek any of those monastic domiciles which are free from the king's 'feorm' (or purveyance), or any other free fraternity,' &c. Such mynster-hams as were burdened with the king's 'feorm' having apparently had the privilege of granting an asylum for a longer space than three days." T.]

† [*Le mð ƿeƿ ge mib ƿice,* as well with 'wēr,' as with 'wite.' T.]

‡ [The MSS. add, *ƿ næbbe hƿagne ƿoppongen,* and let him not have 'forfongen' his own. T. Upon the difficulties of this clause, which is not in Lambard's edition, see Thorpe, p. 28, note a.]

§ [This Latin version of the Anglo-Saxon laws, which begins with the

second sentence of the forty-ninth item of King Alfred's preface, 'Postquam natus,' &c., and ends with the laws of King Cnut, is in the chronicle of John Brompton, abbot of Jorval in Yorkshire, about A.D. 1198, and is printed from several MSS. in *Ancient Laws and Institutes*, p. 491, et seq. where Mr. Thorpe suggests 'venerabilis' for 'venialis,' which seems unnecessary, for probably the author of that translation understood the words *þe ap-ƿýpþe ƿe* of the fugitive or his fault in the sense 'that may be worthy of pity;' in some cases no pity was to be shewn, as may be seen above, *Answers of Ecgbriht*, A.D. 784, c. 14; *Bingham's Antiquities*, Bk. viii. c. xi. p. 3—8.

The whole Latin translation of King Alfred's second law runs thus,

"De confugio ad ecclesiam.

Si quis ad ecclesie mansionem, pro qualicunque culpa confugiat quæ ad firmam regis non pertinet, vel alteri commodo deserviat, et venialis sit, habeat trium noctium terminum cavendi sibi, nisi reconciliari quesierit. Si quis infra hunc terminum malignaverit eum, vinculis aut verberibus, emendet singulum eorum, secundum rectitudinem patrie, wera, wita; et ecclesie ministris cxx. sol. pro infractione pacis." Thorpe, p. 492.]

which that translation was made, differed from the present; and a small alteration will reconcile these words with that ancient version. But here it deserves our reflection, that so pious a king as Alfred should see a necessity of limiting the privileges of sanctuary, both as to the crimes for which it was allowed, as also in relation to the time granted to the malefactor to provide for his flight beyond sea. This time, which is here called *Fýrrt*, was by the canon law thirty days, and our first Christian princes were as large as any other, in their grants of this sort; but they soon found a necessity of retrenching. See Law § below.

\* *Ecclesiæ Ministris, Brompton.* Every church of old might be said to have a family, that is, a number of priests, or clerks, at least.

[Addenda.] [Textus Roffensis hath *þeoprcýpe* for *þeobrcýpe*, and so Brompton, or the author of the Jorval translation read it\*.]

3. If any man break suretyship with the king, let him make satisfaction for the wrong as justice directs; that is, with five pound of Mercian † money. Satisfaction for breach of suretyship with the archbishop, is to be made with three pound; with another bishop, or alderman, for two pound †.

[Addenda.] [Somner in his Dictionary renders *mæp-penninge*, 'merus nummus,' good money, not Mercian money.]

5. T. 4. We also decree, That every church hallowed by a bishop have this privilege, viz., If a \*foe run thither §, that no man for seven nights draw him from thence; if any man do, he incurs the penalty of breaking the king's protection, and the Church's peace (if he take more [men] from thence, the [penalty] is the greater,) if he can live for hunger, without fighting his way out ¶. If they of the <sup>b</sup>family have great

\* [Mr. Thorpe notices the variation of the Textus Roffensis, but reads and translates *mib þýhte þeobrcýpe* 'according to regular usage,' which agrees with the old Latin version in Brompton of Jorval, 'secundum rectitudinem patrie;' the words 'Ecclesiæ ministris' express the meaning of *þam hipum*, 'to the brotherhood.' See above, p. 148, note a, and p. 160, note 1.]

† [So Lambard and Spelman, both reading *mæpcna* in the margin, but Wilkins translates *mæppa peninga* 'bonæ monetæ,' which is probably the true meaning. See Thorpe, p. 28, note b.]

‡ [Mr. Thorpe's translation from the same text is,

Of 'Borh-bryce.'

3. If any one break the king's

'borh,' let him make 'bôt' for the plaint as the law shall direct him; and for the 'borh-bryce' with v pounds of 'mærra,' pence. For an archbishop's 'borh-bryce,' or his 'mund-byrd,' let him make 'bôt' with three pounds: for any other bishop's or an 'earldorman's' 'borh-bryce,' or 'mund-byrd,' let him make 'bôt' with two pounds.]

§ [Líf hie fah-mon geseþne oþþe geæþne, if a 'fah-man' (foe) flee to or reach one, T.]

. . . The words oþþe geæþne appear to have been originally a marginal gloss: they are not in Lambard's text. T.]

¶ *mæpe gýr he þæp mæpe of-gýro, gýr he for hungre libban mæge, buton he felf ut feohce. T. et amplius si forisfaciat amplius, si pro fame vivere possit, si non inde prelietur. V. A.*

occasion for the church, they may keep him in another house, so that it have not more doors than the church. Let the church-elder know, that no meat is to be given him, during this appointed time. If he be willing himself to surrender his arms to his enemies, let them keep him thirty nights, and then °offer\* him to his relations. The privilege also of the church is, that if any man betake himself to a church, for any crimes whatever, that were before unknown, and there confess them in God's Name, half [the mulct] be forgiven him.

\* One that denied to do satisfaction for the wrong he had done to another. See Law 19. Such as these had the ancient full privilege of sanctuary, their offences not being committed directly against the king or government.

[Textus Roffensis saith *geþyne obbe gearn.*]

[Addenda.]

† See note z, in Law 2.

\* They were to offer their prisoner to his friends, that if they would make satisfaction for the wrong done, he might be enlarged.

[Textus Roffensis hath *gebobige for gebeoben*, then it should be rendered 'commit him to his relations,' or 'charge them with him.'] [Addenda.]

5. If one steal any thing in the church, he forfeits the single value of it, and also the mulct that belongs to that single value, and let the hand with which he did it be taken off. If he will ransom his hand, and that be allowed him, let him pay in proportion to his weregild. †He that stealeth on Sunday night, or on Christmas, Easter, Holy Thursday, and °the Perambulation days, our will is, that he make satisfaction two-fold; as also on the Lent fast. 6.

‡ Brompton makes two laws of this, and places the following part before the foregoing †.

\* Brompton omits the Perambulation days †.

6. If a man take a nun out of a monastery 'without the 8.

Mr. Thorpe thinks the place corrupt notwithstanding the concurrence of MSS., and says perhaps we should read *gif he þæne man of-gefo*, if he carry the man off; but the old Latin version and a comparison with law 19 below seem to make the received text clear, ('more penalty let the pursuer incur if he there commit more ravage'); if he, *the fugitive*, can live despite of hunger *within the sanctuary* and do not

himself make a sally.' Compare above, Laws of Ethelbert, A.D. 602. c. 1—4; Ine, 693, c. 5; Ecgbriht's Excerptions, 740, c. 75—77, in Wilkins.]

\* [*geboben*, give notice of, T.]

† [So Thorpe, making it part of the preceding law.]

‡ [on þone Dalgan Ðunper bæg (7) on Lang-bagar, T. in Sancto die Jovis, in Ascensione Domini. V.A.]

leave of the king, or bishop, let him pay one hundred and twenty shillings; half to the king, half to the bishop, and the lord of the church to whom the nun belonged. If she outlive him that took her out, let her not have the least particle of his estate<sup>g</sup>. If she bear a child, let that have no more of his estate than the mother. If the child be killed, let the share of the forfeiture that belongs to the mother's relations, be paid to the king; let the father's relations have their share paid them.

<sup>f</sup> By this it seems, that either king or bishop could dispense with the nun's vow.

<sup>g</sup> [For *naþbr* Textus Roffensis hath *apubr*, the sense is the same. But this would shew that this MS. was written after the double negative was laid aside, if we had no other evidence of it.]

10. 7. If a man defile the wife of one that is rated at twelve hundred shillings, let him, for satisfaction, pay one hundred and twenty shillings; [if the husband be rated] at six hundred shillings, [let the satisfaction be] an hundred shillings; if a common man's, forty shillings<sup>\*</sup>; and let the pay be in living stock, and let none part with a <sup>h</sup> man on that [account.]

<sup>h</sup> That is, a slave, for such might have been included in living stock, if there had not been a particular exception.

[Addenda.] [In Textus Roffensis this makes part of law 16, and the sense is much what the same (though the series of the words is different) save that the adulterer's mulct is lx. shillings in T. Roff. but xl. here.

*Between law 7 and 8 another law ought to have been inserted, which makes the 16 in Textus Roffensis and which here follows,*

[14. T.] "If a man be dumb, or deaf, so that he can neither deny, nor confess his sins, let the father make satisfaction for his misdeeds."

11. 8. If a man handle the breast of a common man's wife, let him make her satisfaction with five shillings; if he throw her down but do not lie with her, <sup>1</sup>*with ten shillings*; if he lie with her, let him pay sixty shillings as a satisfaction. If another man have defiled her before, let the satisfaction be half so much. 'If <sup>h</sup> he be accused, and violently suspected

<sup>e</sup> [The remainder is in Lambard, Spelman, Wilkins, and the Latin copy in Brompton, but is omitted by Thorpe, and given afterwards as part of law 18 of K. Alfred.]



only, let him make his purgation by [men rated at] sixty plough-land, or pay half the satisfaction\*.

If this happen to a woman of noble birth, let the satisfaction increase in proportion to her weregild.

\* These words in the different character, are by oversight omitted in Sir H. Spelman's Saxon text; but the Latin translation of Lambard is printed entire: they are also in the Jorval translation †.

† I read *gyf him mon teo, &c.*, and I take this to be the full import of the verb *teo*.

9. If a man fight, or brandish his weapon in presence of an archbishop, let him make satisfaction with <sup>1</sup>one hundred and <sup>3</sup>thirty † shillings. If this happen in the presence of another bishop, or alderman, let satisfaction be made with one hundred and twenty shillings. 15.

<sup>1</sup> In the number of shillings here, I follow John Brompton's translation, as most agreeable to the tenor of these, and the other laws. The Saxon is 'one hundred and fifty.'

10. If any man unchastely handle the breasts, or weeds of a nun, without her leave, let the satisfaction be double, as to that we before provided for lay-women §. 18.

11. If without the lord's leave, any thing of value be intrusted with his monk, and it be lost, let the owner bear the damage. 20.

12. If a priest slay another man, let all that he has purchased with his <sup>m</sup>habit, be seized ¶, and let the bishop degrade him; then let him be put out of the minster, <sup>n</sup>unless the <sup>o</sup>lord will compound for his weregild. 21.

\* [Lif hie mon teo, gelabie (hi) be fixtegum hida, oppe þolge be healyre þæpe botc. If she be charged (therewith,) let her clear herself with sixty hides, or forfeit half the 'böt.' T.]

† [And in Wilkins and Thorpe.]

‡ ['fifty,' T.]

§ [A continuation of this law, omitted in most copies (compare King Alfred's tenth and eleventh laws here numbered 7 and 8,) is given by Mr. Thorpe, and thus translated;

"If a betrothed woman commit adultery, if she be of 'ceorlish' degree, let 'böt' be made to the 'byrgea' (surety) with lx. shillings, and let it be

in live stock, cattle goods, and in that let no human being be given: if she be of six-'hynde' degree, let him pay one hundred shillings to the 'byrgea.' if she be of xii-'hynde' degree, let him make 'böt' to the 'byrgea' with cxx. shillings." Ancient Laws, p. 82—8.]

¶ [Lif ppeort oþerne man oþlea, peoppe mon to handa, eall þ he him hamer bohte.—If a priest kill another man, let all in his home that he had bought be delivered up. T.]

Mr. Thorpe omits the *and* before *eall* and observes that "the old Latin version is not authorized by the Saxon text." See Ancient Laws, &c., p. 84, note a, latter part.]

Here I translate, by conjecture, *mib hamer*, rather *haamar*, or *haaman*, habit, or profession, that is, by means, of his benefice. I believe few will be satisfied with the old version, viz., *Presbyter-capiatur . . . et totum unde sibi mansionem emerat*. Mr. Lambard's version differs from this now mentioned, in words only, not in sense.

[Addenda.] [Textus Roffensis here runs thus, *peopp man to handa, 7 eal þ he mib him hamer broht. forte*, Let him be seized, and all that he brought into the house with him; that is, all the personal estate which he had before he was possessed of his benefice or place in the monastery.]

I suppose he was put out of his monastery, or church, (for *minster* signifies both) in order to suffer perpetual penitential exile, except the lord would compound for the ransom: for the priest is supposed to be disabled from paying it, by the seizure of his goods, before mentioned, which must be supposed to have been done by his spiritual lord, the bishop, or abbot.

• The priest's lord was the bishop, or abbot.

25. 13. If any one ravish the maid-servant of a common man, let him make satisfaction to him with five shillings, and pay sixty shillings as a mulct. If a man-slave force a woman-slave, let him make satisfaction with [the loss of] his genitals.

[26, T.] If a man force a woman before her puberty, let satisfaction be made, as if she were of full growth\*.

[Addenda.] [Textus Roffensis hath *hybe* instead of *eopen*. According to this the middle clause should be rendered, 'If a man-slave force a woman-slave, let him make satisfaction with his hide;' that is, let him be well scourged †.]

29. 14. If any man implead another of <sup>P</sup> breach of promise to God, and will accuse him for that he has not performed somewhat that he had plighted, let him first give his oath on it in four churches, and the other, if he will justify himself, let him do the same in twelve ‡.

\* [This last sentence is a separate law according to Thorpe, whose numbers to the rest of King Alfred's laws differ widely from those of Lambard, and are therefore inserted under them in the margin with the letter T. Johnson's numbers also differ from the like selections of King Alfred's laws in the Concilia of Spelman and Wilkins, by the insertion of laws †† and †‡.]

† [Mr. Thorpe notes this variation of the Textus Roffensis but does not follow it.]

‡ [In Ancient Laws, &c., King

Alfred's thirty-third law is thus given, Be *Loð-Bopgum*.

XXXIII. *Ely hpa oðerne gob-bopger oncunne, 7 tnon pille, þ he hpelene ne gelæwte þara þe him gere-albe, agyfe þone rope-að on weoƿe cƿicum, 7 7e oðer, 7if he hine tƿeopian pille, in xii. cƿicum ðo he þæt.*  
Of 'God-borhs.'

33. If any one accuse another on account of a 'God-borh,' and wish to make plaint that he has not fulfilled any of those ['God-borhs'] which he gave him, let him make his 'fore-ath'

° This is a crime of which no courts have taken cognizance, for many ages past. The old Jorval translation understands it of such as had vowed to be monks.

15. If one bind a common man, guilty of no crime, let him make satisfaction with ten shillings; if he beat him, with twenty shillings; if he put him to the torment\*, with thirty shillings; if he opprobriously shave him like a fool, with ten shillings; if he shave him like a priest, (though he do not bind him) thirty shillings; if he shave off his beard, with twenty shillings; if he first bind him and then shave him like a priest, then let him make satisfaction with sixty shillings. 81.  
[85, T.]

16. If men † fight before the king's aldermen<sup>1</sup> in court, let the satisfaction be made as for blood, and a mulct be paid, as right is, and before that, one hundred and twenty shillings, a mulct to the aldermen<sup>1</sup>. If any one cause disturbance in the county court, by brandishing of weapons, let him pay one hundred and twenty shillings, as a mulct to the aldermen<sup>1</sup>: if somewhat of this happen before the king's & lesser alderman ‡, or the †king's priest, let thirty shillings be paid for a mulct. 84.  
[88, T.]  
[alder-  
man.]

\* Probably the sheriff, or lesser reeve.

† Some suppose that the bishop is here called the king's priest; but this seems highly improbable; for to brandish a weapon in his presence, was one hundred and twenty shillings forfeiture; in the priest's presence, but thirty shillings. It may seem strange, that the alderman is spoken of as sitting in the folke-gemote, or county-court, without the bishop; but it

in four churches; and if the other will prove himself innocent, let him do so in xii. churches. T.

Mr. Thorpe in a note remarks that *hþelcne* is a masculine singular, referring to 'God-borh,' of which the only explanation given in his Glossary to the Anglo-Saxon laws is, '*Dei plegium.*' "A divine or sacred security the nature of which is unknown."

The following is the old Latin version of this law mentioned in Johnson's note.

De Dei plegio violato.

XXXIII. Si quis alii Dei plegium intemptet [*id est, eum criminetur qui Deo se obstrinxerit in famulatum*] et compellare velit quod ei aliquod eorum non compleverit, præjuret hoc in quatuor ecclesiis, et si alius se purgare velit in xii. ecclesiis hoc faciat.

The words in italics and within

brackets are so printed in Spelman's copy, as an insertion from 'Regius Codex MS.' but are not in Brompton or the best MSS. according to Thorpe. See Leg. Anglo-Sax. Versio Antiqua, Thorpe, p. 496. Compare Spelman, vol. i. p. 374. See on vows, above Cealchythe, A. D. 785, c. 18. Gratian. Decret. Causa xvii. Q. i. c. 3. Bingham's Antiquities, Bk. xvi. c. 7. § 9.

\* [Lij he hine on hengenae alecge, If he lay him in prison.—T.]

† [mon, a man, T.]

‡ [Lij þjref hþæt heþopan cýnn-geþ ealþopmanner gýngan gelimpe, If aught of this happen before a king's 'ealdormans' junior. T. γύγνα, literally 'junior,' is here used in the usual acceptation of 'deputy.' See Thorpe, p. 38—9, note d. Cædmon, ed. Thorpe, p. 34, l. 32. þeah he luj gýngan ne renþe.]

is to be remembered, that drawing a weapon in the bishop's presence, had been mentioned, and taxed before, in the ninth law, and there was no occasion to repeat it here : and it must be supposed, that the alderman sat sometimes without the bishop ; for some of the dioceses were then so large as to contain very many shires, and the bishop could not, in his own person, attend all these assemblies, but only such shire-courts as required the greatest solemnity, and where his presence was in a special manner necessary,<sup>1</sup> from the nature of the business there to be transacted ; the priest who sat in his stead, in the county business, or any smaller gemote, might be called the king's priest.

36.  
[40, T.]

17. Burglary committed in the king's borough, is one hundred and twenty shillings\* ; in the archbishop's, ninety ; in another bishop's, or alderman's, sixty ; in a man's that is rated at twelve hundred shillings, thirty shillings ; in a man's that is rated at six hundred shillings, fifteen shillings ; breaking up the fence of a common man, is five shillings ; if this happen ' when the army is out, or in Lent, the mulct is doubled. If men without leave take down the ' holy veil in Lent †, let satisfaction be made with one hundred and twenty shillings.

\* The punishment of breaking houses, or fences, when the army went out was doubled, because the violence of the soldiers at such times, needed a greater restraint. It was doubled in Lent, on account of the solemnity at that time.

† The Lenten veil was a curtain, drawn between the altar and the people, during mass, whereby the people were prohibited from seeing any thing that was done : this was to shew the want of divine light and knowledge under the law says Durandus †, l. i. c. 3 ; and by this, and other manage-

\* [40. The king's ' burh-bryce' shall be cxx. shillings, T.]

† [Lif mon in Lenczen halg pýht in polce butan leafe alecge. If any one in Lent put down holy law among the people without leave.—T.]

"All the MSS. agree in this reading. Lambard, and after him Wheloc and Wilkins, read halg-pýht, which is supported by all the Latin MSS. ' Si quis in Quadragesima sanctum velum in populo sine recto deponat emendat e. viginti sol.' This, if the true reading, would refer to the ' velum Quadragesimale,' which during Lent was hung before the altar while the Liturgy was read. Du Cange, *Vetum*. It is, however, difficult to resist the united authority of all the Anglo-Saxon texts notwithstanding the obscurity which by

acknowledging it, is thus made to attend the subject. The halg-pýht may refer to the canons of the Church, which prohibit all games, festivals, christenings, marriages, &c., during this sacred season ; and the ' putting down of holy law' may have meant the permission of such ceremonies or pastimes, and any neglect of the rigid fast enjoined. See Bingham's *Originæ*, xxi. 1, 22, 23." *Ancient Laws*, &c., p. 39, note a.]

‡ [Notandum est quod triplex genus veli suspenditur in Ecclesia, videlicet, quod sacra operit, quod sacrarium a clero dividit, et quod clerum a populo secernit, etc. Durandi *Rationale*, lib. i. c. 3. n. 35.]

The early use of a Lent curtain (cortina inter chorum et altare) in England

ments of the pope, and his under-agents, the times of Christ, and His Gospel, were as dark as those of Moses. We are not to wonder the people took it ill, to be debarred the sight of what they might in part view at other times, and therefore tore down these veils. And it is probable, this veil was a new invention, and therefore the more highly resented by the people; and for that reason a severe law was necessary to restrain their fury.

[on folc was here by oversight omitted in the translation, which is [Addenda.] therefore thus to be altered; viz., If any man without leave take down the veil [which hangs] before the people in Lent, &c. *Textus Roffensis* hath *pyht* instead of *pyt*, through mistake I doubt not.]

18. We decree, that the man that has land holden by written instrument, which his kindred left him, may not give it away from his kindred; if there be either writing or witness, that a charge was given<sup>n</sup> by those who first purchased it, and of them who gave it to him, that he might not so do, and it were so declared \* before his relation by the testimony of the king and <sup>x</sup> bishop. 37.  
[41, T.]

\* [*Textus Roffensis* hath *foð bob* for *foðbob*.]

[Addenda.]

\* By this it appears that the presence of the bishop was very proper, if not necessary, in transacting and confirming civil disputes and rights of moment.

19. And we command that he who knows his foe to be at home, do not assault him till he have first demanded right of him. If he have strength sufficient to beset and confine him, he may do it for seven nights, but not assault him if he keep within doors. And if he will within seven nights come to hand and surrender his arms, let him keep him safe thirty days, and let him have communication with his kinsmen and friends. If he run to the church, let honour be done to the church, as we above declared. If he have not strength to beset him, let him ride to the alderman and demand his help; if he deny his assistance, let him ride to the king, before he make an assault.—A man may make assault without mulct, if he find another man with his wife, 38.  
[42, T.]

may be seen, *Constit. Lanfranc*, A.D. 1072, *Wilkins*, vol. i. p. 332; but the note last quoted from *Ancient Laws*, &c., seems to prove that King Alfred does not here speak of such a curtain.

'Open Lent-breach' is explained *Laws Sec. King Cnut* c. 48. *Thorpe*, p. 173. translated below, A.D. 1018, c. 18.]

\* [And then let that be declared. T.]

and the doors shut, or under one covering with her, or with his daughter, born in wedlock, or with his sister, lawfully born, or with his mother, lawfully married to his father.

' I added thus much of this law to Sir H. Spelman's collection, not only to shew the nature and occasion of deadly feuds; but to explain the second and fourth law concerning sanctuaries.

39. 20. \* Let these days be indulged to free servants, but not  
[43, T.] to slaves and \* drudges\*, twelve days at Christmas, the <sup>b</sup> day on which Christ prevailed against the devil, and St. <sup>c</sup> Gregory's mind-day, seven days before Easter, and seven after, and one day at <sup>d</sup> St. Peter and St. Paul's-tide, and a full week before <sup>e</sup> St. Mary's-mass in harvest, one day [for] the celebration of All-Saints. And the four Wednesdays on the four Ember-weeks†, are indulged to all slaves, to bestow what time is given them in God's Name, to such as are most beloved by them; or 'they may on any of these intervals earn [by their labour].

[Addenda.] \* [The meaning of the first part of the law I take to be this, that on these days there should be a *Justitium* or non-term, or that all proceedings at law against freemen should cease during these times; but that notwithstanding this, slaves and villains might be corrected, or called to an account by their lords on these days.]

\* The Jorval Lat. has, *pauperes operarios*‡. Therefore the Saxon copy used by that translator, had *pyphtum*, not *pihtum*, in which I follow him.

[Addenda.] [Textus Roffensis, *pyphtum*.]

<sup>b</sup> Ascension-day, or the first Sunday in Lent. The series favours this.

<sup>c</sup> March 12.

[Addenda.] [The English' in these ages had a tradition amongst them, that Pope Gregory's last prayer was§, "O Saviour Christ receive my spirit, and I beseech Thee, that what man soever keeps my mind-day on earth, do Thou avert all disease from his house. Let not the fiend, nor the destroyer, nor hunger, nor pestilence approach him." What Bede in his Latin calls *dies*

\* [43. To all freemen let these days be given, but not to 'theow-men' and 'eane'-workmen.—T.]

† Mr. Thorpe makes the first sentence end here, and translates the remainder thus;

"To all 'theow'-men be given, to those to whom it may be most desirable to give, whatever any man shall give them in God's name, or they at any of their moments may deserve." Johnson's translation seems to agree with the Anglo-Saxon and the Latin version as in Brompton x. Script., p.

826, 827.]

‡ [Thorpe, p. 496.]

§ [The above prayer was not ascribed to Pope Gregory, but to St. George, Knight and Martyr, the patron saint of the English, and is preserved in a Saxon martyrology at the 23rd of April, St. George's day. See Selden's Titles of Honor, Part II. c. 5. § 43, p. 812, and Somner's Dict. Sax. art. Lemjynbe. The festival of Pope Gregory was specially enjoined (see above p. 250) by the Canons of Cloveshoe A.D. 747. c. 17.]

*depositionis Cuthberti*, his translator turns *hij gemynbe-dæge*, and *forþrope*, his mind-day, and decease, or *obit*\*. Therefore it may be doubted whether Gregory's and Cuthbert's day were proper festivals; for every man of note had his mind-day observed, that is, certain obsequies or services performed in behalf of his soul at the end of every month, or year. Yet probably none were continued so long as Gregory's had now been, except he were a reputed saint; for Gregory had now been dead above two hundred and fifty years.

\* June 29.

\* Assumption, Aug. 15.

† This was one means by which slaves might get a property of their own. In the sermon of Lupus, at the time when the Danes exercised the greatest outrages against the English people, one great grievance there mentioned is, That slaves could not have what with great difficulty they had earned in their own spare times, Saxon, on *aganan hylan*, not *diuturna sui temporis usura*, as it is rendered, *Dissert. Epist.*, p. 100.

\* [The passage of Bede, to which Johnson refers, relates the assent of the bishop of Lindisfarne to the moving of the body of St. Cuthberht into a new tomb on the eleventh anniversary (March 20, A. D. 698) of his decease.

*Quod dum sibi placuisse Eadberto antistiti suo referrent, annuit consilio*

*eorum, jussitque ut die depositionis ejus, hoc facere meminissent.*

⁊ he het þ hi þ b ydon ð y dæge ðe hij gem ynb dæg wære ⁊ hij, forþrofe. *Bed. Hist. Eccl.*, iv. 30. ed. Smith, p. 179. 608. Cf. *Vita S. Cudb.*, c. xxviii., xlii., p. 250. 261, and above, *Canons of Cealchythe A.D. 816. c. 10.*]

A.D. DCCCLXXVIII.

KING ALFRED'S AND GUTHRUN'S LAWS ECCLESIASTICAL\*.

PREFACE.

SINCE the Danes had first begun to make descents and inroads upon the English, the face of affairs in this nation was very deplorable. Between the rapines of the enemy, and the demands of our kings, for the defence of the people, the nation was greatly impoverished; little regard was paid to the law; churches and monasteries were either demolished, or deprived of divine service; learning was wholly neglected: but when Alfred came to the throne, he gave a great and happy turn to the face of affairs. He was a king of a martial spirit, and is said to have fought fifty-six battles, by land and sea: and within seven years after his advancement to the throne, he so far reduced the Danes, as to bring them to terms of agreement. Their king Guthrun professes Christianity, and is baptized, Alfred standing godfather at this solemnity: he relinquishes all further pretensions on King Alfred and his people, on condition that he might have the kingdom of Northumberland, and of the East-Angles: and these are the religious laws by which they are agreed to administer their government; for I conceive that as to civil matters, both kings were left to their own native laws. The truth is, King Alfred seems to have studied nothing but religion and war; and in these respects he clearly excelled all his ancestors, the monarchs of all England, and was therefore deservedly called ALFRED THE GREAT. The new arts of civil government and foreign trade, have swelled the volumes of our laws in these later ages.

\* [‘The Laws of Edward and Guthrum,’ T.]



It is certain that this Guthrun, who made an alliance with King Alfred, died long before Edward came to the English throne \*; but then it is as certain, that King Edward made, or renewed this alliance with the Danes, A.D. 907. And though the former Guthrun were then dead, yet another of that name might then reign in Northumberland, and East-England: and this preface intimates that these laws were more than once enacted by common consent †.

[Yet it is most probable that the renewal of these laws by King Edward [Addenda.] and Guthrun is an interpolation.]

\* ["Guthrum, king of the invading Danes, after being worsted in battle by Alfred, was baptized in the year 878; and having evacuated Wessex according to treaty in the following year, he took possession of East-Anglia in 880, which he seems to have governed till his death in the year 891. See the Saxon Chronicle." *Ancient Laws, &c.*, p. 66-7, note a.

'Alfred and Guthrum's Peace,' to which the foregoing note is subjoined, consists of five articles wholly secular, and different from the laws given by Johnson in the four next pages: but that these last-mentioned laws were first agreed upon between King Alfred, and Guthrum, seems as certain, as that the copy now remaining of them presents them as renewed by King Edward, A.D. 907, and not as originally enacted about A.D. 878. Johnson's supposition of an interpolation is a mere device to get rid of a difficulty much better explained by the note quoted below from '*Ancient Laws, &c.*, where these laws are called, EDWARDES AND LUTHRUMES DOWAS, THE LAWS OF EDWARD AND GUTHRUM, and have prefixed

to them the following two sentences which are not in the other editions: 'AGAIN HIS AND GUTHRUM'S AND EDWARD'S.'

'These are the dooms which King Alfred and King Guthrum chose.')

† ["The party to this treaty with Edward was apparently a second Guthrum, who, according to Wallingford (pp. 539, 540), was living in Edward's time, and probably succeeded Eohric, the immediate successor of Guthrum I. See *Sax. Chron.*, a° 905; *Sim. Dunelm.*, a° 906; *W. Malm.*, l. i. c. 6." T.

Wilkins gives the following laws under A.D. 905, from Spelman and the *Textus Roffensis*, but Johnson's date for the renewal agrees with the Saxon Chronicle.

On þam ilcan gepe man gefærtnobe þone frið æt Yttingaforda, swa swa Eadweard cyng gefærde, ærðer ge frið Eart-Engle, ge frið Norðhymbre. In the same year was established the peace at Yttingford as King Edward decreed, both with the Danes of East-Anglia, and those of Northumbria. See Saxon Chronicle, A.D. 907.]

A.D. DCCCLXXVIII.

SAXON.  
Sir H.  
Spelman,  
vol. i. p.  
390.  
[Wilkins,  
vol. i. p.  
202.  
Thorpe,  
p. 71.]

THIS is the ordinance that King Alfred and King Guthrun, and afterward King Edward and King Guthrun, made and published, when the English and the Danes received each other into perfect peace and friendship, and the wise men in after times, have full oft renewed and improved them for the better ; that is,

In the first place they declared that they would love one God, and abandon all heathenism in earnest. \* And they have enacted a just secular law, because they knew that they could not otherwise govern many, who would not submit (as they should) to ecclesiastical discipline. And they have decreed a secular discipline between Christ and king, in all cases, where men were unwilling to conform to ecclesiastical discipline, with a just regard to the authority of the bishops, viz.,

1. That the peace of the church within its walls, and the peace of the king's right hand be equally inviolable.
2. And if any one do reject the Christian religion, or shew his election for heathenism, let him pay his weregild, and a \* mulct, and a fine in proportion to the fact.

\* The mulct, *præ*, always belongs to the English, the fine, or *lahrlæt*, always to the Danes.

3. If a man in orders steal, or fight, or forswear, or commit uncleanness, let him make satisfaction, in proportion to the fact, both by his weregild, by mulct, and fine : especially

\* [Mr. Thorpe thus translates the remainder of this law without variation of reading.

" And they established worldly rules (*popolblice ræopa*) also for these reasons, that they knew that else they might not many controul, nor would many men else submit to divine 'bôt' as they should: and the worldly 'bôt'

they established in common to Christ and to the king, wheresoever a man would not lawfully submit to divine 'bôt' by direction of the bishopa." ]

† [This Danish name for a fine is derived from *lage*—(the final *g* and *l* are interchangeable)—'law,' and *slitan*, 'to slit.' See *Ancient Laws, &c.*, p. 72, note a.]

let him make satisfaction to God, as the canon directs, and find a surety, or be put into gaol. If the mass-priest misinform the people, concerning a feast or a fast, while he is celebrating offices, let him pay thirty shillings among the English, two <sup>b</sup> marks and half\* among the Danes. If the mass-priest do not fetch the chrism duly <sup>c</sup> at the appointed time, or refuse to baptize in case of necessity, let him pay a mulct among the English, a fine among the Danes, that is, twelve <sup>d</sup> ores. † If a man in orders commit a capital crime, let him be reserved to the bishop's doom.

- <sup>b</sup> A mark was thirty pence.
- <sup>c</sup> Maundy-Thursaday.
- <sup>d</sup> An ore was an ounce.

4. As to incestuous persons, the wisemen have decreed, that the king have the better of them, the bishop the worse, unless satisfaction be made, both toward God and toward the world, in proportion to the fact, as the bishop directs. If two brothers, or two near kinsmen, lie with the same woman, let them make satisfaction with diligence, according as it shall be agreed, both by weregild, by mulct, and fine, in proportion to the fact.

5. If one that is to suffer death for his crimes desire <sup>e</sup>shrift, let it never be denied him: and let men for the mercy of God, 'promote every divine ordinance, and regulate punishment according to the wisemen †.

- <sup>e</sup> Confession and absolution.
- † Jorv. Lat. *Pacificenter*. The translator read *fyrþige*, but *fyrþþige* is better; and I should read *toꝛcæbon*, rather than *tolæbon*.

6. If one withhold his tithes, or his Rome-fee, or do not pay his <sup>f</sup>light-scot §, or his plough-alms ¶, or deny any eccle-

\* [þreo half-[mærc], three half-marks, T. See Ancient Laws, p. 66. note b, quoted below, p. 344, note †.]

† [The remainder is appended to the next law in 'Ancient Laws,' &c., but the other editions agree with Johnson in placing it here.]

‡ [And ealle Lober gepiht to forþige (fyrþþige, B. MS.) man georne be Lober milþre, 7 be þam pizan be pizan to-leban. And all God's dues let every one zealously further by God's mercy,

and by the 'witea' which the 'witan' have annexed thereto. T.]

§ [Leoh-geŕceot, Symbolum luminis, a tax for supplying the church with lighta. Thorpe, Glossary. See below, A.D. 1009. c. 12. and 1017. c. 12.]

¶ ['De qualibet carruca juncta inter Pascham et Pentecostem, unum denarium, qui dicitur Plow-Almes.' Monast. Angl. i. f. 256. quoted in Ancient Laws, p. 73, note b.]

siastical rights, let him pay a mulct among the English, or a fine among the Danes. If he fight against [those who demand it] and wound a man, let him forfeit his life\*, if he kill a man, let him be out-lawed; and let all that love right pursue him with<sup>b</sup> hue and cry†: and if he cause men to kill him, by opposing the right of God and the king, and if this be averred, let him lie without any satisfaction.

\* Here is first mention of the light-scot.

<sup>b</sup> I read, hpeame, rather than heapme, especially because Jorval Latin has it, *cum clamore*.

7. If any man set goods to sale on Sunday, let him forfeit those goods, and twelve ores among the Danes, thirty shillings among the English. If a freeman work on a festival day, let him forfeit his freedom, or pay his mulct or fine: let the slave forfeit his hide, or a compensation for it. If a lord force his servant to work on a festival, let the lord pay a fine among the Danes, a mulct among the English.

8. If a freeman violate a solemn fast, let him pay a mulct, or fine: if a slave do it, let him forfeit his hide or a compensation for it.

9. Oaths and ordeal are forbidden on festival-days, and solemn fast-days. He who breaks this, pays a fine among the Danes, a mulct among the English. Let no execution be done on any man on the Sunday festival, (if possible,) but let him be kept till the festival is past.

10. If a malefactor, having forfeited himself, have had a limb cut off, and being left to himself survive the third night; afterwards he that is willing to take care of his sore and soul, may help him, with the bishop's leave.

11. If it be known that there are any where in the land, witches, conjurers, forswearers, such as murder by secret arts, or foul, filthy, open whores, let them be 'driven off the earth, and the nation purged; ' or let them wholly get them gone

\* [beo hƿ peper reƿlbiȝ, let him be liable in his 'wēr.' T. Johnson read as Lambard, Spelman, Wilkins, beo hƿ reopheƿ reƿlbiȝ.]

† [There is little doubt that this is the true meaning of the words, ƿ hƿ hente miȝ heapme ælc þeƿa þe riht

pille, without the change of reading suggested by Johnson and also by Wilkins. Compare Thorpe, p. 73, note c; Laws Sec. of K. Cnut, c. 29. 49. p. 168. 173; and the glossary art. 'Hream' or 'Hearnu.']

of themselves\*, except they desist, and make deep satisfaction.

<sup>1</sup> [Textus Roffensis hath fýrre for fýrre, this may signify to hasten them [Addenda.] off the earth.]

12. If a man in orders, or a stranger, be seduced to any thing that touches his goods or life†, then shall the king, or the <sup>2</sup> earl of the country, or the bishop of the people, be, instead of kindred, an advocate to him, if he have none else. But let him make satisfaction to <sup>1</sup> Christ and the king, with all diligence, in proportion to the fact: or else let the king that is over the people severely punish the crime ‡.

<sup>2</sup> The earl was next above the alderman; his weregild was equal to that of an archbishop, as you may see in the memorials subjoined to the memorials of King Ethelstan, DCCCCXXVI., No. 2.; whereas the alderman's was but equal to that of a bishop; yet these titles are often confounded in ancient monuments.

<sup>1</sup> By this was meant penance.

\* [opþe on eapþe forþape hý mid ealle, or let them totally perish within the country. T.]

† [xii. Líf man gehadobne opþe æt þeo opþe æt feoþe, If any one wrong an ecclesiastic or a foreigner, through

any means, as to money or as to life. T. . Compare K. Ethelred, A.D. 1014. c. 33. Thorpe, p. 148.]

‡ Lambarð and Spelman remark, '*Desiderantur nonnulla,*' and Thorpe adds a passage with the title, 'How a twelve-hynde man shall be paid for.'

## A.D. DCCCCVIII.

### PROVISION FOR FILLING VACANT SEES.

#### PREFACE.

ABOUT this time this whole nation was under the pope's curse, or interdict, as Sir H. Spelman, p. 389, on account of the long vacancy of several bishop's sees\*. It is said the West-Saxons had been without any bishop for seven years together, but on the coming of the pope's bull, the king that then was, viz., Edward the Senior, and Plegemund archbishop of Canterbury, in a synod where the archbishop presided, erected five dioceses in West-Saxony instead of the two that were before, and nominated bishops to fill them; but they were not consecrated till Plegemund had first been at Rome and laid the proceedings of the king and synod before the pope, and purchased his reconciliation with costly presents; and on his return he consecrated those five bishops, as also a sixth for the South-Saxons, a seventh for the Mercians†.

There is a provision in the pope's bull which deserves to be made a law in every Church in the world, by some better authority than that of a pope, and which I here insert.

\* [This preface is taken from Will. Malm. De gest. reg., lib. ii. c. 5, and MS. Regist. Cant. A. f. 3, quoted by Spelman and also by Wilkins, but the letter or 'bull' of Pope Formosus III. gives a different reason for the 'curse,' or rather excommunication, and does not mention the name of Edward as king of England at the time.

Fratribus et filiis in Christo omnibus episcopis Angliæ, Formosus. Audito, nefandus ritus paganorum partibus in vestris repullulasse, et vos tenuisse silentium, ut canes non volentes latrare, gladio separationis a corpore Dei ecclesie ferire deliberavimus. Sed quia, ut nobis dilectus frater noster Pleimundus intimavit, tandem evigilatis et semina verba Dei olim venerabiliter jacta in terra Anglorum cœpistis renovare; mucronem devorationis (devota-

tionis, MS. Cant.) retrahentes, Dei omnipotentis et B. Petri apostolorum principis benedictionem vobis mitimus, orantes, ut in bene cœpitis perseverantiam habeatis, etc. Epistola Formosi Papæ ad episcopos Angliæ. Wilkins, vol. i. p. 200.]

† [Rediens in patriam in urbe Cantuarum uno die septem episcopos septem ecclesiis ordinavit; Fridestanum ad ecclesiam Wintoniensem, Adelanum ad Cornubiensem, Werstanum ad Schirebornensem, Athelnum ad Wellensem, Eidulfum ad Cridiensem in Devoniam. Sed et aliis provinciis constituit duos episcopos Australibus Saxoniis virum idoneum Bernegum, et Mercii, Cenulphum, ad civitatem Dorcestriæ in pago Oxoniæ. W. Malm. De gest. Reg., lib. ii. c. 5.]

A.D. DCCCCVIII.

THAT for the future when any bishop dies, there be no delay in placing another in his stead.

LATIN.  
Sir H.  
Spelman,  
vol. i.  
p. 388.  
[Wilkins,  
vol. i.  
p. 200.]  
[Post-  
script.]

I am sensible there must be an error in ascribing this bull and provision to Pope Formosus, who died A.D. 895, near six years before King Alfred's demise and Edward's accession\*. But if we substitute Sergius for Formosus, all runs clear; he came to the popedom little, if at all, before the year 908: then King Alfred had been dead seven years, and he is acquitted from all blame as to the long vacancy of the sees, and particularly that of Winchester, which was his own royal seat. And who can wonder if the monks chose to report this papal act as done by Formosus, who was a popular pope and made more popular by the barbarous treatment of his dead corpse and memory, than by such a monster of a man and pope as Sergius proved, and more infamous for nothing than for joining the enemies of Formosus, and out-doing them all.

[Though I see no other reason to alter the date of this remarkable call [Addenda.] of bishops, and erecting of new sees, yet I am free it should be removed to the year after this, that I may have one chronologer with me in this point, I mean Radul. de Diceto†. The Saxon Chronicle does indeed say that Denulf, bishop of Winchester, did not die before this year; but he might be driven from his see, and there is reason to believe he was so many years before. As for Asserius, there is nothing so uncertain as the time of his coming to, and leaving the see of Sherburn; and some doubt whether he was ever bishop of that see. The Saxon Chronicle as to this point is an uncertain evidence, and therefore none at all; so that the sup-

\* ['Error hic inextricabilis,' says Spelman, and the chronological difficulty is fully admitted by Wilkins and Mansi. The most reasonable supposition seems to be that the account of William of Malmesbury in many particulars requires correction by earlier evidence, and that the letter or bull here quoted was sent by Formosus P. III. A.D. 891—6, which was fol-

lowed not immediately but some years afterwards, A.D. 904—910, by the appointment of seven bishops. Cf. Observ. P. Antonii Pagi (in Baronium) ad an. Ch. 894 n. 9. et seq. ap. Concil. Mansi, tom. xviii. p. 118—9. Sax. Chron. ed. Ingram. A.D. 909—10. Cod. Dipl. 1090, 2, 4, 5.]

† [Scriptores x. p. 453, l. 10.]

position of these two sees being full till the year 909 is of no force. In truth, if the Saxon Chronicle do at all take notice of Asserius's death, it is in the year 910. And in this particular no one follows or agrees with this chronicle, (compare the two editions of the Saxon Chronicle at the year 910, and observe the difference.) However hard to be adjusted the chronology and the succession of the bishops of Winchester and Sherburn are at this time, yet I see no reason to doubt of the main facts, and particularly that the sees of Wells, Kirton, and Cornwall were now erected and filled with bishops. It is said that the Cornish people till this time opposed the Apostolical decrees, that is, they were not in communion with the Church of Rome or England, but with the Welsh and Irish Church.]



A.D. DCCCCXXV.

KING ETHELSTAN'S LAWS ECCLESIASTICAL.

PREFACE.

THIS year Ethelstan was crowned king, and Wulfhelm consecrated archbishop of Canterbury; then, or some few years after, they made twenty-six laws, whereof these following are ecclesiastical\*.

A.D. DCCCCXXV.

I ETHELSTAN, king, by the advice of Wulfhelm, my archbishop, and other my bishops, command all my reeves in the name of the Lord and His saints, that they do in the first place give tithes of all my estate, both of the living stock, and of the fruits of the earth †, and that all the bishops do the same

SAXON.  
Sir H. Spelman, vol. i. p. 396.  
[Wilkins, vol. i. p. 205.  
Thorpe, p. 83.  
V. A. p. 512.]

\* [These laws were made at a council of Greatanlea, supposed to be Greatley near Andover, Hants, (Ancient Laws, &c., p. 91, note). Mr. Thorpe gives King Ethelstan's first paragraph from MSS. D. and G., together with Lambard's text (followed by Spelman, Johnson, and Wilkins), of the first and second paragraph as an important variation from those MSS. which do not contain the second paragraph. The rest of the laws at Greatanlea are taken by Mr. Thorpe from the Textus Roffensis, with variations from Lambard. The two initials L. T. when placed together in the following notes mean that the Saxon words quoted are the same in the text of Lambard used by Johnson as in that given by Thorpe from the best MSS. now extant.]

W. 'and of yearly fruit,' T. Johnson following the old Latin version in Brompton (Script. x. p. 841.) here omits the word 'yearly,' probably because, according to the opinion expressed in his preface to the laws of King Alfred, A.D. 877, he supposed the payment of tithes of the yearly increase to be already too firmly established to be made the subject of a legal enactment at this time. Perhaps a necessity for King Æthelstan's law, or declaration, arose from the shock which every institution, civil and ecclesiastical, received in the Danish invasions. On the payment of tithes in England before this date, see, in this volume, A.D. 740. c. 4, 5, 24, 99, 100. A.D. 785. c. 17. A.D. 877 Pf. A.D. 878. c. 6. A.D. 1064. c. 8. note.]

† [ge þær gearwecer þerþner, L. S.

of all that belongs to them, as also my aldermen and reeves. And my will is that my bishops, and aldermen\*, and reeves, give this in charge to all that are subject to them, and that they do it effectually by the time that we here fixed, that is, the beheading of St. John Baptist. Let us consider what Jacob said unto the Lord, "I will give Thee my tithes, and  
 [Mat. xxv. 29.] \*my peace-offerings." And what our Lord saith, "To all them that have shall be given, and they shall abound:" and we may remember what, to our terror, is written in this book †, †"If we are unwilling to pay our tithe, the nine parts shall be taken from us." It is not my will that ye get any thing for me by indirect means ‡.

\* [The words 'and aldermen' are here inserted without authority.]

† [on þyrrum bocum L. in these books, T. Thorpe's text has on bocum, 'in books.']

‡ [The last part of this paragraph is abridged from Lambard's text, which in this place is thus translated by Mr. Thorpe;

"We may, moreover, think on this which fearfully in these books is written: 'If we will not give our tenths, the nine parts shall be taken away from us, and the tenth alone shall be left unto us.' The divine doctrine exhorts us that we should earn the heavenly things with the earthly, and the everlasting with the transitory. Now ye hear what the Lord commandeth us, and what it behoveth us to fulfil. Do so that ye acquire those things which ye for me may rightly get; I will not that ye get for me any thing with wrong. If I grant to you all your things on the condition that ye for me acquire mine, be ye warned, and those who unto you belong, of God's ire and mine."

The text from MSS. D. and G. is nearly to the same effect, but more explicit, and is quoted by Mr. Kemble as the earliest legislative enactment on the subject of tithes in the Anglo-Saxon laws, although the payment of tithe had become very general in England at an earlier period. See Saxons in England, Bk. II. c. x. p. 476, and App. B. p. 645. Mr. Thorpe gives this as the authentic text and thus translates:

"I Æthelstan, king, with the counsel of Wulfhelm, archbishop, and of my other bishops, make known to the reeves

at each 'burh,' and beseech you, in God's name, and by all His saints, and also by my friendship, that ye first of my own goods render the tithes both of the live stock and of the year's earthly fruits, so as they may most rightly be either meted, or told, or weighed out; and let the bishops then do the like from their own goods, and my 'ealdormen' and my reeves the same. And I will, that the bishop and the reeves command it to all those who ought to obey them, that it be done at the right term. Let us bear in mind how Jacob the patriarch spake: 'Decimas et hostias pacificas offeram tibi,' (cf. Gen. xxviii. 22;) and how Moses spake in God's law, 'Decimas et primitias non tardabis offerre Domino.' (Exod. xxii. 29. Vulg.) It is for us to think how awfully it is declared in the books: If we will not render the tithes to God, that He will take from us the nine parts when we least expect; and moreover we have the sin in addition thereto. And I will also that my reeves so do, that there be given the Church-scotts and the soul-scotts at the places to which they rightly belong; and plough-alsms yearly on this condition; that they shall enjoy it at the holy places who are willing to serve their churches, and of God and of me are willing to deserve it: but let him who will not, forfeit the bounty or again turn to right. Now ye hear, saith the king, what I give to God, and what ye ought to fulfil by my 'oferhirmea.' And do ye also so that ye may give to me my own what for me ye may justly acquire. I will not that ye unjustly anywhere acquire aught for me; but I will grant to you your own justly on this

\* This is an interpolation. See Gen. xxviii. 22.

[The tithing mentioned in this Saxon preface must have been only an [Addenda.] occasional tithing\*, (not paying a stated yearly tenth,) and probably to be given in alms to the poor.]

† This is a saying of Ambrose‡.

'I Athelstan, king, declare to all my reeves, with advice of archbishop, bishops, and servants of God, that it is my will that for the forgiveness of my sins ye always feed one poor Englishman, and give him, from two of my farms, every month an 'amber of meal and a gammon of bacon, or one ram worth four pence; and one 'shroud every year for the twelve months [wear]‡; and that ye set at liberty some one that has for his crimes been condemned to slavery, for the mercies of Christ and for my love, with the testimony of the bishop in whose district it is; and if the reeve withhold it, let him pay thirty shillings as a satisfaction, and let the money be distributed to the poor who dwell in the town where this omission was made, under the bishop's testimony.

\* The certain quantity of this measure is now unknown§.

† A garment that covered the whole body¶.

2. And we decree against breaking into a church, if the man appear guilty by the 'threefold ordeal, let him make satisfaction as the 'doom-book directs.

5.

\* The most common ordeals were those of hot iron and hot water. In the first, simple ordeal was carrying one pound of hot iron: twofold ordeal

condition, that ye yield to me mine; and shield both yourselves and those whom ye ought to exhort, against God's anger and against my 'oferhirnes.'" T. 'Oferhirnes' means contempt of the king's authority, or the penalty annexed to such contempt. See the word in Thorpe's Glossary.]

\* [The foregoing note shews that tithes properly so called, are here meant as expressly stated in Kemble, Sax. in Eng. Bk. II. chap. x. app. B. p. 545.]

† [Tibi dedit novem partes, Sibi vero reservavit decimam partem: et si tu non dederis Deo decimam partem, Deus tollet a te novem partes. *Sermones S. Ambrosii hactenus adscripti.* xxv. § 2. Op. S. Ambrosii, tom. ii. App. p. 425 C. Cf. Can. Cealc. A. D. 785, c. 17.]

‡ [Mr. Thorpe thus translates the

same text of Lambard;

"I Æthelstan, king, make known to all my reeves within my realm, with the counsel of Wulhelm, my archbishop, and of all my other bishops and God's servants, for my sins' forgiveness, that I will that ye entirely feed one poor Englishman, if ye have him, or that ye find another. From two of my 'feorms' let there be given him every month one 'amber' of meal, and one shank of bacon, or one ram worth iv. pence, and clothing for twelve months every year." *Ancient Laws*, p. 84.]

§ ['Amber—a measure of four bushels.' *Glossary*, *ibid.*]

¶ [The word *repub*, which Johnson translates by its derivative 'shroud,' means merely 'clothing.']

was carrying two pounds : threefold ordeal was carrying three pounds for the space of nine feet. The simple ordeal in hot water, was taking a stone out of boiling water, hanging by a string no deeper in the vessel than that a man might take it out by dipping his hand no farther than the wrist : twofold ordeal was when the stone hung so deep in the water that the man must dip his hand half way between the wrist and elbow : threefold ordeal was when he must dip up to the elbow. There was another ordeal used for the most inferior sort, that, I mean, of cold water : still used by ignorant people in trying witches. See law 5, below.

† That is a book containing the foregoing law, and others now lost.

6. 3. And we decree concerning witchcraft, magical medicines, and secret arts of murder ; if one have been slain and the man cannot deny it, let him forfeit his life ; if he will deny it, and appear guilty at the threefold ordeal, let him be a hundred and twenty nights in prison ; afterwards let his relations take him out and pay the king a hundred and twenty shillings, and to his relations the price of his blood ; and let them become his sureties, that he do ever desist from such [practices]. And let incendiaries, and such as vindicate thieves be [thought] worthy of the same treatment. And let him that will vindicate a thief, though he wound no man, pay to the king a hundred and twenty shillings for his insult against law.

\* Lyblac is, by Lambard and Somner, said to be a barbarous sacrifice ; the latter supposes that it was some animal burnt alive, and it must be owned that the Saxon word is clearly capable of this meaning ; but it is as sure that lib or lyb, signifies a charm, and lac is often a mere termination. I observe it is always put with witchcraft, magic, &c. \*, excepting the sixth law of Edmund, 944.

14. 4. And we decree that the coin be the same over all the king's dominions, and that none be minted where there is no <sup>h</sup>gate†. If the coiner offend, let the hand with which he committed the crime be struck off and set up over the minting house‡. If he be accused and will purge himself, then let him go to the hot iron, and let the hand with which he is ac-

\* [Liblac—Veneficium, witchcraft, particularly that kind which consisted in the compounding and administering of drugs and philtres. Old High German, luppi, *maleficium* ; luppôn, *medicare* ; . . . luppari, *veneficus*. Thorpe, Glossary.]

† [Port strictly means an enclosed place for sale and purchase, a market. Kemb. Sax. in Eng., ii. p. 550. Thorpe, p. 68, note b. Du Cange, *Portus*.]

‡ [mýnec-ƿmīððan, *money-smithy*, T.]

cused to have committed the crime make the purgation. And if he appear guilty by the ordeal, let him be dealt with as is before said. At <sup>1</sup>Canterbury let there be seven coiners, four of the king's, two of the bishop's, one of the abbot's. At Rochester three, two of the king's, one of the bishop's. At London eight. At Winchester six. At Lewes two. At Hastings one. At Chichester one. At Hamton two. At Werham two. At Excester two. At Shaftsbury two. At every other borough one.

<sup>b</sup> Some by popz here understand a haven, but this cannot be, because several places mentioned in this law never were ports in this sense. A town that has gates has also walls, and therefore was a place of greater security. Such towns as have no gates, give freer ingress and egress to all sort of malefactors.

<sup>c</sup> There is money still extant with Ceolnoth archbishop of Canterbury's face on it.

[There are also coins of Archbishop Plegemund still extant with a pall [Addenda] on the reverse. And the northern coins with this inscription, viz., *Moneta Sancti Petri*, are believed by good judges to have been minted by authority of the archbishops of York, whose church is dedicated to St. Peter. For there is no ground to believe that they were intended for the payment of the Rome-scot, or Peter-pence. And it is to be observed, that this privilege of mints was not now first granted to the archbishops. Plegemund, whose coin we now mentioned, was dead before the date of this law; Ceolnoth was dead fifty years before. The archbishop of York could not receive the privilege of coining from this law, for his see and province was under the government of a Danish monarch. I conclude that therefore the archbishops, and some other bishops, enjoyed this royal privilege by memorial custom\*.]

5. If any one make a promise of ordeal, let him come three nights before to the mass-priest who is <sup>k</sup>to hallow it, and live on bread and salt, water and herbs, before he go to it; and let him stand at his masses these three days, and make his offering, and <sup>l</sup>go to housel the same day that he goes to ordeal; and take an oath that he is not guilty, according to the common law of the accusations. And if it be <sup>m</sup>water-ordeal let the rope go two ells and a half below the surface †.

23.

\* [The earliest archiepiscopal coins now extant are Jaenberht of Canterbury A.D. 763—90, and Eanbald of York about the same time. The privilege is supposed to have been revoked by the eighth law of K. Ethelred II. (Thorpe, p. 126) at the council of Wantage, A.D.

997, but renewed after the Conquest; see Ruding's Annals of the Coinage, vol. i. p. 126-7; vol. ii. p. 180-1. 233-4; 285-6; vol. iii. pl. 12-14; supplement. pl. D d, and 2 K.]

† [Ænþ gīf ic rý pæter, þ he gebure oþre healfe elne on þam pape,

If it be iron ordeal let it be three nights before the hand be undone. And let all his accusers be first demanded to give their oaths\*. And let them that are there, of either side, be fasting, according to the injunction of God and the bishop: and let there not be more than twelve of either party; if he that is accused bring more let the ordeal be null, except they will be gone from him.

\* See the account of ordeal after these laws, and the notes there.

† This is the old phrase for receiving the sacrament of Christ's body and blood.

‡ This is meant of cold water ordeal, or swimming men to try whether they be guilty or not guilty. The Jorval translation, as well as Lambard, says, an ell and a half: this is only a proof† that Brompton, or whoever was the author of that translation, did understand the Saxon tongue but very imperfectly, and were far inferior to Somner, and Hicks, and Marshal in this respect; the Saxon is þreo healyr elne: and one ell and a half is scarce the middle stature of a man. See Sax. Gram. p. 33‡.

24. 6. — Let there be no marketing on Sundays: let the offender forfeit the value of the goods, and pay thirty shillings.
25. 7. Let him that takes a false oath, if it be discovered, never be [thought] worthy to be admitted to swear afterwards; nor when he dies, to lie in a consecrated churchyard; unless he

and if it be water, that he dive an ell and a half by the rope; T. This is also the meaning of Lambard's text, which is here wrongly translated by Johnson. See note †. "The cold water ordeal," says Mr. Thorpe, "at least as practised on the continent, is thus described: 'The accused, having a cord fastened round his body, was cast into the water, if he floated on the surface he was deemed guilty, if he sank, innocent. He was then immediately drawn out.'" See Grimm, D. R. A., 923, who adds: "Herein an old heathen superstition seems to prevail, that the holy element, the pure stream, will receive within it no misdoer." Ancient Laws, &c. Glossary, art. Ordeal.]

\* [And oþga ælc man hƳ tihltan miþ Ƴpe-aðe, Ƴpa pe sƳp cƳa-bon, and let every man begin his charge with a fore-oath, as we before ordained. T.]

† ["According to the analogy of the Greek tongue, from whence (as Dr. Hickes observes) this mode of speech is borrowed, þreo healyr signifies 'three

halves,' i. e., one and a half; but þreo healyr, 'two and a half.' Dr. Hickes indeed makes no difference between these two expressions, either in Greek or Saxon: but it is certain the Greeks uniformly preserved a difference, and probably the Saxons. See Casaub. in Theoph. Charact. c. vi. p. 67. ed. Needham, and Gronov. de pec. Vet." MS. note, Wrangham. See next note.]

‡ ["Dealyr, half, follows the indefinite declension of adjectives, and, as in German, &c., is placed after the ordinal, which it diminishes by half, as oþer healyr hund bycops, 160 bishops; þreo healyr, two and a half." Raak's Anglo-Saxon Grammar, ed. Thorpe, No. 183.]

"This idiom does not exist when the cardinal number is used. In Athel. I. 24, we have oþre healyr, one and a half, while in Lambard's text (see var. reading) the same measure is expressed by þreo healyr, i. e. three halves." —T. Ancient Laws, K. Alf. and Guth., c. 2. note b. p. 66.]

have the testimony of the bishop of the shire to which he belongs\*, that he hath made satisfaction according to what his confessor enjoined him. Let the confessor inform the bishop within thirty nights, whether he be willing to make satisfaction. If he do not so, let him make satisfaction according to the bishop's injunction.

▪ If my reeves will not do any of this, or do less than we have commanded, let them pay for their contumacy against me, and I shall find other that will: and let the bishop amerce the contumacy of the reeves within his district. He that departs from this ordinance the first time let him pay five pounds, the second time the price of his blood, the third all that he hath, and the friendship of us all. [26, T.]

\* This paragraph seems properly to belong to the first law.

• Saxon *orephýpnege*, a law term. The mulct was a hundred and twenty shillings by the first law of King Edward.

All this was decreed at the great synod at Gratheaf, where was Wulhelm the archbishop, with all the noble and wise men that King Ethelstan had called together.

Here follow some laws, or memorials, concerning ecclesiastical matters, which are not in the Saxon copies, but only in the Latin, and which Sir H. Spelman gives us, vol. i. p. 404, &c. As Gratheaf was the place where king Ethelstan held his first great council; so we are assured that he held several others at Exeter, Feversham, Thunderfeld, and London: and in some of these councils, probably, these additions were made. I continue the numbers only for the sake of reference.

8. As to ordeals †, we charge, in the name of God, and by the precept of the archbishop and all my bishops, that no one

• [þe he on his reeve-geve ge, in whose shire-shire he may be, T.]

† [Lreatanleage, 'Greatanlea,' probably Greatley, near Andover, Hants. This passage is given by Lambard, but is not in MS. H. or B. Thorpe, p. 91, notes a and b.]

‡ [The Saxon text of this law is preserved in the *Textus Roffensis*, immediately after the Laws of King Ine, to which it is appended by Wilkins,

*Leges Anglo-Saxonicae*, p. 27, but by Thorpe it is made part of King Ethelstan's laws, which follow next in the same MS. In all the Latin copies it is found amongst King Ethelstan's laws. These copies differ from each other, as well as from the Saxon text, which seems to be an earlier and simpler form than that from which these translations were made. See, in addition to the above references, *Textus*

LATIN.  
Thorpe,  
V. A.  
p. 517.  
SAXON.  
Thorpe,  
p. 96.]

go into the church after the carrying in of the fire with which the <sup>p</sup>ordeal is to be heated but the priest and the person to be tried: and let nine feet be measured out from the stake to the mark, according to the length of the person's foot who is to be tried. And if it be water-ordeal, let it be heated till [Addenda.] it boils\*. [Let the caldron be made of iron, brass, lead, or clay. *This is not only in the St. James's Lat., but in the Test. Roff. Saxon.*] And if it be a single accusation, let the hand be dipped to the wrist only to take out the stone†; but if the accusation be threefold, then let it be dipped to the elbow: and when the ordeal is ready, let two of each party come in, to see that it be sufficiently heated, and let an equal number of both sides enter, and stand on each side of the ordeal along the church; and let them all be fasting, without having been with their wives the foregoing night; †let them humble themselves at the priest's sprinkling the holy water upon them‡; and let the priest give them the holy Gospel book and the sign of the holy cross to be kissed. And let no man increase the fire after the †consecration is begun; but let the iron lie in the fire till the last collect, then let it be laid †on the pillar§: and let nothing be said, but prayers to God, that He may reveal the truth: [and let the person accused drink holy water, and let the hand in which he is to carry the ordeal be sprinkled with it ¶]. Let the nine measured feet be divided into three parts, containing each three feet. Let him place his right foot at the first mark at the stake, at the second mark let him put his right foot foremost, when he is come to

[Not in Saxon.]

Roffensis, ed. Hearne, c. 8. p. 12-3; K. Athelstan's laws, IV. c. 7; Thorpe, p. 96; Brompton in x. Script., p. 855.]

\* [oð it hleoþe to pýlme, till it low to boiling, T. donec excitetur ad bullitum, V. A.]

† [buþe seo hanb ærþer þam rþane oþ þa pþurce, let the hand dive after the stone up to the wrist, T.; inmergatur manus post lapidem, vel examen, usque ad priste. V. A.]

‡ [ʒ ʒppænge ʒe mæʒte-pþeort halig-pæteþ oþer hiʒ ealle, ʒ heora ælc aþýrge þær halig-pæteþer. And let the mass-priest asprinkle holy water over them all, and let each of them taste of the holy water, T.; et aspergat presbiter aquam benedictam super eos omnes, et humilient se singuli ad

aquam benedictam utraque parte, V. A.]

§ [uppan þam rþapelan, upon the 'stapela.' *Stapela*, which may also mean a pile (of wood, &c.) seems in this place to be synonymous with *staca*, (stake,) T.]

¶ [et sic adeat, *added*, S. and V. A. The 'Versio Antiqua' gives the next four sentences thus;

Novem pedes mensurati distinguantur inter terminos. In primo signo secus stacam teneat pedem suum dextrum; in secundo sinistrum pedem; in tertium signum quando ferrum projiciet et ad sanctum altare festinet, et insigilletur manus ejus, et inquiretur die tertia si munda vel immunda sit, intra sigillationem.]



the third let him throw down the iron.] Let him speed to [the holy altar,] and let his hand be sealed up. On the third day let inspection be made whether there be any 'filth or not, in the place that was sealed up\*. If any one break these laws let the ordeal be null, and a mulct of a hundred and twenty shillings be paid to the king.

Ordeal in this law clearly signifies the water, or fire, with which the suspected party was tried: it is in the Latin called *judicium*: which very much countenances the opinion of the eminent Dr. Hickee, viz. That the word ordeal is the same with the old French, *Urdel*, which signifies judgment, or doom†. *Dissertatio Epistol.*, pag. 149.

\* [Instead of "let them humble themselves," &c. the *Textus Roffensis* says, [Addenda.] *7 beopa ælc abþyge ðær halig pæteper*, and let every one taste of the holy water. The St. James's translator read *abugie* for *abþyge*. And either, or both of these readings may be true; for by the terms of ordeal published from the *Textus Roffensis* (pag. 909 of the *Append. to Fasciculus Rerum* †) it appears that the holy water was tasted by every one present, and afterwards sprinkled on them by the priest.

From 'reveal the truth,' to 'on the third day,' is wanting in the *Textus Roffensis*‡.

It seems probable to me that what comes between, was now added by King Ethelstan and his council, and that the rest was a law of King Alfred; for we have so much of this memorial as is above hinted immediately after the laws of Ine and Alfred in *Textus Roffensis*. From which I cannot but take occasion to say, that it seems probable to me, that if our Saxon ancestors had this practice among them before their conversion to Christianity, yet it was so little used before the Danes got footing here, that we may reasonably presume it would never have prevailed to that degree it did, if those barbarous people had not mingled themselves with our ancestors, and either first introduced, or at least revived this senseless superstition. These Danes had for a hundred years together been settling themselves on our northern and north-eastern coasts, before the practice of ordeal grew rife in England; therefore I am willing to impute the prevalency of it to these invaders. Considering the universal ignorance

\* [The two foregoing sentences are thus given in the Saxon copy;

*And 7a he eo, 7 inreþige man þa hand, 7 7ete man oþep þæne þpibban ðæg 7pa hþæðer 7pa heo beo ful 7pa clæne binnan þam inreþe.* And let him go thereto; and let his hand be enveloped, and be it postponed till after the third day, whether it be foul or clean within the envelope, T.]

† [Ordalium igitur, ut Francicum 'urdel,' generatim *judicium* in primo sensu denotabat. Usu vero obtinente, specialius ad *judicium* istud divinum denotandum, quo crimina apud anti-

quas septentrionis gentes purgabantur, κατ' ἐξοχήν usurpatum est. Hickee, *Diss. Ep.*, p. 149. Mr. Thorpe in his *Glossary* compares the Old High German 'urteili,' now 'urtheil,' which also means 'judgment.')

‡ [By Ed. Brown; see also Hearne's *Textus Roffensis*, p. 13 and 25.]

§ [This statement is not quite right; brackets have been inserted in Johnson's text to shew more exactly the omission of the *Textus Roffensis*, or rather the addition to the law contained in the Latin copies.]

that had spread itself over the whole nation in those ages, it is well we did not receive the whole system of heathenism from them.]

<sup>1</sup> The fire and the water, both hot and cold, had many prayers, crossings, and other ceremonies performed over it by the priest, before the person was tried by it. He that desires to see the forms of consecration, may find them at large transcribed from the *Textus Roffensis* at the end of the *Fasciculus Rerum* published by Mr. Brown; and he will say, he never met with any thing more nauseously superstitious.

<sup>2</sup> *Lat. super staplas.* Some supporter made of stone, or iron, from whence the person to be tried was to take the hot iron into his hands.

<sup>3</sup> If there was any matter, or corruption, the person was condemned as guilty: if there was none, or the priest could see none, he was acquitted.

[LATIN.  
Sir H.  
Spelman,  
vol. i.  
p. 404-5.  
Thorpe,  
p. 547.  
SAXON.  
Thorpe,  
p. 426.]

### 9. \* It does of right concern the bishop to promote every

• [The Latin version of this law is given from three MSS. by Thorpe, p. 547, under the title, *Mon. Eccl. Versio Antiqua*: the Saxon text, Thorpe, p. 426, 'Institutes, of polity civil and ecclesiastical,' c. vii. is from Bodl. Junius, 121, a fine MS. of the tenth century. Johnson's translation therefore, and indeed the incorrect Latin copy from which it was made in Spelman, vol. i. p. 404-5. cap. xi. ex MSS. Reg. et Jorv., (comp. Brompton, p. 845,) is now so entirely superseded, not only by a better Latin version, but by the discovery and publication of the Anglo-Saxon copy, that the best means of correction will be to cite Mr. Thorpe's translation of the latter. In printing the following quotation, italics are used with figures of reference to point out the mistakes, variations, and omissions of Johnson and his Latin copy.

"To a bishop belongs every direction, both in divine and worldly things. He shall, in the first place, inform men in orders, so that each of them may know what properly it behoves him to do, <sup>1</sup> and also what they have to enjoin to secular men. He shall ever be (busied) about reconciliation and peace, as he best may. He shall zealously appease stifes and effect peace, with those temporal judges who love right. He shall in accusations direct the 'lād,' (expurgation,) so that no man may wrong another, either in oath or in ordeal. He shall not consent to any injustice, or wrong measure, or false weight: but it is fitting, <sup>2</sup> that every legal right, (both 'burh-riht' and 'land-riht,') go by his counsel, and with his witness; and let every burg-measure, and every balance

for weighing, be by his direction and furthering, very exact, <sup>3</sup> lest any man should wrong another, and thereby altogether too greatly sin. He shall always shield Christian men against every of those things which are sinful; and therefore he shall apply himself the more vigorously to every thing, that he may the more readily know how the flock fares, which he has to tend from God's hand; that the devil may not too greatly ravage therein, nor too much of his falsehood sow among them. Never will the people's course be well directed, nor well assured with regard to God, in that country, where wrongful gain and most falsehood are loved; therefore should a friend of God suppress every unrighteousness, <sup>4</sup> and exalt righteousness, and never consent that men, through falsehood, and through wrongful gain, too greatly foredo themselves before the righteous God, who shuns every unrighteousness. It behoves all Christian men to love righteousness, and shun unrighteousness; and especially men in orders should ever exalt righteousness, and suppress unrighteousness; therefore should bishops, with temporal judges, direct judgment so, that they never permit, if it be in their power, that any injustice spring up there. And on priests also it is incumbent, in their <sup>5</sup> shryft-districts, that they diligently support every right, and never permit, if they can ameliorate it, that any Christian man too greatly injure another; nor the powerful the weak, nor the highest the lower, nor the <sup>6</sup> shire man those under him, nor the 'hlaford' his men, <sup>7</sup> not even his thralls. By the confessor's

observance, both divine and secular. In the first place he ought to instruct him that is ordained what is of right to be done by him, and how they ought to judge seculars<sup>1</sup>; and diligently to conciliate peace and concord with secular judges, who have an inclination to right and to instruct them in "purging away accusations; that one may not act amiss toward another in case of oath or ordeal.

<sup>1</sup> So I translate *in compellationum adlegiationem*, read *allegiatione*, literally, inlawing themselves against such accusations, by which they were in danger of being outlawed.

Nor ought he to permit any fraud by unjust measure or weight; but it is fit, that by his council and attestation every public law, and the measure and weight of [every] borough<sup>2</sup> be rightly adjusted, according to what he says.

[And] that no one seduce his neighbour, so as that he fall into sin. And a Christian [bishop] ought always to make provision against the particulars aforesaid<sup>3</sup>; and on that account he ought rather to interpose in divers matters, that he may know how his flock, which he received at the hand of God to look after, behave themselves; that the devil may not wrong it, nor disseminate evil among it.

For the people will never be well provided for, nor be guided in such a manner as God requires, where ungodly, or rather false gain is loved: therefore all friends of God ought to weaken iniquity, which deserves to be set at nought<sup>4</sup>, and not permit men to forfeit themselves to a truly wise God, to whom all injustice is displeasing, on account of their falsity and getting of money.

And it is necessary for all Christians, that they love right and condemn wrong; and that they who are promoted to

direction, and by his own measure, it is justly fitting that the <sup>8</sup> *thralls* work for their 'hlaforde' over all the district in which he shrives. And it is right that there be not any measuring rod longer than another, but all regulated by the <sup>9</sup> *confessor's* measure; and let every measure in his <sup>10</sup> *shrift-district*, and every weight be, by his direction, very rightly regulated; and if there be any dispute, let the bishop arbitrate. <sup>11</sup> *It is every 'hlaforde's' own advantage*

*to protect his thralls as he best may, because they and those that are free are equally dear to God, and He bought us all with equal value. We are all God's own <sup>12</sup> thralls, and so He will judge us as we here judge those over whom we have judgment on earth: <sup>13</sup> it therefore behoves us to protect those who are to obey us; then may we look for the greater protection at God's own judgment."* See Ancient Laws, &c. p. 426-7.]

sacred orders do always advance what is right, and depress what is wicked. Therefore bishops ought to be present with secular judges in their judicatures, that they may not, if possible, permit any sprouts of pravity to spring up.

And it concerns priests in their diocese<sup>1</sup> diligently to help every one as to what is right, and not to suffer, if they can, one Christian to hurt another, that the potent be not troublesome to the impotent, the superior to the inferior, the prelate<sup>6</sup> to his subjects, the master to his men, whether bond or free<sup>7</sup>. And it is fit that <sup>x</sup>testamental servants<sup>8</sup> work according to the bishop's word, and the measures fixed by him in the whole shire over which he presides.

<sup>x</sup> That is, slaves, which used to be given to surviving friends by testators. Many instances of this may be seen in Mireus's *Codex Donationum*.

[Addenda.] [My second thoughts upon this matter are that testamental servants were such predial slaves or villains as had a property, and might therefore dispose of what they had by their last will or testament.]

And it is right that one measuring rod be not longer than another, but all adjusted to the bishop's<sup>9</sup> measure, and made even throughout his diocese<sup>10</sup>. And let every weight be the same according to his word; and if there be any dispute, let the bishop decide it.

And it is necessary that every master be compassionate and condescensive to his servants, in the most indulgent manner that is possible<sup>11</sup>. The slave and the freeman are equally dear to the Lord God, who bought them, and bought them all with the same price. And we are all of necessity servants<sup>12</sup> to God, and He will judge us in the same manner that we on the earth judged them over whom we had a judicial power<sup>13</sup>.

A.D. DCCCCXXVI., OR THEREABOUTS.

LAWS OR MEMORIALS OF KING ETHELSTAN.

PREFACE.

IN Mr. Lambard's collection of Saxon Laws we have, in the [Lamb.,  
next place, King Ethelstan's council held at Excester\* in p. 53.  
Christmas. Where, after a complaint made that the laws p. 93.]  
made at Grathea† were not observed, an unanimous reso-  
lution is taken to drive the transgressors out of England  
and two civil laws are added, beside a third which concerned  
the Church, and here follows.

A.D. DCCCCXXVI., OR THEREABOUTS.

1. LET all the servants of God in every minster sing fifty SAXON.  
psalms to God for the king every Friday, and for all that will [Lamb.,  
what he wills, and for others as they deserve. And every p. 55.  
man that will may make satisfaction with his accuser, for Thorpe,  
for every crime objected against him, till the next Perambu- p. 94.]  
lation-days, without any mulct. Afterwards let it be as  
it was.

\* This was an act of grace : the king forgives mulcts due to him, so  
that the offenders make peace with the injured parties before Rogation  
next. The Saxon is plain, the Latin is unintelligible to me.

\* [' Rather a re-promulgation of cer-  
tain laws passed there, and at Thun-  
dersfield.' T.]

† [Lpeatanleage, L. 'Greatanlea,'  
probably Greatley, near Andover,  
Hants. See Thorpe, p. 91, note b.]

These <sup>b</sup>useful memorials immediately follow in Sir H. Spelman, p. 405\*.

<sup>b</sup> I call these useful, because they shew the several degrees and rank of men then in the kingdom, and the rates of the weres, or weregilds, at which they were laid, of which so frequent mention is made throughout this volume. But I am far from thinking that the certain value of the coins, or denominations of money hinted in these memorials, can be learned from hence: at least, I may dare say, that no man hath yet done it to the satisfaction of an inquisitive mind. Any one may see how the great restorer of Saxon learning failed in this point. Pref. to the Thesaurus, p. 41. Dissertat. Epist., p. 110, 111. Therefore I presume not to meddle with these money matters.

[1.]  
[SAXON.  
Lamb.,  
p. 55.  
Thorpe,  
p. 79.†]

2. The king's weregild at the common law, among the English, is thirty thousand thrymsa; fifteen thousand for his person †, the other fifteen thousand for his kingdom §. The first belongs to his kindred, the kingbote ¶ to the people of the land.

- [2.] An archbishop or earl's || weregild is fifteen thousand thrymsa.
- [3.] A bishop or alderman's weregild is eight thousand thrymsa.
- [4.] A general or high-reeve's weregild is four thousand thrymsa.
- [5.] A mass-thane, and a secular thane's weregild is two thousand thrymsa.
- [6.] A common man's weregild is two hundred and sixty seven thrymsa by the Danes' law\*\*.
- [7.] A stranger's †† weregild, if he have a family, and estate, and

\* [So also in Lambard's Archæonomia, ed. Wheloc, p. 55-6, which is the copy here translated by Johnson; Spelman only gives an imperfect Latin version.]

† [Mr. Thorpe gives these laws on 'Wer-gilds' from MSS., together with variations of the text from Lambard, who transcribed a MS. which cannot now be found. See Ancient Laws, &c., p. 79, note b. Johnson's translation has been compared with Lambard's text and Thorpe's translation of it, but only the more important variations of Thorpe's text from MSS. are here noted. The numbers in the margin are those added by Thorpe for the purpose of reference.]

‡ [þær pæper, L. for the 'wær,' T. Thorpe's text from MSS. has þær pæp-gilber, for the 'wer-gild,' which serves to shew that 'wær' and wer-gild are interchangeable terms.]

§ [þær cyne-domer, L. T. for the 'cyne-dom,' T.]

¶ [þ cyne-bot, L. T. the 'cyne-böt,' T. See below, the concluding paragraph and the note.]

|| [æðclinger, ætheling's, T.]

\*\* [Ceoplep pæp-gilb is cc. 7 lxxi. þpi. þ brð n. hund reall be Wypena lage. - A 'ceorle's' wer-gild is cc. and lxxi. 'thrymsas,' that is cc. shillings by Mercian law. T.]

†† [Wealfr-monner, L. 'a wylisc-man's,' T. This term, which literally

pay his tax to the king, is two hundred and twenty\* shillings. If he have but half a plough-land, let his weregild be eighty shillings. If he have no land, but be free, let the forfeiture be seventy shillings. [8.]

If a common man have five hide of land †, and he be killed, [9.] let the payment be two thousand thrymsa. Or if he have a breastplate‡ and helmet, and a gilt sword, though he have not the land§; and if his son or grandson have so much [10.] land, let their successors be king's officers¶, and let two thousand thrymsa be paid for them. [11.]

In Mercia, the common man's weregild is two hundred and sixty-six thrymsa, this is two hundred shillings. The thane's is six times as much, that is, one thousand two hundred shillings. The king's single weregild is six times as much as the thane's, that is, thirty thousand sceats, in all, a hundred and twenty pounds||; and as much is to be taken for kinggild<sup>1</sup>. The kindred have the weregild, the people of the land the kingbote<sup>2</sup>.

[The last paragraph of this memorial is in Textus Roffensis after King [Addenda.] Ethelstan's *Lepænery* (for *Lepæbneŷŷe*) and some other matters. The Saxon agrees exactly with this Latin, and immediately foregoing this in the Textus Roffensis is the third memorial concerning the availment of oaths. My translation says, the mass-priest and the secular thane's oath are the same: the Saxon expresses it thus, *gecealþ efen-býne*<sup>3</sup>, therefore the Latin should be *reputatur æque carum*. There is somewhat added both in the Saxon and Latin, of the sense whereof I am not sure, but I suppose it to be this; if one rated at a hundred and twenty shillings is to be [impeached so as to be brought to purgation] he is fully im-

means a 'stranger,' is here applied to the British inhabitants of Wessex, &c. as distinct from the Welsh of the Principality. Comp. Thorpe, p. 51, note b. p. 79, note a.]

\* [120, T.]

† [Ænþ gŷŷ ceoplŷŷe man geþeo þ he hæbbe v. hida landeŷ to cýngeŷ ut-pape, and if a 'ceorlish' man thrive, so that he have v. hides of land for the king's 'ut-ware,' T.]

‡ Ut-ware, a species of tenure the precise nature of which cannot now be ascertained.—Thorpe, Glossary.]

§ [býpne, L. a coat of mail, T.]

¶ [In Lambard's text follow the words he brð ŷcund, he is 'sithcund;' in Mr. Thorpe's text from MSS., he brð ceopl ŷpa beah, he is nevertheless

a 'ceorl.']

¶ [þæŷ ŷcunda[n] cýnneŷ, L. of the 'sithcund' kin, T. geŷcumber cýnneŷ, of 'gesithcund' race, T. See above, p. 137, note \*.]

|| [The remainder gives the sense of Lambard's text, (*Archæonomia*, p. 56,) which according to Thorpe is here of more value than the MSS., but the two following words require notice;

<sup>1</sup> cýne-gýlb, L. T. 'cyne-gild,' T.]

<sup>2</sup> cýne-bot, L. T. 'cyne-bôt,' T.]

Both these words mean the portion belonging to the nation of the mulct for slaying the king, the other portion, or 'wēr,' being due to his family. See Thorpe, Glossary, art. *Cyne-bôt*, and *Cýning*.]

peached by six common men. The Sax. word is *ppæcan*<sup>2</sup>, which I have expressed by the words enclosed in hooks\*.]

[SAXON.  
Lamb.,  
p. 56.  
Thorpe,  
p. 78.]

3. The oath of him that is rated at one thousand two hundred shillings is of as great a value as six common men's; for his weregild is as much as six common men's. The mass-priest's and the secular thane's oath are the same among the English †.

The following memorial, which Brompton puts among the laws of King Ethelstan, and which Dr. Hickes prints from the old Saxon copy in the *Textus Roffensis*, I have thought fit here to insert. See *Dissert. Epist.*, p. 113. Its title is,

*Concerning the merits † and legal condition of the people.*

[SAXON.  
Thorpe,  
p. 81.  
V. A.  
p. 511.]

4. It was once the constitution of the English, that the people, and their legal condition, went according to their merits †, and then were the counsellors of the nation honoured, each one according to his quality, the earl and the churl, the thane and the sub-thane ‡. 'If a churl thrived so as to have

\* [A confusion is here made between *ppæcan* 'to avenge,' and *ppægan* 'to accuse.' See next note.]

† [This is an abridgment of two laws which are thus given by Thorpe from the *Textus Roffensis* collated with another MS. and Lambard;

Be gehabodna manna aþe and  
habbote.

xii. Wæsse-ppeorce aþ 7 populb-  
þegener, 7 on Engla-lage gecealb efen-  
byre, 7 for þam feorþon cipe-haban  
be se mæsse-ppeorce þurh Lober gife  
geþeah þ he hæfde, he bið þegen-  
rihtes pýrðe.

Of the oath and degree-<sup>2</sup> 'bōt' of men  
in orders.

12. A mass-priest's oath and a secular thane's are in English law <sup>2</sup>reckoned of equal value, and by reason of the seven church-degrees that the mass-priest, through the grace of God, has acquired, he is worthy of thane-right.

Be Werciran aþe.

xiii. Twelf-hýnber mannes aþ for-  
pæct vi. ceorla aþ, forþan gif man  
þone twelf-hýnban man <sup>2</sup>ppæcan ac-  
eolbe, he bið full-upæcan on sýx ceor-  
lan, 7 his wep-gýlb bið sýx ceorla  
wep-gýlb.

Of the Mercian oath.

13. A 'twelf-hynde' man's oath stands for six 'ceorls' oaths; because, if a man should <sup>2</sup>avenge a 'twelf-hynde' man, he will be fully avenged on six 'ceorls,' and his 'wergild' will be six 'ceorls' wer-gilds.' Thorpe, p. 78, Oaths, c. 12, 13. See also Thorpe, p. 48, Laws of K. Ine, c. 14, note h.]

‡ [*geþincðum*, ranks, T.]  
§ [*þegen* 7 *þeoben*, 'theogen' and 'theoden.' T. The word *þeoben* which Hickes has translated 'subthanus,' probably on the authority of 'subliberalis' in the Latin version of the *Textus Roffensis*, (ed. Hearne, p. 46,) usually means *lord*, *chief*, *king*, and therefore a person not below, but far above the thane. See Bosw. Dict. art. *þeoben*.]



five hides of his own land, a church, and °kitchen, a bell-tower, a seat<sup>1</sup>, and an office in the king's court, from that time forward he was esteemed equal in honour to a thane<sup>2</sup>. And if the thane so improved, that he ministered [to the king] and rode an embassy with his own retinue<sup>3</sup>, and had a thane to follow him who had five hides [of land], upon a royal expedition<sup>4</sup>, [and] attended his lord, in the king's court, and had thrice gone a royal embassy<sup>5</sup>; he might afterwards, with his<sup>d</sup> foreoath act in his lord's stead on various occasions, and impeach men according to law, in any case where °he himself might do it<sup>6</sup>. And if he who was thus accused had not forfeited [himself], he purged himself upon oath, according to his quality, or else 'forfeited himself'<sup>7</sup>. And if the thane so improved, that he became [equal] to an earl, he was esteemed worthy of the honour of an earl from that time forward. And if a trader did so improve as that he passed thrice over the wide sea, by his own skill†, then he from that time forward was thought to deserve the rights of a thane. And if a scholar made such proficiency in learning, as that he obtained orders, and ministered to Christ, he was thought worthy of that dignity and protection that belonged thereto, unless he incurred a forfeiture of his function, and might not exercise it. If it happened that one in orders, or a stranger, was in any respect injured, in word or deed, then it concerned the king and the bishop that satisfaction should be made with all possible speed.

\* It has been observed that a friburg, that is, ten or more families of freemen, eat together‡. But it will appear that every thane's or great man's family, was of itself esteemed a friburg, by law fourteen of Edw.

\* [The Saxon text is nearly the same in all the MSS., but the following is Mr. Thorpe's translation of the above passage.

And if a 'ceorl' thrived, so that he had fully five hides of his own land, church and kitchen, bell-house and <sup>1</sup>'burh'-gate-seat, and special duty in the king's hall, then was he thenceforth of <sup>2</sup>thane-right worthy.

And if a thane thrived, so that he served the king, and <sup>3</sup>on his summons rode among his household; if he then had a thane who him followed, who <sup>4</sup>to the king's 'ut-ware,' five hides had, and in the king's hall served his lord,

and thrice <sup>5</sup>with his errand went to the king; he might thenceforth, with his 'fore-oath,' his lord represent, at various needs, and <sup>6</sup>his plaint lawfully conduct, wheresoever he ought.

<sup>7</sup>And he who so prosperous a vicegerent had not, swore for himself according to his right, or it forfeited. Ancient Laws, &c. (Ranks, c. 2—4.) p. 81.]

† [be his agenum cpærte, by his own means, T. It is possible that cpærct may here, as at the present day, signify 'a vessel.' See Thorpe, p. 81, note d.]

‡ [See above, p. 134, note k.]

Conf. 1065; therefore at that time for a man to have a kitchen for the dressing his own meat might well be esteemed the mark of a thane. Yet let the Saxonists judge whether we ought not to read *Kypicena*-Bell-hur, that is, a church-steeple, (to distinguish it from a common bell-tower,) instead of kitchen, bell-tower\*. Bede, l. iv. c. 23, mentions a nun hearing a noise like the known sound of the bell which used to be tolled at the passing of a soul. This was two hundred and fifty years before the death of Ethelstan. Bells therefore are very ancient in England †.

\* This oath was either for the proof of his commission, that he had authority from the king to execute such and such business; or else it was the oath by which he impeached persons suspected.

† I suppose the king himself.

‡ Therefore the impeachment was for some capital crime: not fewer than three common men could impeach another.

\* [Mr. Thorpe's translation has already been quoted; the words of the Saxon text and old Latin version are, *cypican 7 kycenan, bell-hur 7 buph-geat-ætcl*, T. *ecclesiam et coquinam, timpanarium et januam ædem*.—Vera. Antiq. Thorpe, p. 511.

Although the alteration of reading proposed by Johnson is clearly inadmissible, it remains a question whether the 'bell-house' here meant was a refectory (See Thorpe, Glossary, art. Bell-hus) or a campanile detached or otherwise both for ecclesiastical and general purposes. For an old Latin version of the law in which the word

*bell-hus* is rendered 'clocarium,' see *Textus Roffensis*, ed. Hearne, p. 46-7.]

† [Hæc tunc in dormitorio sororum pausans, audivit subito in ære notum campanæ sonum, quo ad orationes excitari vel convocari solebant, cum quis eorum de sæculo fuisset evocatus. Bed. Hist. Eccl., lib. iv. c. 23. p. 169.

Da pær heo pærtenbe on ppeortpa flæperne, ða gehýpbe heo remunga on ðære lýfte upcunbne ppeg 7 hleoþor heopa cluggan ðære hi gepunedon to gebebun gecigde 7 aþehte beon, ðonne heopa hþýc of peopulbe geyreþ pær. Ibid., King Alfred's Translation, p. 595. 40.]

Here we have also transcribed, by Sir H. Spelman from the Codex Regius in Latin, the rules for making satisfaction for murdering, or laying violent hands on a clerk, which I translated from the Saxon, and inserted at the year 725. And here I thought fit to insert the twelfth canon of a synod held at London toward the end of Ethelstan's reign, and which I therefore date,

## A. D. DCCCCXL.

§ We have charged all that are admitted into our gildship by pledges given, that if one happen to die, every brother of the gild give a loaf, and meat sufficient to be eaten with it, for his soul; and sing, or cause to be sung, fifty psalms within thirty nights.

Sir H. Spelman, p. 407. [Saxon. Thorpe, p. 101. V. A. p. 519.]

¶ By this it appears, that the bishops were now entered into such a fraternity as that I have described in my notes on the last clause of the rules for satisfaction, in the year 725.

\* [K. Athelstan's Laws, V., (Judicia Civitatis Lundoniæ) c. 6, from Textus Roffensis. On gildships see Kemble's Saxons in England, bk. i. ch. ix. p. 248, and App. D.]

## ODO'S CANONS.

A.D. DCCCCXLIII.,

OR SOON AFTER, ODO, ARCHBISHOP OF CANTERBURY, MADE THE  
FOLLOWING CONSTITUTIONS.

### PREFACE.

LATIN.  
Sir H.  
Spelman,  
vol. i.  
p. 415.  
[Wilkins,  
vol. i.  
p. 212.\*]

IN the name of the Holy Trinity, and the one Deity. Though it be a bold presumption to give documents of pious exhortation, without having any merits of my own; yet because a spiritual prize is promised to them that strive, and take pains in the race of this life, by the Author of gifts, the Spirit †; therefore I Odo, the lowly, and meanest that is promoted to the honour of a pall, and of being a chief prelate, have resolved to<sup>a</sup> put together in this paper some institutions not unworthy of any worshipper of Christ, which I found to be of greatest authority, from the former injunctions of illustrious men, to the consolation of my lord the king, that is Eadmund, and of all the people subject to his most excellent empire: therefore I most devoutly beseech, and with clemency exhort the minds of the hearers, that they inwardly graft them in their hearts by frequent meditation, whenever they hear them rehearsed; and by this means, at the time of harvest, gather for themselves the most peaceable fruit, by the manifold exercise of good works.

<sup>a</sup> I read, *coadunare*, not *quo adunare* ‡.

1. We charge and command, that the holy Church of God, which is founded first in the blood of Christ, and made a fair

\* ["Ex MS. Cot. Vespas. A. 14 fol. 173 verso."]

† [In the Latin follow these words; et pastorum curæ, populus Dei multi-

plicandus, fide et numero caute conceditur. S. W.]

‡ [So Wilkins.]

spouse by the multitude of believers, be not invaded by the violence of wicked men : and let it be allowed to none to lay taxes upon the Church of God ; because the sons of the Church, that is, the sons of God, are free from all earthly tribute in every kingdom : Ambrose says, " the Catholic Church is free from royal taxes\*." <sup>b</sup> If any houses, lands, or farms have been taken away from Christians, or been confiscated, or granted away, we charge that they be all reassumed by the Christians, as their ancient right : for Gregory says, " If any one rob the Church of Christ, let him be anathema, if he do not make amends." And again : " Whoever attempts to violate or usurp the parishes of the Church of God by rapine, let him be excommunicated by the ministers of the Church, and become wholly an alien from the body of Christ : " for they who disdain to obey the rules of the Church's discipline, are more ' bold than the soldiers who crucified Christ † : for the Church hath power of binding and loosing.

<sup>b</sup> Here is added in Sir H. Spelman's copy, in *Historia Ecclesiæ*. What the meaning is I know not : probably Odo had seen these words cited in some book called *Historia Ecclesiæ* †.

\* [Nec alicui liceat censum ponere super ecclesiam Dei ; quia filii ecclesiæ, id est filii Dei, ab omni censu terrestri liberi sunt in omni regno. Ambrosius ait : ' Ecclesia catholica libera est ab omni censu principis.' W. This saying is not found in the works of St. Ambrose, and, if understood according to the above translation, to claim for all Church property an exemption from tribute, is contrary to his frequently expressed opinion. ' Præter ecclesias catholicas,' was one of the exceptions in the edict of Constantine the Great, ' De annona,' Cod. Theod. xi. tit. 1. l. 1. tom. iv. p. 6, 7 ; but laws were soon afterwards made for the taxing of the bishops and clergy which St. Ambrose cheerfully obeyed, though he protested against the imperial interference in matters of faith, and violent invasion of the churches ; among many like expressions he has the following ; Si tributum petit (sc. imperator) non negamus. Agri Ecclesiæ solvunt tributum.—Solvimus quæ sunt Cæsaris Cæsari, et quæ sunt Dei Deo. Tributum Cæsaris est, non negatur : Ecclesia Dei est, Cæsari utique non debet addici, quia jus Cæsaris esse non potest

Dei templum. S. Amb., Op., tom. ii. p. 872 F, p. 873 D. Sermo contra Auxentium de Basilicis tradendis. cf. ibid. Ep. xx. § 8. p. 864 C. Ep. xxi. § 4. p. 861 A. Hence it seems probable that ' ecclesia catholica ' in the saying attributed to St. Ambrose means little more than ' a catholic church,' as referring to the building and its immediate precincts, so that Odo here only asserts the immunity defined in Egbricht's Excerptions, A.D. 750. c. 25, and established on the continent by the emperor Ludovicus Pius and various councils. Grat. Decret. Causa xxiii. q. 8. c. 21—5. Conc. Meldense, A.D. 845. c. 63 ; Concil., tom. xiv. p. 834.]

† [Audent enim extra milites, qui Christum crucifixerunt, aliquid, qui ecclesiæ ejus disciplinæ regulis obedire contempnunt. S. W.]

‡ The words ' In historia ecclesiæ ' are also in the edition of Wilkins, and clearly are meant to introduce what follows, as part of the provisions of the edict of Constantine the Great and Licinius at Milan, A.D. 313. Euseb., Eccl. Hist., lib. x. c. 5. p. 482. Vita Constant., c. 36—41.

\* My reader will justly believe this to be a very bold stroke from the lowly Odo.

2. We admonish the king, princes, and all that are in authority, that they with great humility be obedient to their archbishops, and all other bishops, because the keys of the kingdom of heaven are given to them, and they have power of binding and loosing. Nor let them value themselves on account of their secular power; "for God resisteth the proud," &c.\* And let the king have wise counsellors, [and] such as fear God, in the affairs of his government; that the people being instructed by the example of king and princes, may make improvement to the praise and glory of God†. [He ought] to oppress none unjustly by his power, to judge between man and man, without respect of persons; to be a protector to the stranger, fatherless and widow; to prohibit theft, to punish adultery, not to prefer wicked men, to cherish the poor with alms; for though it is necessary that every man keep the commands of Christ; yet it is more especially so for kings, and all that are in high places, who are, at the day of strict inquest, to give an account to the just Judge, both of themselves and of the people subject to them.

[1 Pet. v. 5.]

3. Bishops are to be admonished, that they do with all honesty and modesty, according to the godliness of our holy religion, preach and shew a good example to all: that they go about their parishes every year, vigilantly preaching the Word of God; lest any one, through the neglect of the shepherd, wandering in the by-ways of ignorance, be exposed to the teeth of the worrying wolves. Let none study to feed the flock committed to him for filthy lucre's sake, but in hope of an eternal recompense; for we should not delay freely to give what we have freely received, viz., to preach the word of truth to the king, to the princes of his people, to all dignities, without fear or flattery, with all boldness; and never to decline the truth, to condemn none unjustly, to excommunicate none without cause‡, to shew to all the way of salvation.

\* [humilibus dat gratiam, S. W.]

† [Wilkins adds, sitque rex clypeus et defensor ecclesiarum Dei.]

‡ [Rather, 'to receive none to com-

munion improperly;' the Latin is neminem injuste dampnare; neminem, nisi juste communicare, S. W.]

4. We admonish priests, that they teach their people\* by their good example, in the holy habit, and instruct and inform them by their holy doctrine; that their conversation excel the manners of the people in all goodness and modesty; that they who see him walking appavelled according to the dignity of the priesthood, may with good reason speak commendably of his <sup>d</sup>habit.

\* Habit is a word that has a complicated signification: I mean, it denotes not only the singular garb of a clergyman, but also his order or profession. It should seem there was a particular habit for priests in common life at this time; though afterwards it grew into disuse, as we shall see.

5. Clergymen are to be admonished, that they live canonically, with all honesty and reverence, according to the decrees of the holy fathers, giving a good example, that so the bishop may gain credit by their good conversation, the Church may be honoured, the people may be improved, to the praise of God; and that they, according to the dignity of their title, may be made worthy to come into God's heritage.

6. We exhort monks, and all devoted to God, that in humility and obedience, day and night, they study to perform their vows, continuing in the churches where they first took their vows, in the fear of God: let them not be strollers and saunterers who desire the name, but despise the duty of a monk. Let them, according to the example of the Apostles, inure themselves to the habit of humility, handy labour, holy reading, and continual prayer, being ready, "with their loins [Lukexii.] girt about, and their candles burning, expecting the good man of the house," that He may come and give them eternal rest.

7. We absolutely forbid Christians all unrighteous, incestuous marriages with nuns, or near kindred, and with all unlawful persons, for Pope Gregory of holy memory, with many bishops and other priests in the <sup>e</sup> royal house of blessed Peter the Apostle, ordained, "If any one marry a nun †, let him be anathema:" and they answered, Amen. We, following

\* [populum Dei, S. W.]  
 † [The Latin adds 'quam Dei ancillam appellamus,' as in Conc. Rom.

i. c. 3. Concil., tom. xii. p. 263 C. See above, p. 213, note \*.]

the same apostolical authority, do likewise cast the dart of malediction against such, unless upon reproof they betake themselves to satisfaction for such nefarious presumption.

\* Basilica, church.

† Vis., Gregory II. A.D. 731.

8. That when we meet in any convention, we consider [Pa. xxxiii. 13, 10.] what the Psalmist says by way of admonition, "The Lord be- holdeth the children of men," &c. And again, "The Lord bringeth to nought the councils of nations;" and so on to "His own inheritance:" therefore we ought to look to it, brethren, that there be concord and unanimity between bishops and princes, and all Christian people: that there be every where unity and peace to the Churches of God; nay, that the Church be one in faith, hope, and charity, having one head, which is Christ; whose members ought to help [John xiii. 35.] and mutually love each other, as He Himself says, "In this shall all men know," &c.

9. We admonish that fasting, with alms, be very carefully observed; for these are the <sup>c</sup>three wings which carry saints to heaven: wherefore endeavour to keep the fast of Lent, of the four seasons, and other lawful fasts, as of the <sup>b</sup>fourth, and sixth day of the week, with great vigilance; and above all, the Lord's day, and the festivals of saints\*, ye are to take care that ye observe with all caution, [by ceasing] from all secular work. Consent to no vain superstitions; nor worship the creature more than the Creator, with magical illusions: for they who do such things shall not inherit the kingdom of God.

\* Either prayer was first joined with fasting and alms, but afterwards dropt by the carelessness of the transcribers; or else it should be *duæ*, instead of *tres*.

<sup>b</sup> It is evident from this, that the old English symbolized with the Easterns, not with the Romanists, in observing their weekly fasts: and even Gratian, long after this, countenances the Wednesday and Friday fast. De Consec. Dist. iii. c. 16; yet it is certain that Innocent's decree for the Sabbath, or Saturday fast, whether genuine or not, was long before this received by the Church of Rome; and Gratian himself there † cites it. And see Ecgbriht's Dialogue in fine, 734.

\* [The Latin adds, sicuti canon et exempla præcedentium patrum affirmant, W.]

† [Rather in a preceding chapter, viz., De Consec. Dist. iii. c. 13.]



10. And we faithfully entreat you as to the paying of tithes, as it is written in the law, "The tenth part of all thine increase, and thy first-fruits, carry into the house of the Lord thy God." And again, by the prophet He says\*, "Bring your tithes into My store-house," &c. Mal. iii. 10. [cf. Ex. xxiii. 19.] Therefore with an obtestation we charge you that ye take care to pay tithes of all that ye possess: because this doth peculiarly belong to God: and men should live and give alms out of the nine parts. Let us do the truth, and remain in charity in Him who is God blessed for ever. Amen.

*Archbishop Odo's synodical epistle, transcribed by Sir H. Spelman from Malmsb. de Gestis Pontific. l. 1.*

By the help of the Almighty who presides over the poles, I Odo, archbishop of the Church of our Saviour the Lord Jesus Christ, metropolitan of the city of Canterbury, to our fellow-bishops, compaginators of the catholic faith, with spiritual charity mixed with rigour. [I wish] my brethren prosperity in things present, and heavenly beatitude. If it could be that the riches of all the world now laid in our view, so as to be wholly subject to our imperial command, I would willingly give them all away, and moreover spend myself, for the salvation of your souls; because I desire and hope to be corroborated by the zeal of your holiness, in the business wherein the Lord God hath appointed us to be fellow-labourers. [Wilkins, vol. i. p. 214.]

[He subjoins, says Malmsbury, many things concerning the burden of the pontificate.]

Therefore I humbly pray and exhort your holiness as one unworthy, yet much in earnest, that you do not behave yourselves with lukewarmness and negligence in the regimen of

\* ["Afferte (inquit) omnem decimam in horreum meum, ut sit cibus in domo mea, et probate me super hoc. Si non aperuero vobis cataractas cœli, et effudero benedictionem usque ad abundantiam; et increpabo pro vobis,

qui comedit et corrumpit frustum terræ vestræ, et non erit ultra in ea sterilitas." S. W. Compare Mal. iii. 10, 11, Vulg., and Legatine canons at Cealchythe, A.D. 785. c. 17.]

souls; lest at the time of the tremendous vintage<sup>1</sup> the Lord complain of you, saying<sup>2</sup>, Ezek. xxxiv. 8, and again, "They became princes and I knew it not<sup>3</sup>," <sup>1</sup>Hos. viii. 4\*. But rather let us take care to give meat, a portion of wheat, that is, approved doctrine in due season to the family of God, over which He hath appointed us rectors: and though by dint of merit I presume not to comfort or exhort any man, as being of myself unworthy, and guilty of innumerable faults, I am pleased with, and want to be corroborated with your brotherly admonitions; yet on account of the ancient authority of my predecessors, viz., Augustin of blessed memory, and other holy men, by whose endeavours the rule of Christianity first appeared from this archiepiscopal see to the remotest parts of the English [people], on this account I resolved to draw up these godly rules to the profit of you all†; that so our most august King <sup>2</sup>Edmund, excellent by name, with all his people, may gladly follow what they hear in us, and from us, and that all nations every where subject to his royal empire may love and delight to imitate with triumph the glories of our unblemished conversation.

<sup>1</sup> According to the Vulg. Lat.

<sup>2</sup> *Eab-munb* signifies prosperity and protection. The name is written *Ætmund* in the preface of this council: if this be not a pseudography, it is possible that it may be derived from *Æahr* and *munb*, then it denotes a protector of every thing that is valuable. But there is little regard to be had to the writings of this age in the Latin tongue, as to any thing that is critical or curious. *Ælfric's* complaint is very sad, viz., that there was not a priest in England that could write, or construe a Latin letter, till *Dunstan* and *Ethelwold* taught some monks to do it. *Odo* was next but one archbishop before *Dunstan*: and though he was more than a priest, and did actually write this, and other letters in Latin, and drew up all the foregoing canons or decrees; yet it is but too plain, that *Ælfric's* censure did fall in some measure upon *Odo* himself. He was commonly called *Odo the Good*; and if he did indeed deserve that epithet, this was a sufficient counterpoise to his other defects. The most notable fact related of him by the writer of his life is, that he caused one of King *Edwy's* ladies of pleasure to be branded in the face with a hot iron, and banished her into Ireland; and afterwards hearing that she was returned from

\* [Ut non in tempore tremendæ vindictæ conqueratur de vobis Dominus, dicens: "Pastores non pascebant gregem meum, sed semetipsos." Et iterum: "Principes extiterunt, et ego

ignoravi." M. S. W.]

† [idcirco istos divinos apices ad utilitatem omnium vestrum curare decrevi, M. S. W.]

banishment, and landed at Gloucester, he sent his men thither to apprehend her, who houghed her, or cut her hamstrings, of which she died. Odo hated vice, but he was a Dane by birth ; and was probably never well cured of his natural barbarity.

And this was singular in Odo, that he was nominated to the see of Canterbury before he had been a monk ; and he pleaded this in excuse for his refusing the primacy, that none but Benedictine monks had ever sat in that chair. But when great importunity was used with him to accept the offer, he thus reconciled the matter, viz., he declared he had long been a monk in his own mind, and now he was resolved to send for a famous abbot out of France to invest him with a monk's cowl, though he had for a considerable time before been bishop of Shirburn ; and being thus qualified by having the monk's habit put on him by a French hand, he accepts the archbishopric.

A.D. DCCCCXLIV., OR THEREABOUTS.

KING EADMUND'S LAWS ECCLESIASTICAL.

SAXON.  
Sir H.  
Spelman,  
vol. i.  
p. 419.  
[Wilkins,  
vol. i.  
p. 214.  
Thorpe,  
p. 104.  
V. A.  
p. 521.]

EADMUND the king assembled a great synod at London on the holy feast of Easter, both of ecclesiastical and secular persons. There were Odo and Wulfstan, archbishops, and many other bishops, consulting for the good of their own souls, and of those who were subject to them.

1. The principal point is, that ecclesiastical persons shall instruct God's people by an exemplary life; and that they, whether they be men or <sup>a</sup>women, preserve the chastity of their own order. If they do not, let them [be thought to] deserve what the canon pronounces against them, viz., that they suffer the loss of their worldly possessions, and of lying in a consecrated burying place, unless they make satisfaction.

<sup>a</sup> Viz. Nuns.

2. We enjoin all Christian men the paying of tithes by virtue of their Christian profession, as also their 'church-scot and <sup>b</sup>alms-fee\*. Let them who will not do it be excommunicated.

<sup>b</sup> That is most probably plough-alms, mentioned in the sixth law of King Alfred and Godrun; and is said to be an offering made to the Church in proportion to the number of plough-lands which every man had.

3. If one that is a king's <sup>c</sup>man shed the blood of a Christian, let him not come into the king's presence till he have

\* [γ cýric-ŕceat, γ Rom-ŕeoh, γ ŕulh-ælmeyran, and church-scot, and 'Rome-feoh,' and plough-alms, T.]

betaken himself to penance, according as the bishop teaches, and the confessor directs.

\* That is, tenant or servant to the king.

4. Let him that defiles a nun be [thought] unworthy of a consecrated burying place, unless he make the satisfaction of a manslayer\*. And we declare the same of adultery.

5. And we pronounce, that every bishop repair God's house in his own [see], and remind the king that all God's churches be well provided; for which we have great occasion.

6. Let them that are guilty of perjury, or of <sup>d</sup>magical medicines, be cast out from every portion of God, unless they convert themselves to a just satisfaction †.

<sup>d</sup> See DCCCCXXV., third law of King Ethelstan and the note there.

\* [buton he gebete, þe ma þe man-  
flaga, (unless he make 'bōt'), any  
more than a man-slayer. T.]

† [rihtre bæd-bote, right repent-  
ance, T.]

[Saxon.  
Sir H.  
Spelman,  
vol. i.  
p. 421.  
Wilkins,  
vol. i.  
p. 215.  
Thorpe,  
p. 105.]

KING Eadmund held another council of clergy and laity for the advancement of Christian religion, the continuance of concord, and the extinguishing of feuds of his subjects among themselves, as he expresses it. For the attainment of this last end, he forbids the relations of the murderer to support him, till they have first paid the satisfaction due for the murder. Those of the five laws that were now made, which did more nearly concern the Church, do here follow.

2. 1. If any man betake himself to the church, or to my place of residence\*, and a man pursue him thither\*, then he is an enemy to the king, and to all his friends, and let him forfeit all that he hath.

[Addenda.] \* [The words "my place of residence;" and again, law 3, the words "protection in my family," may best be explained by a Saxon note in the *Textus Roffensis* among the memorials of King Ethelstan just before mentioned, viz. "The king's protection shall be from the gate of the burgh where he is resident, from thence on the four quarters of him to afar; that is, three miles, and three furlongs, and three broad acres, and nine foot, and nine shaffnets, and nine barleycorns†." N. B. A shaffnet is a measure from the top of the thumb set upright to the extremity of the palm, about six inches in a tall man.]

3. 2. My will is, that no mulct for fighting, nor satisfaction for murder be forgiven.
4. 3. And I declare my will to be, that no one who has shed men's blood have protection in my family, till he have undertaken to make satisfaction to God, and the kindred [of the slain person], and submit to every right, as the bishop of the shire directs.

\* [The rest of this law is *oppe yrlige, þa þe þ̅ beð r̅yn þ̅ær ylcan sc̅ylbige þe hit hep beƿonan cƿæð*, L. S. W. T. or do him evil; be those who do that liable in the same that is heretofore ordained. T. Johnson sub-

stitutes for this the penalty to which it doubtless refers in the first law of the same series, which Mr. Thorpe calls 'Secular laws of King Edmund.']

† [King Æthelstan's laws, iv. c. 5. Thorpe, p. 95.]

A.D. DCCCCXLVI.

ANCIENT FORMS OF ESPOUSALS.

TO THESE ARE IMMEDIATELY SUBJOINED, THE MANNER OF ESPOUSALS,  
AND OF LAYMEN'S BETROTHING:

1. If a man will marry\* a maid or woman\*, and she and her friends so please, <sup>b</sup>then it is fit that the bridegroom, according to God's law, and to common decency †, do first covenant and promise with him that acts for her, that he desires to have her on condition to retain her according to the divine right, as a man ought to retain his wife: and let his friend ‡ give caution for that.

SAXON  
Sir H.  
Spelman,  
vol. i.  
p. 425.  
[Wilkins,  
vol. i.  
p. 218.  
Thorpe,  
p. 108.  
V. A.,  
p. 522.]

2. Then let it be known who is bound to maintain [them], and let the bridegroom promise this, and afterward his friend §.

\* Be *piremonner bepebbunge* is the title in the *Textus Roffensis*, says Mr. Somner, from whom I have the other corrections from the T. R.

<sup>b</sup> *bonne* not *bon*.

<sup>c</sup> *geþýrnum*, not *geþ*—T. R.

3. Let the bridegroom declare with what he endows her, on condition that she choose [to comply to] his will.

4. And with what he endows her, <sup>d</sup>if she outlive him. If it be so agreed, <sup>e</sup>it is just that she <sup>f</sup>have right to half his estate, and all, if there be a child between them, unless she marry another husband.

<sup>d</sup> The Saxon copy puts these foregoing words of the fourth clause to the end of the third ¶; but the Latin here sets us right. By this it appears that there was a double endowment, one given in hand before the marriage, the other promised in case the woman survived.

\* [*pebbian*, betroth, T.]

† [*populb-geþýrnum*, the customs of the world, T.]

‡ [*frýnb*, friends, T.; the word is plural throughout.]

§ [II. *wæter þam is to wíðanne þam þ forþer-lean geþýrge, pebbige je þrýb-guma eft þær, 7 hit aboþ-gian his frýnb*. After that, it is to be known to whom the 'foster-lean' be-

longs: let the bridegroom again give a 'wed' for this; and let his friends guarantee it. T.

Foster-lean, 'remuneration for nurture,' probably a payment to the family of the bride. *Ancient Laws*, p. 108, note b, but see also Thorpe's Glossary, art. Foster.]

¶ [So Thorpe and V. A.]

- \* I put the comma after *bis*.  
 † *healfer onfer-pýrþe*. T. R.

5. Let him finish all with a pledge of his promise, and let his friend be surety for it.

6. If they are agreed as to all the particulars, then let the kindred take their kinswoman, and wed her to him that wooed her, for a wife, and an honest life: and let him that was principal in making the match take surety to this purpose †.

7. If they will carry [her] out of [her] land, into the land of another thane, then her \*expedient is, that [the bridegroom's] friends give security that no hurt be done to her; and that, if she incur any forfeiture, they are capable to perform the part of kindred in making satisfaction; †if she hath not wherewithal to do it herself †.

\* For *pæb* read *pæb*, so the Latin *consilium*. And this seems to be Mr. Somner's opinion.

† By this it should seem that the wife had the property of her own estate during coverture.

8. The mass-priest shall be at the marriage, who shall, according to right, celebrate their coming together, with God's blessing, with all solemnity.

9. It is good to take care that it be known, that they be not †afar off related §, lest they be again separated, who were at first wrongfully put together.

† *gelænge* T. R., not *g læn*.

\* [*healfer ðrfer pýrþe*, entitled to half the property, T.]

† [*Ʒ Ʒo þam borpe Ʒeþe þær pebber pæbend Ʒý*, S. W. T., and let him take possession of the 'borh' who has control of the 'wed.' T. et excipiat inde plegium, qui jus habet in vadio, V. A. 'borh' here means security; 'wed' betrothal, usually a solemn promise. See K. Alfred's Laws, c. 1. A. D. 877.]

‡ [*Lif hý man þonne ut of lanþe læðan wille on oðre þegner lanþ, þonne bið hipe pæb þ Ʒrýnþ þa Ʒonpob habban þ hipe man nan poh to ne bo, Ʒ Ʒif heo Ʒýlc Ʒepýrce, þ hý moton beon bote nýhƷe, Ʒif heo nærþ of þram heo beze*. S. W. T. But if a man desire to lead her out of the land,

into another thane's land, then it will be advisable for her that her friends have an agreement that no wrong shall be done to her; and if she commit a fault, that they may be nearest in the 'bôt,' if she have not whereof she can make 'bôt.' T.

In accordance with this doctrine it is laid down in the Customal of Hen. I. c. 70:—'Si mulier homicidium faciat, in eam vel in progeniem vel parentes ejus vindicetur, vel inde componat, non in virum suum seu clientelam innocentem.' *Ancient Laws*, p. 109, note b.]

§ [*þ hý þurh mæg-Ʒebbe to Ʒelænge ne beon*, that they, through kinship, be not too nearly allied. T.]



LAWS OF THE NORTHUMBRIAN PRIESTS\*.

PREFACE.

A. D. DCCCCL.,

Or thereabouts, I conceive these following laws were made. Whoever attentively reads them must be sensible, that they were enacted by a temporal, as well as ecclesiastical authority. The reason why the name of the king in whose reign they were made is not prefixed to them is, that he was probably a Dane; therefore the transcribers in the following ages of King Edgar and his successors, thought fit to leave out the preface, lest the name of the king should seem a blemish to the laws themselves. Anlaf was sole monarch of the Northumbrians from the year 949 to 952; and during this interval of time I conceive these laws were made. For,

1. It is not probable, that a body of laws with civil penalties would have been made for the Northumbrians only, if their country had not been a distinct kingdom at the time of making them. Edgar, and his successors, made laws for all England, not for particular provinces.

2. This body of laws seems to have been compiled under a Danish king, because they so often inflict the known Danish penalty called *Lahylht*, which I always turn a fine: and the ore so often mentioned was Danish money.

3. I judge it utterly incredible, that they should have been made while Oswald was archbishop of York, as Sir H. Spelman supposes: for then every page of them would have breathed threatenings and damnation against the married clergy; whereas these laws seem rather to countenance the

\* [NORÐ-DYQBRA PRĒOSTA  
LAFU, LAW OF THE NORTHUMBRIAN  
PRIESTS. T. Wilkins quotes Johnson's  
preface at length as well as that of  
Spelman, but seems to prefer the con-

jecture of the latter, which assigns  
these laws to A.D. 997. See Wilkins,  
vol. i. p. 221-2. not. Cf. Spelm., vol. i.  
p. 502. not.]

marriage of the clergy by saying nothing against it, when the practice was so rife. And yet it is certain, they had the marriage of the clergy under consideration, from the thirty-fifth law. Wulfstan was archbishop of York while Anlaf reigned: and it is very probable, that he might join with King Anlaf in making these laws; for he was a favourer of the Danes, at least was severely treated on suspicion of it by King Edred after he had reduced Northumberland. (I mean not Wulfstan called the Reprobate, but him that was before Oskytel.)

The last of these laws does indeed contain a declaration for one monarchy over the whole nation, but I am apt to think they meant the nation of the Northumbrians only, which was governed by two kings, Anlaf and Regenold, but five or six years before. See Sax. Chron.\*

These laws stand before those of Edgar, in the MS. of CCCC. S. 18, though Sir H. Spelman have placed them after.

[Addenda.] [A. D. DCCCCL. In the italic preface, and the last page thereof, after 'every priest,' add ('or rather to every deanery, or gild, of priests: for it seems probable that the gild by degrees grew into a rural deanery.')] ]

\* [Chronicum Saxonicum, A.D. 944, ed. Gibson, p. 114-5.]

A.D. DCCCCL.

1. If any wrong be offered to a priest, let all his<sup>a</sup> mates, with the help of the bishop, be very zealous for satisfaction: let them be, as it were, one heart and one soul, as it is written, in every thing that is right.

SAXON.  
[Sir H.  
Spelman,  
vol. i.  
p. 495.  
Wilkins,  
vol. i.  
p. 218.  
Thorpe,  
p. 416\*.]

<sup>a</sup> The practice of entering into gilda, or fraternities, has already been mentioned: those who thus combined together are here called *gefeþan*, which I turn 'mates.'

2. And we forbid, what God has forbidden†, that any priest serve, or take the church that belongs to another; except any one, by some capital crime, have made himself incapable of ministering at the altar for the future. If any priest do it in any other case, let him forfeit his dignity, and the friendship of his mates; and let him no where celebrate mass, till the rightful possessor has it. And let him that did the wrong pay twenty ore<sup>b</sup> to the bishop, twelve ore to the priest whom he removed from his church, twelve ore to all his mates: and let him also forfeit the money, if he unrighteously gave any, for the other priest's church. <sup>c</sup>And let every priest find twelve bondsmen, for rightly observing the priest's law.

<sup>b</sup> The ore is generally said to be an ounce of silver: but then sometimes there are said to be but twelve in a pound, and then the ore consisted of twenty pence; at other times there are said to be fifteen ore in a pound, then the ore was sixteen pence.

<sup>c</sup> Thus our northern politicians were reducing the Church into the same form of government with the state.

3. And if one priest commit a crime, and he celebrate mass contrary to the bishop's injunction, let him pay twenty

<sup>a</sup> [From MS. D. that is MS. CCCC. 201, (S. 18:) the same which was used both by Spelman and Wilkins.]

† [II. And Lober *þop-boba þe þop-beobað*, and we, God's messenger, forbid. T.]

ore for [breaking] the injunction, and pay satisfaction for the crime, whatever it was, over and above.

4. If a priest transgress any public edict of the bishop\*, let him pay twenty ore.

5. If a priest <sup>d</sup>lay a cause before laymen, which he should [lay] before ecclesiastics, let him pay twelve ore †.

\* See can. 7. of King Edgar, A.D. 960, and particularly observe the use of the word *Sceor* and *Sceotan* in both places. The temporal and ecclesiastical judicatures were distinct in Northumberland. See *Ecgbriht's Dialogue*, *Answ.* 10. Somner countenances this.

6. If a priest transgress the archdeacon's edict, let him pay twelve ore.

7. If a priest be guilty, and celebrate mass contrary to the archdeacon's injunctions, let him pay twelve ore.

8. If a priest refuse [to administer] baptism, or shrift, let him make satisfaction with twelve ore; and especially let him diligently compound it with God.

9. If a priest do not fetch the <sup>e</sup>chrism at the proper season, let him pay twelve ore.

\* The unction consecrated by the bishop in passion-week; for the use of baptism, and of the sick.

10. Let every child be baptized in good time, within nine nights, under the penalty of six ore: and if the child die a heathen, within nine nights, let satisfaction be made in respect to God, without any worldly mulct; if it happen [to die] after nine nights, let satisfaction be made in respect to God, and let twelve ore be paid for 'the contumacy, because he was a heathen so long ‡.

† No word seems capable of more significations; all which agree well enough to this place. *heopb* may signify the pastor as well as the people; it may be taken as *hopb*, then it signifies the stock, or treasure of the church: it may be meant as *heapb*, and then it assigns the cause of the penalty, viz., the obstinacy of the offender. Mr. Somner inclines to this last, whom I follow. Sir H. Spelman understands as if it signified the herd, flock, or people of the parish.

\* [*biſceoper* agen *geban*, the bishop's own edict.]

† [xx. op. S. W. T., xx. ores, T.]

‡ [*for þare heopbe þe he pær hæ-*

*þen ppa lange*, S. W. T., for the hardness through which he was a heathen so long, T.]

11. If the priest misinform the people, in relation to a festival, or fasting-day, let him make satisfaction to God, and pay twelve ore.

12. If a priest unrighteously obtain orders out of his shire, let him pay twelve ore, and a deacon six: and let them forfeit their orders, unless the bishop of the shire indulge them, as to this last point\*.

13. If a priest celebrate mass in an unhallowed house, let him pay twelve ore.

14. If a priest celebrate mass without a hallowed altar, let him pay twelve ore.

15. If a priest consecrate the housel in a wooden chalice [let him pay] twelve ore.

16. If a priest celebrate mass without wine, let him pay twelve ore.

17. If the priest be careless of the <sup>e</sup> housel, let him pay twelve ore.

\* This must be understood of the Sacrament reserved for sick folk.

18. If a priest celebrate mass more than thrice a day, let him pay twelve ore.

19. If a man violate the protection of the church, let him make satisfaction according to the <sup>h</sup> quality of the church, and the privilege of protection which belongs to it.

<sup>h</sup> *Qualitatem.* Somner.

20. If merchandize be made of a church, let satisfaction be made by fine.

21. If a church be brought into <sup>i</sup> servitude, let satisfaction be made by fine.

<sup>i</sup> That is, if it have pensions, or secular services imposed on it, such as great lords laid on those who held lands of them.

22. If a priest be unrighteously turned out of a church let satisfaction be made by fine.

23. If one wound a priest, let him satisfy for <sup>k</sup> the cure †,

\* [7 þolian hif haber, buton sepe-  
bycop heom haber zeunne, S. W. T.,  
and forfeit his orders, unless the bishop

of the district will grant him the  
orders, T.]

† [for the wound, T.]

and pay for a satisfaction to the altar on account of his orders, twelve ore: for a deacon, twelve\* ore, as a satisfaction to the altar.

\* *pýnbla* is so turned by Sir H. Spelman conjecturally.

24. If a man slay a priest, let him pay the full were, and 'twenty-four ores to the bishop, as a satisfaction to the altar: for a deacon twelve ore, as a satisfaction to the altar.

<sup>1</sup> Twenty-four ore, according to the common computation, was but so many ounces, which makes but two pounds. In Ecgbriht's time, the murder of a priest was more than three times as much, yet that was 200 years before this. See Ecgbr. Dial. 734. Answ. 12. Shall we say that the value of money was raised in the north since that time, by reason of its scarcity, through the violent inroads of the Danes? See Can. 18, 19. 963. Or shall we say, that the former penalty was laid by an ecclesiastical authority, this by a secular? or that the nation being more civilized, murders were not so rife as of old, and that therefore such severe penalties were not necessary?

25. If a priest do any dishonour to the church, <sup>m</sup>from which all his honour should arise, let him make satisfaction for it.

<sup>n</sup> *De qua omnis honor ejus processerit.* Somner.

26. If a priest lodge any unseemly thing in a church, let him make satisfaction.

27. If a priest alienate† any thing from the church, let him make satisfaction.

28. If a priest wilfully relinquish the church to which he was ordained, let him make satisfaction.

29. If one priest despise or <sup>n</sup>vilify another, either in word or deed, let him make satisfaction.

<sup>n</sup> *bermþuge.* Somner.

30. If one priest assault another, let him make satisfaction to him, and to the bishop.

31. If one priest assist another in an unrighteous [cause] let him make satisfaction.

32. If one priest refuse assistance to another in a righteous cause, let him make satisfaction.

\* [vi. op. S. W. T., vi. ores, T.]

† [utige, S. W. T., turn out, T.]

33. If one priest do not warn another of what he knows will be to his damage, let him make satisfaction.

34. If a priest neglect the shaving of his beard, or hair, let him make satisfaction.

35. If a priest dismiss one °wife\* and take another, let him be anathema.

\* *cpæna*, had certainly an honest signification among our Saxon forefathers. It denoted the wife of a great man, or even of a king, as well as of an inferior man. *hop-cpæna* was the word whereby they denoted a whore. From hence I am inclined to think, that the Northumbrian priests were allowed wives when this law was made. Had Oswald been then archbishop, the priests had been absolutely forbid wives, under the hardest penalties. Therefore these laws seem to have been made while Oskytel, or Wulfstan were in the see. *Uxorem*, Somner.

36. If a priest do not timely ring, and sing the hours, let him make satisfaction.

37. If a priest come armed into the church, let him make satisfaction.

38. If a priest do not observe the yearly order in the church-services †, by day, or by night, let him make satisfaction.

‡ *Ordine non servato absolverit.*

39. If a priest do not regularly minister ordeal ‡, let him make satisfaction.

40. If a priest conceal his °tonsure in his travels §, let him make satisfaction.

° That is, the shaved circle on the crown of his head. I read *pað* as the text stands, not *ƿpað*, as Sir H. Spelman in margin.

41. If a priest indulge drunkenness, or be a musician, or °a common rhymer ¶, let him make satisfaction.

† See can. of King Edgar 58: *reop* is the ordinary word for a poet or versifier; *Cal*, an usual initiatory particle. Somner, *Cerevisarius*.

\* [*cpænan ƿoplære*, S. W. T., forsake a woman, T.]

† [*ƿƿrenðebipðe ƿƿiclice ƿearþenunga*, S. W. T., misorder the annual services of the church. T.]

‡ [*opðal myrrabiȝe*, S. W. T., misconduct an ordeal, T.]

§ [*ƿeappað* (l. *ƿeappað*), bepinde, enwrap his tonsure, T.]

¶ [*opþe ȝlīman, opþe eala-ƿeop ƿƿrðe*, S. W. T., or become a gleeman or an 'ale-scōp,' T. That is, 'ale-poet,' see A.D. 960. c. 58.]

42. If a priest conceal one among many in his district, to the injury of discipline, let him make satisfaction\*.

43. If a priest omit to give notice of any annual \*right, let him make satisfaction.

\* That is, Peter-pence, Church-scot, plough-alms, tithes, &c.

44. If a priest decline the synod, let him make satisfaction.

45. If a priest have not submitted to right, but withstand the sentence of the bishop, let him make satisfaction for it: let him either be separated from clerical communion, or forfeit [the benefit of] his 'fraternity, and all his dignity, unless he submit, and make deep † satisfaction.

† This must, I conceive, be understood of those voluntary gilda, or fraternities, into which clergymen and laymen of all ranks entered, for their mutual assistance and benefit; and into which the Northumbrian clergy are supposed to be combined in the two first of these laws.

46. If any one be in contempt of ‡ the law of God, or of the country, let him make earnest satisfaction.

‡ *Perverteris aut violaveris*, Somner. This law is repeated again, No. 55.

47. We should all honour and love one God, and diligently observe one Christianity, and wholly abandon all [48.] heathenism §. If any man be discovered to practise any heathenism for the future, either by lots<sup>1</sup>, or <sup>2</sup>firebrands<sup>2</sup>, or affect idolatry<sup>4</sup> on the account of witchcraft<sup>3</sup>, if he be a king's thane, let him pay nine marks and a half ¶, half [49.] to Christ, half to the king. If he be a landed man of any

\* [XLII. Líf ppeort fophele hpat on hif reþirt-rcipe betpeox mannum to unþitce riþigen (riþigende?) geþete þ. If a priest conceal any thing in his shrift-district between men tending to wrong, let him make 'bôt' for it.

This translation is conjectural, the text being apparently corrupt, T.]

† [ ] þe beoppoþ geþete, and the more deeply make 'bôt,' T.]

‡ [riþce, corrupt, T.]

§ [The remaining laws are numbered by Johnson according to Spelman's edition: in the margin are placed the numbers according to the editions of Wilkins and Thorpe.

Opþe on <sup>1</sup> blot, opþe on <sup>2</sup> riþitce, opþe on ænig <sup>3</sup>ricceþwæst lufige, opþe <sup>4</sup>idola wuþðinge, either by sacrifice or by 'fyrt,' or in any way love witchcraft, or worship idols, T.

Mr. Thorpe in his Glossary regrets his inability to offer any explanation of 'firhte.' On the fire superstitions of Saxon heathendom, see Kemble, Sax. in England, Bk. I. ch. 12. p. 360-1.]

¶ [x. healf-marc, x. half-marks, T. For an explanation of Johnson's mistake in translating such expressions, see above, A.D. 925, c. 5. p. 344. note †.]



other sort, let him pay five marks and a half\*, half to Christ, half to the landlord. If he be a 'common man, let him pay twelve ore. If the king's thane deny it, let twelve be named to him, let him take twelve of his kindred, and a \*complement of twelve \*of any sort †, and if he be cast, let him pay a fine of nine marks and a half. If the landed man deny it, let as large a complement ‡ of his equals be named to him as to the king's thane: if he be cast, let him pay a fine of nine marks and a half. If the common man deny it, let as large a complement ‡ of his equals be named to him, as to the other: if he be cast, let him pay a fine of twelve ore.

[50.]

[51.]

[52.]

[53.]

\* So Sir H. Spelman by conjecture turns *ƿphte*.

† Sax. *ƿærbenaſ*. Somner seems to think it the same with *ƿp̄bena*, for he refers to 1009. 25.

‡ pence, or pent, being thrice repeated in this law, and always, so far as appears, in the same sense, I conceive there can be no wide mistake in the meaning of it.

None of our great Saxon masters have, so far as I can find, given their opinion of the word *pallep* here used. I venture to read *pahlpæp vulgo, passim, undecunque*, till some better light be offered to this dark word.

§ Mr. Somner has here corrected Sir H. Spelman in relation to the denomination of the sums.

48. If there be a 'frith-year in any one's land, about a stone, or a tree, or any trifle of this sort ¶, then let him that made it pay a fine, half to Christ, half to the landlord: and if the landlord will not assist in executing the law, then let Christ and the king have the satisfaction.

[54.]

\* This was some heathen feast, or jubilee, as Mr. Somner calls it, the memory of which appears not elsewhere.

49. We forbid all traffic in any place, and county-

[55.]

\* [vi. healy-mapc, vi. half-marks, T.]

† [7 xii. pallep-pente, and xii. 'waller-wents,' T.]

"The 'Waller-wents' were probably the Celtic inhabitants of Cumbria, so designated by the Anglo-Saxons. Thorpe, Glossary, art. Went-Sætæs."

‡ [eal ƿpa micel pente, as many wents, T.]

§ ["Evidently synonymous with

'ceorl' or *rusticus*, its derivation is doubtful." Thorpe, Glossary, art. *Færbena*.]

¶ [LIV. Líf ƿp̄b-geapb ƿ on hpæf lande abuton ƿcan, obbe tƿeop, obbe pille, obbe ƿp̄lceƿ sænige fleapb. If there be a 'frith-geard' on any one's land, about a stone, or a tree, or a well, or any folly of such kind, T.]

ƿp̄b-geapb, an asylum, sanctuary. See Thorpe, Glossary. T.]

[56.] courts, and all manner of work, and all carriage\* either by waggon, or horse, or <sup>4</sup>porters † on the Sunday: let him that does any of these pay a mulct, the freeman twelve ore, the slave his hide; except the wayfaring man who must of necessity go their appointed stage ‡. And upon occasion of war a man may travel on the eve of the feast, in case of necessity, between York and six miles' distance.

\* The Saxon *býrþen* signifies not as the English, burden, but the servant, or hired man that carries it. See Hick. Sax. Gram., p. 152 §.

[57.] 50. Let him that violates a feast, or appointed fast, pay a mulct of twelve ore.

51. And we will have every Rome-penny paid by Peter's-mass, at the bishop's see; and that two trusty thanes, and one mass-priest, be named in every wapentake to collect, and pay it again in such a manner as that they may dare to give their oath to it. If a king's thane, or any landlord, withhold it, let him pay nine mark and a half ¶, half to Christ,

[58.] half to the king. If any <sup>e</sup>tenant shift it off, or withhold it,

[59.] let the landlord pay the penny, and take an ox from him: and if the landlord neglect this, let Christ and the king

[60.] take twelve ore for full satisfaction. If any withhold his tithes, and he be a king's thane, let him pay nine marks and a half ¶; if a landed man, five marks and a half ||; if a common man, twelve ore.

\* Tune, or ton, often signifies what we now call a farm, a parcel of land, therefore I turn *tuner-man*, 'tenant.'

[61.] 52. And we forbid, by a divine prohibition, that a man have more wives than one; and let her be rightly wedded and given [by her parents]; and that no man take a wife that is related to him, within<sup>f</sup> the fourth degree; nor let him marry any spiritual relation: and if any one do it, let him want God's mercy, except he desist, and make satisfaction,

[62.] as the bishop directs: if he die in his unrighteous [marriage] let him forfeit holy sepulture\*\*, and God's mercy.

\* [labe, journeying, T.]

† [ge on býrþene, or as a burden, T.]

‡ [buton þeg-þeþene, þa moton for neobe mete neabe þeþian, except travellers, w. o. may in case of need, convey food, T.]

§ [bupþen, ex Cimbrio 'bur,' *promptuarium penuarium*, et 'þen,' *mi-*

*nister*. Hickes, Sax. Gram. Thea, vol. i. p. 152.]

¶ [x. healþ-marc, x. half-marks, T.]

|| [vi. healþ-marc, vi. half-marks, T.]

\*\* [clænner leþener, a hallowed grave, T.]

' It is evident that the marriage, among the Northumbrians, was not laid under such difficulties, as in other places in this age.

53. If a man lie with a nun, let each of them, both he and she, be liable to a were: and if they die in their [sin] without desisting, let them forfeit holy sepulture, and God's mercy. [63.]

54. If any man dismiss his lawful wife [while she is] living, and \*marry another, let him want God's mercy, unless he make satisfaction for it; but let every one retain his lawful wife so long as she lives, unless they both \*choose to be separated by the bishop's consent, and are willing to preserve their chastity for the future. [64.] [65.]

\* I read *geceop*—, not *gec*—

55. If any one for the future be in contempt† of right law, let him diligently make satisfaction for it. [66.]

56. We ought all to love and worship the one God, and zealously to observe the one Christianity, and wholly to abandon all heathenism: and our will is, that <sup>h</sup>land-cheap<sup>1</sup>, and <sup>h</sup>lah-cheap<sup>2</sup>, and <sup>h</sup>wit-word<sup>3</sup>, and true-testimony<sup>4</sup>, and right-doom and <sup>h</sup>fulloc<sup>5</sup>, and frum-tale<sup>6</sup>, and <sup>h</sup>drink-lean<sup>7</sup>, and <sup>h</sup>landlords rightful-gift<sup>8</sup> be firmly maintained; and especially one Christianity, and one monarchy in the nation for ever. [67.]

<sup>h</sup> These terms are scarce elsewhere to be met with, and therefore no wonder if we know not their meaning. Mr. Somner has attempted an explication of some of them in his Glossary, but not with such success as he had in some points, which yet seemed more difficult‡.

\* [γ on unpiht, and unlawfully, T.]

† [pīpbe, corrupts, T.]

‡ [Most of these words occur in a parallel passage of the laws of King Ethelred, who reigned A.D. 978—1016, and are there explained in the notes to 'Ancient Laws,' &c. It should be remembered that Johnson's date, A.D. 950, is conjectural, and probably somewhat too early for the Laws of the Northumbrian Priests, which are placed both by Spelman and Thorpe after the canons of King Edgar.

<sup>1</sup> Land-ceap, 'land-ceap,' T.; the word means literally 'purchase of land,' but it should be remarked 'that among all the Germanic tribes every transfer of

real property was made in a court of justice.' *Ancient Laws*, p. 125, note a, and Glossary.

<sup>2</sup> Lah-ceap, 'lah-ceap,' T., 'purchase of law,' *redemptio privilegiorum quæ per utlegationem fuerint amissa*. This is illustrated by the following translation from the old Danish law; 'Whoever goes away from the town with his wife and goods, and does not return to dwell therein within a year and a day, has forfeited his town-law and town-right and must buy it to himself again.' Translated from Christopher of Bavaria's Copenhagen Law, V. § 33. *ibid.* note c.

γ <sup>2</sup> πειροβ γ <sup>4</sup> γετρύπε γεπιτνετ,

Let the name of God be blessed from henceforth and for ever.

and 'witword' and 'true witness,' T. The connection and alliteration is preserved in the parallel passage of King Ethelred's laws, (7 *pitropb* 7 *gepittney*, and 'witword' and 'witness,' T.,) where *witsoerd* is explained in the note as 'perhaps equivalent to the wager of law.' *Ibid.* note d.

<sup>6</sup>*fulloc*, 'fulloc,' T. Of this word Mr. Thorpe gives no explanation either in his notes or Glossary, Spelman leaves it untranslated, Wilkins without authority reads *full-sæp*, plenarium juramentum, Somner and Lye in their dictionaries say *forte* baptismus, the proper word for which would be *fulluht*.

The word is resolvable into *ful*, 'foul,' and *loc*, 'enclosure,' and coming next after 'right-doom' seems to refer to the treatment of those who were found guilty (*ful*) of certain crimes, and to mean the foul grave which was part of their punishment as opposed to the 'clean grave' mentioned

in the foregoing laws [62] [63]. So King Ethelred's laws say, *plea mon hinc anb on ful lecge, let him be slain and laid in the 'ful,' T.* See Thorpe, K. Ethelred's Laws, I. c. 4. p. 120; III. c. 4. p. 125; Cnut, sec. c. 33. p. 170; Glossary, art. *ful*; Bosw. Dict. Loc.

<sup>6</sup>*ypum-calu*, prima testium dicta, primo delatio. Lye quoted in Thorpe's Glossary. Probably the word is equivalent to *ypum-rýhte*, prima accusatio, prima calumnia, (*ibid.*,) and if so denotes the first step in public infamy, as the last is signified by *fulloc*. See K. Ethelred's Laws, I. c. 2; Thorpe, p. 120; K. Cnut, sec. 35; *ibid.* p. 170.

<sup>7</sup>*bynce-lean*, retributio potius. Brompton in *x* Script., p. 931.

<sup>8</sup>*hlaforþe* 7 *þaht* *gyru*, the 'hlaforð's' 'riht gifu,' T., which in later times has been called 'infeudation.' K. Ethelred's Laws, III. c. 8; Thorpe, p. 125, note b.]

A.D. DCCCCLVII.

ELFRIC'S CANONS.

PREFACE.

THERE is no English name before the Conquest, nor for some ages after, that has more books, especially translations, ascribed to it, than that of Elfric. It is generally agreed, that they are all the work of one man, surnamed the Grammarian, on account of his having written a grammar for the Latin tongue: and the same man is commonly thought to be that Elfric, who was advanced to the see of Canterbury in the year 995, and who died 1005. But Sir H. Spelman was rather inclined to think, that Elfric, who was archbishop of York from the year 1023 to 1053, drew the following canons, and that the Wulfin, to whom they are directed, was he that was bishop of Dorchester; yet he doubts, whether the last had entered on his see before the other was dead. And farther, it cannot in reason be thought, that the Elfric who wrote the following letter and canons, was at the time of writing them, superior to that Wulfin for whose use they were drawn; but rather the contrary, as these words in the front do plainly imply, viz.: We have already obeyed your commands; in Latin, *obtemperavimus jussioni tuæ libenti animo*. I should rather think, that the Wulfin who was made bishop of Shirburn 940, or 941, and died so, 958, was he to whom Elfric writes: he was indeed only a priest, and a private monk, and not above thirty-two years old (unless you will suppose him to have been above eighty at the time of his death, viz., in the year 1005): but he was the prodigy of his age, sufficiently qualified to compose the following canons, especially if we will allow him the assistance of his master Ethelwold, abbot of Abbindon, under whom he was studying. Nor are we to wonder, that he calls Wulfin the bishop,

brother; for this latter had been monk under Dunstan at Glastonbury, before he was bishop, and the relation of monks was then esteemed indelible; Alcuin, though but an abbot, as Ælfric probably now was, calls Abp. Eanbald his dear son, in a letter written to him, and preserved in the MS. of CCCC., from which the excerpts commonly ascribed to Ecgbriht were transcribed, and of which I have so often made mention in my notes on them\*. When I suppose him to be thirty-two years old, I do it on presumption, that he drew these canons in the year 957, when Wulfin was probably too old to compose a work of this nature; and therefore was forced to ask the assistance of Elfric; and we may fairly conclude, that he was under the infirmities of age, if we consider that he had been bishop about seventeen years, and did not outlive the year 958. If these canons were composed in the year 957, we must own they were well timed: for they begin with a condemnation of the married clergy, which was very seasonable, when Dunstan was now recalled from banishment by King Eadgar, who this year, by the death of Edwy, became sole monarch of England. For it is well known, that these two great men employed their zeal chiefly against the marriage of the clergy, and in ejecting the secular canons out of the monasteries, which they took possession of in the time of Abp. Ceolnoth. Elfric was a man of the same spirit, as he shewed not only by his writings, but by his finishing the reformation (if I may so call it) begun by Dunstan in the church of Canterbury. It seems probable that King Edwy, who always countenanced the seculars, and the married clergy, had, while Siricius was archbishop, reversed, in some measure at least, what had been done by Dunstan in this respect. But when Elfric was promoted to the see of Canterbury he gave the finishing stroke by expelling the seculars, and settling monks in that church.

About thirty years since a very learned man wrote a discourse, *De duobus Ælfricis*, in which he undertakes to prove, that Elfric the Grammarian, and great writer, was he that was archbishop of York from the year 1023 to the year

\* [See above, p. 224, and B. Fl. Alcuini, Op., tom. i. p. 63. Ep. 51. The illustration nevertheless is super-

fluous, as may be seen by the first sentence of Ælfric's preface to his canons.]

1053\*. I find learned men not satisfied with his arguments ; and especially because his capital argument is founded on a very gross mistake, which he received by tradition from other learned men, who had misread Ælfric for Ælfred in the inscription of a manuscript copy of the Chronicon Saxonicum in CCCC: by which mistake he makes the Grammarian but eleven years old in the year 963, of which see Mr. Wanley in his preface to his catalogue. Yet there is one thing in the treatise *De duobus Ælfricis*, which promises us some light in this dark point, I mean, the discovery of a Wulfin that was bishop of Shirburn from the year 980 to the year 998: and it is to be observed, that Elfric was in the year 994 bishop of Wilton; and if these canons were sent during the short time that he was bishop there, he might justly style himself Wulfin's brother; or if they were sent on any year between 980 and 994, the freedom which he uses with Wulfin may be better justified, and his age did the better qualify him to perform such a work. If indeed, as the author of that treatise would have it, these canons were translated from Latin into Saxon, when Elfric was sent by Alphage, bishop of Winton, to regulate the new-built monastery of Cernell, (which he places in the year 987,) then they must not only have been formed, but translated before Elfric was bishop of Wilton. But the letter to Wulfin expressly says that these canons were first drawn in Saxon, which he there calls the English tongue; when therefore Elfric in his preface to his book of sermons, to which these canons are annexed, says that he translated this book at that time, he must be understood of such parts of the book as were before in Latin: and perhaps these canons were then no part of that book, but were afterwards added by transcribers. Therefore the decision of this point at last turns upon the credit of the authors. The evidences for the first scheme are Florentius Wigorniensis, et Matthæus Florilegus; Mr. Wharton's evidence is from John Fleke a transcriber of Sulcard, a monk of Westminster. These will scarce cast the scales against the other two. The author of the treatise *De duobus Ælfricis*, says; there are many charters to which Wulfin bishop of Wilton was witness, and subscribed as such, between the years 980

\* [H. Wharton, *Anglia Sacra*, i. p. 125-134.]

and 998. But charters are suspected things, and as we cannot condemn them, so neither can we accept them for evidence unsight, and unseen; therefore, in fine, I prefer the first account (with submission to better judgments) and shall therefore date them 957.

Though this composition pass under the title of Elfric's Canons, and I have hitherto complied with that common way of speaking, yet I must here take leave to intimate my opinion, that it is rather to be called a charge from the bishop to the clergy. I am sensible the diocesan canons were little else than the injunctions of bishops to the clergy of their dioceses; but then these injunctions were formally read by some clerk, and agreed to by the applause, or at least by the silence of the priests. But the whole of what is contained in the following articles is expressed by way of positive command by the bishop, without any mention of a synod's consent: and it would probably have been impossible for any bishop to have procured even the tacit consent of his clergy to what is here said against their marriage: and indeed synods, and chapters of all sorts were very rare by reason of the Danes' perpetual invasions in this age; and I am therefore persuaded that this charge was to be delivered to the clergy at their fetching the chrism and holy oils from the bishop in Passion-week. It is evident that the assumption which I have added from the MS. in CCCC was intended purely for this occasion; and I see no cause to question, but that that was designed as a piece of the foregoing charge. In truth, the letter of Elfric to Wulfin intimates as much: "We write" (says Elfric) "the following part of the epistle in English, and in such a manner as if you yourself dictated it with your own mouth:" therefore the whole seems to have been an epistle sent to every priest together with the chrism. It may justly be supposed that the generality of the priests, especially they who lived remote from the cathedral, could not come personally to fetch it, but sent some clerk to bring it; and the letter was delivered to the messenger, together with the cruises of chrism and oils: they who lived near to the bishop's church might come in a body and receive the charge from the bishop's mouth; the rest could not be spared from their churches at that solemn season.



As Elfric's homilies were publicly read in churches, so it seems probable that his charge was a common form for all bishops that had it by them, with some little variations, as the occasion required, which shews the reason of the difference of copies. It was first composed for the bishop of one diocese, but it seems to have been a national form; I mean, used by bishops of both provinces\*.

\* [The Anglo-Saxon homilies were probably written by Ælfric, archbishop of York A.D. 1023-53. See Homilies of the Anglo-Saxon Church, ed. Thorpe, preface, p. v.

The following passages from William of Malmesbury, though not clear from chronological difficulties, seem to be of special value for determining the authorship of the canons contained in the succeeding pages, and to shew that the Ælfric who wrote them was neither the archbishop of York nor the archbishop of Canterbury of the same name:

Wilsainus. Hunc Dunstanus, archiepiscopus cum esset episcopus Londoniæ, abbatem apud Westmonasterium fecerat; instructo ad 12 monachos cœnobio, in loco ubi quondam Mellitus ecclesiam Sancto Petro fecerat. Ita commissum officium sancte et prudenter administranti honos episcopalis apud Schireburniam impactus: qui confestim in sede episcopali monachos clericis ejectis instituit, ne in tanta contemporaneorum episcoporum sedulitate dormire videretur. Will. Malm. de Gest. Pont. Angl., lib. ii. p. 248. 20.

"Idiotia nempe clericis ejectis nullius regularis religionis disciplinæ subjectis, plurimis in locis sanctioris seriei scilicet monachici habitus præfeci pastores: ad ruinosam quæque templorum redintegrandam opulentos fiscalium munerum eis exhibens sumptus: Quorum

unum nomine Elfricum virum moribus ecclesiasticis expertissimum officii, famosissimi constitui custodem cœnobii, quod Angli bifario vocitant onomate Maldelmsburg." (*Charta Regis Edgari*, A.D. 974.)

Hic est Elfricus; qui omnem curam ad beatam transferens Mariam, possessionem et nomen monasterii ejus delegavit ditioni; ut tacito interim beatissimi Petri nomine, ipsa sola loco videatur imperare. Nec fastidivit gloriosa Domina illustris et prædicandi viri munus; quinimo usque hodie præsidet ecclesiæ, sanctissimi Aldelmi communionem in potestate amplectens. Eum peritum literarum præsertimque elegantissimum interpretem, nisi fallax tradit vetustas, ædificandi gnarum; qui omnes monachorum officinas eo tempore præstantissimas, nec adhuc adeo despicabiles fundavit et consummavit.—Elfricus sane cum jam grandævus esset, in episcopum Cridensem altatus, vix iv. annis superfuit. Reliquit aliquantos codices, non exigua ingenii monumenta; Vitam Sancte Adelwoldi, antequam eam Wolstanus operosius concinnaret; abbreviationem passionis Sancti Edmundi; libros multos ex Latino in patrium sermonem versos. Will. Malm. de Vita Aldelmi, ap. Wharton, *Anglia Sacra*, vol. ii. pp. 32-3. See also Lingard's *Anglo-Saxon Church*, vol. ii. pp. 454-6.]

A.D. DCCCCLVII.\*

LATIN.  
[Sir H.  
Spelman,  
vol. i.  
p. 572.  
Wilkins,  
vol. i.  
p. 250.  
Thorpe,  
p. 441.]

ELFRIC, an humble brother to the venerable Bishop Wulfins, health in the Lord†. We have readily obeyed your command; but have not presumed to write any thing concerning the episcopal office; because it is your part to know how to be an example to all by an excellent behaviour, and by your continual admonitions 'to persuade your subjects to be saved: which things I speak in Christ Jesus, because ye ought often to confer with your clergy §, and to reprove their negligence; for through their perverseness the canonical decrees and the doctrine of the Church are in effect abolished: therefore deliver your own soul, and inform them what they are to observe, as they are priests and ministers of Christ, lest you perish with them if you become a dumb dog. We write the following part of the epistle in English, and in such a manner as if you yourself dictated it with your own mouth, and said to your subjects of the clergy.

Saxon. 1. I tell you, priests, that I will not bear your neglects of your ministry. And I tell you in good sooth how the matter stands with priests: Christ \*established Christianity and chastity; and all that went with Him in His way for-

\* [These canons are assigned by Wilkins to A.D. 970, on the authority of Archbishop Ussher, who asserts that they were written by Ælfric, afterwards abbot of Malmesbury, at the desire of Wulfsin, bishop of Shirburn. Wilkins, p. 255-6 note; Will. Malm. De gest., lib. ii. p. 248. 20; Vita Aldhelmi, in Anglia Sacra, vol. ii. p. 32-3. For a discussion on the Ælfric, see 'Biographia Britannia Literaria, Anglo-Saxon period, by T. Wright.]

† [Ælfricus humilis frater venerabili episcopo Wulfino salutem in Domino, W. T. This address has been strangely mistaken by Spelman, who says, 'Wulfino parem innuit se Ælfric-

cus, dum alloquitur eum fratris nomine.' On the contrary, Ussher, as quoted by Wilkins, shews that 'humilis frater' as usual means 'humble monk.']

‡ [From MS. D, as Wilkins, with variations from X.]

§ [Subditos exhortari ad salutem quæ est in Christo Jesu. Dico tamen quod sæpius deberetis vestris clericis alloqui, W. T., 'to exhort those under your authority to the salvation which is in Christ Jesus. I say, however, that often ye ought to speak to your clergy.' Johnson was misled by Spelman's text.]

sook every worldly thing, and the company of their wives; therefore He Himself said in His Gospel, "He that hateth not his wife is not a minister worthy of Me."

\* So Somner.

2. After Christ's ascending up again to the kingdom of heaven, and the death of the venerable Apostles, there was such a persecution raised throughout the world, that no synod of God's servants could be assembled by reason of the heathen <sup>b</sup>murderers, who earnestly sought their death, till Constantine the emperor, who had all the world under his government, submitted to Christianity.

<sup>b</sup> Persecutors. Somner.

3. Then he assembled a synod at the city of Nice, of three hundred and eighteen bishops of all nations, for the settling of the faith: there were many <sup>c</sup>famous bishops that wrought many mighty wonders at the synod\*: and they excommunicated Arius the mass-priest, because he would not believe that the Son of the living God was so mighty as His great Father is; therefore they all condemned this man of the devil, but he would not desist till he saw all his entrails [gush] out together†, when he went to the house of office.

\* *Multi prædarii.* Somner.

4. By this synod the liturgy of the Church was established, and the mass-creed, and many other things concerning the worship and the servants of God.

5. They all decreed, with an unanimous resolve, that neither‡ mass-priest, deacon, nor canon-regular should retain any woman in his house, except mother, or sister, or aunt, by father or mother; and that he who did otherwise should forfeit his order.

\* [Dæp pæron ƿpa mæpe biſceopas manege on þam ƿýnoðe þ hi ƿýrcean mihtan punðra, 7 ƿpa ðýbon, There were so many great bishops at that synod, that they might have wrought miracles, and so they did, T.]

† [wæpam þe him ƿah ƿe innoð eall enbemeƿ ut, till, at last, his intestines all fell out, T.; Spelman, Johnson, and

Wilkins mistook the word ƿah, which is the past tense of ƿgan, to fall. See Rask's Grammar, No. 192, 247.]

‡ [þ naðer ne biſceop ne, S. W. T., that neither bishop, nor, T. The omission of these words in Johnson's translation could hardly have been intended. See above, Excerptions of Ecgbriht, A.D. 740, c. 31, p. 190, notes † §.]

6. This seems strange to you to hear: <sup>d</sup>for ye have so brought your wretched doings into fashion, as if there were no danger in a priest's living like a married man\*. Now ye say, ye cannot be without the attendance of a woman: how then could those holy men <sup>e</sup>dwell without a woman †? And they have now the reward of their purity of heart in life eternal without end. The priests now reply that Peter had a wife: they say what is very true; for so he might under the old law, before he submitted to Christ; but he left his wife, and every worldly thing, after he had submitted to Christ, who instituted chastity.

<sup>d</sup> CCC MS. L. 12. *for þan þe ge habbað eoppe ýpmþe ýpa on gefunan gebroht, ýpýc hýc nan pleoh ne ýý, &c.*, as in Sir H. Spelman. Mr. Somner had so corrected this text, and so renders it as I have done, save that he turns ýpmþe, *calamitatem*.

\* punian, not pum—

7. The bishop, under the old law, might marry an uncorrupted maid, and might use her at set times, because one only family could be of that order, and that always: nor could one be 'chosen out of any other stock. And he must marry <sup>a</sup>but once, and then not a widow or divorced wife, but

\* [<sup>þ</sup> ye ppeort libbe ýpa ýpa ceopl, S. W. T., that the priest live as a common man. Ceopl meant a freeman of ignoble rank, a churl, a twyhinde man (estimated at two hundred shillings) who had full liberty to marry, and usually was married, and so secondly a husband. Compare in Ælfric's eighth canon, *þær man eft ýpað oððe ýif eft ceoplað*, where a man marries a second wife or a woman a second husband. See also Anglo-Saxon version of the Holy Gospels, ed. Thorpe, John iv. 16—18.]

† [hucan ýife, S. W. T., without wives, T.; more literally 'without wife;' the word is the dative singular, and is not ambiguous here because Ælfric uses the same word for 'wife' in the after part of the canon, but above in this and the foregoing canon he uses *wif-man*, *wimman*, to mean woman; so 'without the attendance of a woman' is, in the Saxon, *hucan ýimmaney þenungum*.

With the exception of the two points last noticed, Thorpe translates this canon nearly as Johnson, but gives as

a variation of Bodl. MS. Junius 127, the words which in the following quotation are marked by italics.

Now this will seem to you *priests* strange to hear, because ye have brought your wretchedness so into a custom, as if it were no danger that the priest live as the 'ceorl.' Now ye say that ye cannot be without a *wife*, but the *holy fathers*, who were before us, so as was *Saint Jerome the priest*, and *Saint Anastasius the priest*, whom *Saint Basil the bishop made known*, and *Saint Beda the priest*, whose bones rest in Yarrow, and numberless others, whose names we know not, oer all the globe of the world, practised abstinence from the society of woman, and with all continence, and obedience to God and their superiors, well propitiated God, and they have now, &c.—Ancient Laws, &c.; Canons of Ælfric, c. 6, p. 442, note 2.

The words *pel gecpemban*, here translated 'well propitiated,' mean rather 'were well-pleasing to.' See Anglo-Saxon Heptateuch, Gen. vi. 8; Anglo-Saxon version of Holy Gospels, John viii. 29.]

a maid, as we said before. And they <sup>b</sup> might well have a wife in those days: for then they never celebrated mass, nor houseled men, but offered beasts after the ancient manner, till Christ hallowed house before His passion, and instituted the mass; which is still in force through Him.

<sup>a</sup> Sir H. Spelman berceop, which I took to signify *chosen*, deleting the first *r*. But the CCC MS. has *birceop* \*.

<sup>a</sup> This particular does not appear by the sacred text, Lev. xxi. 13, 14.

<sup>b</sup> For nabban read habban, and dele *pe*, CCC MS.

8. It was also decreed in <sup>i</sup>the same synod, that he who marries a widow or divorced wife; or he that [married] a second time be never admitted afterwards to any order, nor hallowed to priest: but that he be chosen to holy order that has but one wife, and her uncorrupted, as the Apostle <sup>k</sup> Paul wrote in his epistle.

<sup>i</sup> on þam ýlcán is superfluously repeated.

<sup>k</sup> The Apostle teacheth that a bishop should be a husband of one wife, that this wife should be an uncorrupted maid he saith not, 1 Tim. iii. 2.

9. Nor may any priest be at a wedding, where either the man or woman is married a second time, nor bless their conjunction: let such an one be so marked † <sup>1</sup>as that it had been better for him to have continued in chastity: yet the layman may, by the Apostle's permission, marry a second time, if his wife fail him. But the canons forbid a blessing to it, and appoint a satisfaction [to be made] by such men.

<sup>1</sup> ꝥra þ̅ him ȝelpe wæp þ̅ hi punodon on clænnýrre. Se lepeða mot ꝥra þeah be þæŷ Aporȝoleŷ læŷ oþre ȝiþe wriȝan. ȝýf hiȝ wífe him sæt fýlþ. Thus Sir H. Spelman's copy is supplied by the CCC MS., L. 12.

10. There are seven orders appointed in the Church: the first is ostiary, the second lector, the third exorcist, the fourth acolyth, the fifth sub-deacon, the sixth deacon, the seventh presbyter.

11. The ostiary is keeper of the church-doors, who is to

\* [birceop, W. T., bishop, T.]

† [ȝwýlce man býcnige him, T., as may be signified to him, T. The whole sentence is given by Mr. Thorpe thus:

"Nor may any priest be at the marriage any where, where a man marries

a second wife, or a woman a second husband, nor together bless them, as may be signified to him; so that it were better for them that they continued in chastity."]

notify the time with the bells, and to unlock the church to believers, and to lock out the unbelievers.

12. The lector is to read in God's church, and is ordained to publish God's word.

13. The exorcist is, in plain English, he that with invocations adjures malignant spirits, that delight in vexing men, through the Almighty\* Name, to depart from them.

14. He is called the acolyth, who holds the candle or taper, at the divine ministration, when the Gospel is read, or the housel hallowed at the altar, not as if he were to drive away the obscure darkness; but to signify bliss by that light, to the honour of Christ, who is our light.

15. Sub-deacon is plainly the under-deacon, he that brings forth the vessels to the deacon, and humbly ministers under the deacon with the housel vessels at the holy altar.

16. The deacon is he that ministers to the mass-priest, and places the oblation on the altar, and reads the Gospel at the divine ministration; he may baptize children and housel the people. They ought to serve their Saviour in white albs, and preserve the heavenly life with purity, and let all be done as becometh that order†. The priest that remains without a deacon, has the name not the attendance of a priest.

\* ða rceolon on hƿitum album þam lælenb þeopigan, &c. So CCC MS.

† bugenb. CCC MS.

17. Presbyter is the mass-priest, or elder, not that he is old otherwise than in wisdom. He halloweth God's housel as our Saviour commanded: he ought by preaching to instruct the people in their belief, and to give an example to Christians by the purity of his manners‡. There is no more between a bishop and a priest, but that the bishop is appointed to ordain, and to bishop children, and to hallow churches, and to take care of God's rights: for they would

\* [Dælenber, W. T., Saviour's, T., Ælmihtigan, S. X.]

† [Ða rceolon on hƿitum album þam Dæleube þeopigan, ƿ þ heorenlíce hƿ healdan mid clænnyƿre, ƿ eall bugenbe beon, ƿƿa ƿƿa hit gebarenað þam habe. W. T. They shall minister to the Saviour in white albs, and lead a spiritual life in chastity, and all be

efficient persons, so as is befitting the order. T.]

‡ [ƿ hƿ hƿ ne rceal beon ƿƿylce læpeþƿa manna, S.W.T.; and his life should not be as that of laymen. T. It is strange that Johnson should have omitted this clause, which is given in the translation as well as text of Spelman: compare above, c. 5.]

be abundantly<sup>9</sup> too many if every priest did this, he hath the same order, but the other is more honourable.

- \* læpan, CCC MS., instead of Sir H. Spelman's læ an.
- <sup>7</sup> to byrceopienne eilb. 7 to haligan cýpcan. CCC MS.
- <sup>8</sup> CCC MS. has manig-yealb for manigealb, and omits mænige-tealb.

18. There is no order appointed by ecclesiastical institution but these seven, as we now said, monkship and abbotship are of another sort, and are not to be reckoned in this number: let no man add any order (so miscalled) to these orders. <sup>1</sup>The souls of the priests that keep themselves chaste are an holy oblation\*.

- <sup>1</sup> I remove the stop from heþto, to after haðar.

19. Now it concerns mass-priests and all God's servants to keep their Churches employed with divine service. Let them sing therein the seven tide-songs that are appointed them, as the <sup>2</sup>synod earnestly requires, viz., the <sup>1</sup>uht-song, the <sup>2</sup>prime-song, the <sup>3</sup>undern-song, the midday-song, the <sup>4</sup>noon-song, the even-song, the <sup>5</sup>seventh [or night]-song†.

\* [Spelman's translation of this canon is nearly right, but the Saxon text of the latter part, as given by him, is so imperfect that it is no wonder that Johnson in trying to make sense of it has missed the meaning of the author. The text and meaning of the canon, both in Wilkins and Thorpe, are thoroughly clear.

XVIII. Nij nan hab geþette on cýplicum þeapum butan þar feoƿon, ƿpa ƿpa ƿe feaðon nu, munuc-hab 7 abbud-hab ƿýndon on oðre ƿýran, 7 ne ƿýndon geþealde to þýrum geþele, ne eac nunnan-hab nij na genamob heþ-to. Ðar haðar ƿýndon halge, 7 to heoƿenum geþýngað þæpa ƿpeurca ƿapla þe hý ƿýfeþlice healbað.

There is no order appointed in the ecclesiastical ministries but these seven, as we have just said. Monkhood and abbothood are in another manner, and are not reckoned in this number, nor also is nunhood named herein. These orders are holy, and bring to heaven the souls of those priests who seriously observe them. T.]

† [ƿpa ƿpa ƿe ƿýnoð hi geþihtc, uht-ƿang 7 ƿpim-ƿang, unbepn-ƿang 7 midbæg-ƿang, uon-ƿang 7 mefen-ƿang,

7 niht-ƿang feoƿoðon. So as the synod has directed: matins, prime, tierce, sext, none, vespers, and compline seventh. T.]

In connection with this clear and complete list of the seven canonical hours observed in the Anglo-Saxon Church, it should be remarked that between the first and second was a service which had a distinct name, loƿ-ƿang (praise-song) answering to 'laudes' of the Roman Breviary. Hence it would appear that there was in theory a religious service for every three hours in the twenty-four, the normal times for which at the equinox, according to our reckoning, would be,

12 o'clock at night, uht-ƿang, that is, the song of the after part of the night; see Pa. cxix. 62. In the Roman Breviary it is called matutinum, *matin*, and its portions nocturns; Ælfric's Latin name for it was nocturna.

2—3 a. m., loƿ-ƿang, which has been already mentioned, and was not reckoned as a separate canonical hour, but as the sequel of uht-ƿang; so in Ælfric's Pastoral Epistle, c. 31: Se ƿopma tæb-ƿang is uht-ƿang, mid þam meƿen-ƿange þe þar-to geþýnað, the

• Perhaps the synod of Nantz, A.D., 890. See *Distinct.* 91\*.

• Commonly called mattins, sometimes nocturns, sometimes there were eight canonical hours, then nocturn was at midnight: when it was deferred to mattins (that is sometime before daylight) it was still by some called nocturns.

• Seven a clock in the morning, which was the first hour, or one a clock in the Latin account.

• Nine a clock in the forenoon with us; tiers, the third hour with the Latins.

• Three a clock afternoon with us: none, hora nona with the Latins.

• Nine at night, compline.

20. And they shall pray devoutly for the king, and for their bishop, and for their benefactors, and for all Christian people.

21. And [the priest] shall have the furniture for his ghostly work before he be ordained, that is, the holy books, the psalter, and the <sup>a</sup>pistol-book, Gospel-book, and mass-book, the <sup>b</sup>song-book, and the <sup>c</sup>hand-book, the calendar, the

first canonical hour is matins, with the after song appertaining thereto, T. Ælfric, in MS. Bodl. Jun. 121. f. 42 b, calls the service to be said at dawn 'matutinali officium,' and in the Latin and Saxon colloquy it is called, bæg-þebllice lof-ŕangar, 'matutinales laudes,' which is probably the first step towards the word 'matins,' as applied to the morning service in the book of Common Prayer.

6—7 a. m., ppim-ŕang, prima (sc. hora) prime, the Latin names for this and the remaining hours were the same in Ælfric's time as in the Breviary.

8—9 a. m., unbepn-ŕang, tertia (sc. hora) tierce.

11—12 m., miðbæg-ŕang, sexta (sc. hora) sext.

2—3 p. m., non-ŕang, nona (sc. hora) none. See Johnson's remarks below, A.D. 958, 6.

6—7 p. m., sęfen-ŕang, vesperum (sc. officium) in Ælfric's colloquy, but in the Breviary, ad vespas, (sc. laudes sive preces.) vespers. The Saxon name is clearly the origin of the word even-song in the book of Common Prayer.

8—9 p. m., niht-ŕang, completorium, compline. This hour Ælfric explains (MS. X. f. 42. b.) as on popau niht, that is, in the forenight, to distinguish it from uht-ŕang, and speaks of it as coming just before going to bed.

Johnson's assertion that there were sometimes eight canonical hours is certainly not accurate as regards the times of Ælfric, for in the same MS. which contains his canons while a service is given under the title 'De matutinali officio,' to be said at dawn, it is placed as coming shortly before prime, as in other cases it followed soon after uht-ŕang, matin, but the canonical hours are still reckoned to be seven in number.

To þelban hit bidd, beo hit a þeldop on bæg þæt we Irob heþian, þonne reoƕon ƕiðum, ðæt ƕe sone sępelt on sępne moƕgen, ƕe eƕt on unbepn ƕide, ƕe on miðne bæg, ƕe on non, ƕe on sęfen, ƕe on ƕopan niht, ƕe on uhtan ƕiman.

Too seldom it will be, be it ever seldomer in the day that we praise God than seven times, that is, once first in early morn, and again at undern-tide, and at midday, and at none, and at even, and at forenight, and at after-night.

MS. Bodl. Jun. 121. f. 42 b. See above, A.D. 740, c. 28; Ælfrici colloquium in Thorpe's *Analecta*, p. 33-4; Ælfric's Pastoral Epistle, c. 31. in 'Ancient Laws,' &c., p. 467; Hickeys' *Controversial Letters*, Appendix.]

\* [Gratiani Decretum, p. 547. The council of Nantz does not appear to be the authority to which Ælfric refers.]



<sup>d</sup>pasconal, the <sup>e</sup>penitential, and the lesson-book\*. 'It is necessary that the mass-priest have these books: and he cannot be without them, if he will rightly exercise his function, and duly inform the people that belongeth to him †. [And let <sup>[Addenda.]</sup> him take care that they be well written.]

\* These books did not contain the entire Epistles, or entire four Gospels, but such portions of them as were assigned to be read at the altar at mass.

<sup>b</sup> Elsewhere called the antiphonary.

<sup>c</sup> The manual in the const. of Archbishop Winchelsey, anno 1305.

<sup>d</sup> CCCC MS. has *Parcopale*, but this was the same with the penitential: therefore Sir H. Spelman's text is here to be preferred. The *passional* was the same with the *martyrology*; it contained the account of all the saints, and the days of their suffering or death, and Durandus says it was read in the church †. It may not be improper here to take notice of the catalogue

\* [The names of these books in the copy of Elfric's canons, in the MS. Bodl. Jun. 121, f. 105, are thus given: *þ̄ rýnb þa halgan bec, raltepe 7 pírcel boc gobypell boc, 7 mæsse boc, rang bec 7 handboc, geym 7 paffonalem, penitenciam, 7 pæmbuc boc*; 'that is, the holy books, psalter, and epistle book, gospel book and mass book, song books, and hand book, calendar and *passional*, penitential and reading book.' This text in the two words *rangbec* 'song books,' and *paffonalem* 'passional,' differs from Thorpe's edition, but agrees with that of Spelman, and is doubtless the true reading. *geym*, which Mr. Thorpe translates 'numeral,' seems to have included the computus, or book in which the ecclesiastical seasons were computed and the calendar properly so called. Cf. Durand., lib. viii. c. 1. De Computo et Calendario.]

† [*þe him-locasð, 7 beo he æt þam pæp þ̄ hi beon pel gepihce*, W. T., who look to him; and let him be careful that they are well directed. T.]

‡ The former part of Johnson's note affords a valuable emendation of the CCCC MS., but the after part of it is very inaccurate, as may be seen by the following extracts from Durandus:

Porro sicut ait beatus Augustinus, sacerdotes scire debent librum sacramentorum, sive Missale, Lectionarium, Antiphonarium, Baptisterium, Computum, Canones penitentiales, Psalterium, homilias, per circulum anni diebus dominicis, et festivis aptas; e quibus omnibus si unum defuerit, Sacerdotis nomen vix in eo constabit. Durandi Rationale, De Sacerdote, lib. ii.

c. x. n. 14; cf. Grat. Decret. dist. 38. Quæ ipsa.

Ex præmissis ergo liquet quod in Ecclesia libri novi et veteris Testamenti leguntur.—Circa libros ecclesiastici officii sciendum est, quod ipsum officium consistit in cantu, et in lectione; de cantu tres sunt libri, de lectione sex. Sunt etiam quidam alii libri Ecclesiastici: prout in secunda parte in fine tractatus de Sacerdote dictum est. Sane tres libri cantu, sunt antiphonarius, graduarius, et trophonarius. Antiphonarius, a digniori videlicet, ab antiphonis nomen sumpsit: quas beatus Ignatius patriarcha audivit per Angelos decantari, cum tamen ibi sunt responsoria atque versus. In plerisque tamen locis liber iste responsoriarium, a responsoriis quæ ibidem continentur appellatur. Graduarius, dictus est a gradualibus, quæ in eo continentur, qui a pluribus officiarum nuncupatur, ab officiis, seu introitibus, qui ibi continentur: graduale dictum est a gradibus. Trophonarius est liber continens *tropos*, id est, cantus qui cum introitu missæ dicuntur, præsertim a monachis. Vocantur etiam *tropi* sequentiæ, sive *prose*: *Kyrie eleison* et neumæ.

Ceterum libri lectionum sunt isti: Primus est Bibliotheca. Secundus homilarius. Tertius, *passionarius*. Quartus, *legendarius*. Quintus *lectionarius*. Sextus, *sermologus*. Bibliotheca a Græco nomen accepit, et est nomen æquivocum, scilicet locus, in quo libri reponuntur, et volumen ex omnibus libris veteris, et novi Testamenti a Hieronymo compositum. Homilarius, est liber continens sanctorum

of books which the priest was enjoined to have by Bede, or the author *de Remediis Pecc.* Sir H. Spelman, vol. i. p. 281\*. Let the priest provide his furniture before the hand of the bishop touch his head, viz., a psalter, a lectionary, (here called the lesson-book, elsewhere the legend,) an antiphonary, (containing the prayers, canticles and psalms for every day in the year, which with the lectionary makes the present breviary,) a missal, a baptistery (which contained the baptismal service, says Du Fresne†) and I am apt to think here in England it contained the whole ritual, that is, all the services for administering sacraments (except the Eucharist) and sacramentals, the martyrology for the circle of the whole year, and the computus with a cycle, which I take to have been meant by the *gepim*, kalendar, as I turn it after our Somner, that is, the tables of new moons, and for finding moveable feasts, and for finding Easter for ever.

\* The penitential was the book which directed the priest what penance to enjoin for every sin confessed to him.

† Here Sir H. Spelman's copy was defective; the CCCO MS. hath it as follows: *þære Bec ƿceal Wæyre-Pƿeorƿ nebe habban. ƿ he ne mæg butan beon. gƿ he hƿ habe on ƿiht healban ƿyle. ƿ þam folc ærter ƿiht ƿirgan þe him to locaþ: ƿ beo he sæt þam ƿæp þ̅ hu beon pel ge ƿihtce.* My translation is according to this copy.

Homilias, et legitur in Dominicis, et in natali, et in festis sanctorum propria Evangelia habentium, et in Pascha, et Pentecoste cum ferilibus eorundem. Homilia autem idem est quod bona laus, sive verbum ad populum—. Passionarius est liber continens passionem sanctorum et legitur in festis martyrum—. Legendarius autem vocatur liber ille, ubi agitur de vita, et obitu Confessorum, et legitur in festis eorum, dum tamen authenticatus sit.

Lectionarius est, in quo lectiones epistolarum Pauli, et aliarum leguntur, qui quandoque epistolarius dicitur, et etiam legendarius dici potest. Sermologus est liber continens sermones, quos Papa, et alii plures sancti composuerunt, et legitur in festis Confessorum a natali, usque ad octavas Epiphaniæ, in purificatione Beatæ Mariæ, et in festo omnium sanctorum, et in pluribus aliis. *Ibid.*, lib. vi. c. 1. n. 19. 23—32.

Dicitur autem computus, a computo computas: quia in ipso computando procedimus, non quia in ipso computare doceamur: et est duplex computus scilicet astronomicus, seu philosophicus et vulgaris seu Ecclesiasticus; sed de astronomico nil ad præsens. Vulgaris computus est, scientia distinguendi tempus certa ratione, sive scientia temporis discretiva, secundum Ecclesiæ usum. *Ibid.*, lib. viii. c. 1. De Computo et Calendario.

\* [Nunc ergo fratres, qui voluerint sacerdotalem auctoritatem accipere, imprimis cogitet propter Deum, et præparet arma ejus antequam manus Episcopi tangat caput, id est, psalterium, lectionarium, antiphonarium, missale, baptisterium, martyrologium, in anno circuli ad prædicationem cum bonis operibus et computum cum cyclo, hoc est jus sacerdotum. Postea autem suum penitentialem, qui hoc ordine secundum auctoritatem canonum ordinatum, ut discretionem omnium causarum investigates. Spelman, *Conc. Brit.*, vol. i. p. 281-2; V. Bedæ, *Op.*, vol. viii. p. 962. ed. Colou. A. D. 1612.

The following is a nearly cotemporary enumeration of the books necessary for a priest, though made perhaps by another Ælfric.

Wæyre-ƿƿeorƿ ƿceal hupu habban mæyre-boc, rang-ƿec, ƿ ƿæbngc-ƿec, ƿalƿe, ƿ hanb-boc, penitentialem, ƿ gepim, ƿ ƿa beon pel gepihtce. A mass-priest should, at least, have a mass-book, books of canticles, and reading books, psalter and manual, penitential, and numeral; and these shall be sufficiently correct. T. See Ælfric's Pastoral Epistle, c. 44; Thorpe, p. 461.]

† [Baptisterium, liber in quo ritus baptismi et orationes describuntur, vel certe ordo ad baptizandum. Dufresne et Du Cange, *Glossarium.*]

22. He shall have his mass vestment, that he may reverently minister to God, as is becoming; and let not that vestment of his be sordid, at least not to the sight; and his altar-cloths well made\*. Let his chalice likewise be made of pure wood, not subject to rotteness; and also the paten: and let the corporal be clean, so as befits Christ's ministration. A thing of this sort is not to be treated without great care†: but he shall be ever honoured with God, who ministers to Him in wisdom and purity.

\* I understand to rgen, q. to rnen. Somner says, *Nec tamen fulgida, vel splendida*: he adds another conjecture, less probable than the former, as if rgen signified a cloak, and that was here forbidden.

† The Danes by their depredations had reduced the English to wooden chalices. But it does not appear that they had, by this means, made golden priests or bishops.

‡ Here CCC MS. adds gebīraþ, as Mr. Somner also has in his annotations.

§ Somner. *Nemo sine labore talia proferre, &c.*

23. The mass-priest, on Sundays and mass-days, shall speak the sense of the Gospel to the people in English, and

\* [xxii. De reccal habban eac mæsse-  
neaf. þ he mæge anpurdlice Lobe  
rylfum þenigan, rpa hit gebærenlic  
is þ þæt hīr neaf ne beo hopig, ne hupu  
to-rgen (torhzen?) 7 hīr peofod-  
reccatar beon wæl behporyene. He shall  
also have mass vestments, that he may  
reverently minister to God Himself;  
so is it becoming, that his vestment be  
not dirty, nor by any means torn, and  
his altar-cloths in good condition. T.  
No emendation is necessary, rgen is  
the past participle of rgan, to fall,  
sink, (see Rask, Gr., No. 192, 247,)  
and to has an intensive force. Hence  
the word means *collapsed, slovenly,  
shabby*. So in the description of St.  
Bartholomew in the homily for his day,  
næf hīr neaf hopig ne torhzen, ne hīr  
peof forpæpode, which Mr. Thorpe  
there translates, 'his raiment is not  
dirty nor threadbare, nor are his shoes  
worn out.' See Homilies of Anglo-  
Saxon Church, ed. Thorpe, vol. i.  
part v. p. 456.]

† [Beo hīr calic eac of clænum  
antimbne gepohht, unforpocigend-  
lic, 7 eallrpa re birc, 7 clæne cor-  
popale, rpa rpa to Cnīrcer þenun-  
gum gebýrað, man ne mæg butan

geppance rrylc þing forðbringan.  
Let his chalice also be wrought of pure  
material, incorruptible, [of gold, or sil-  
ver, or tin, or glass,] and so also the  
dish and the corporal be clean, such  
as is befitting to Christ's ministries.  
Such things cannot be produced with-  
out labour. T. After unforpocigend-  
lic, in X., the words gýlben oððe reol-  
reppn, oððe tinen oððe glæren, are in-  
terlined in a 'very ancient hand,' (the  
translation is above added in brackets,)  
according to Mr. Thorpe, who how-  
ever does not at this place give the  
two last, oððe glæren, which are so  
far in the inner margin of the MS.  
as to be almost out of sight. In  
the last canon however in the same  
MS. these words form part of the text,  
(see below, c. 37,) and they occur also  
in Ælfric's Pastoral Epistle, c. 45, and  
p. 108, þ beo ælc calic gepohht of mýl-  
tenbum antimbne, gýlben oððe reol-  
rypen, glæren oððe tinen, ne beo he  
na hýppen, ne hupu treopen. And  
know, that every chalice be wrought of  
molten material, of gold or of silver, of  
glass or of tin; let it not be of horn,  
especially not of wood." Thorpe, p. 461.  
See also below, A.D. 960, c. 41.]

of the Pater noster, and the creed, as oft as he can, for the inciting of the people to know their belief, and retaining their Christianity. Let the teacher take heed of what the [Is. lvi. 10.] prophet says, "they are dumb dogs and cannot bark." We ought to bark and preach to laymen, lest they should be lost through ignorance. Christ in His Gospel saith of unlearned [Mat. xv. 24.] teachers, "if the blind lead the blind they both fall into the ditch." The teacher is blind that hath no book-learning, and he misleads the laity through his ignorance. Thus are you to be aware of this, as your own duty [requires\*.]

24. The holy fathers have also decreed, that tithes be paid into God's Church, and that the priest go to them, and divide them into 'three [parts]†, one for the reparation of the church, a second to the poor, a third to God's servants who attend the church.

<sup>1</sup> It seems evident that tithes were now brought to the church by the tithe-payer: and that bishops did not any longer insist on their quarter of the tithes, their sees being by this time well endowed. Somner translates, *adeaturque sacerdos, et distribuantur*. But he was not satisfied with this version, for he adds Q.

25. They have also decreed, that mass be not celebrated in any house but what is hallowed, except in case of necessity, or <sup>m</sup> if the man be sick.

<sup>m</sup> Not on the account of any layman's sickness, but of the priest who was to officiate. See Can. 30, 960.

26. And if an unbaptized child be of a sudden <sup>n</sup> brought to the mass-priest, that he baptize it with all possible expedition, lest it die a heathen.

<sup>n</sup> By this it should appear, that of old the priest was not called to baptize the sick child, but the child was brought to the priest. If this practice were now restored, it would prevent those pretences of sickness, whereby clergymen are drawn to baptize children at home, when the true cause is only to save themselves the trouble of bringing it to church: for, generally speaking, it is no more trouble to bring a child to the church, than to the vicarage, or parsonage-house. And by this means baptism would be

\* [therefore take ye heed against this so as ye have need. T.]

† [and gange þe riceþ to, 7 bæle

hý on þreo, and let the priest go thither, and divide them into three. T. See above, A.D. 740, c. 5.]

administered with greater expedition. And it is my opinion, that many a child's life would be saved by exposing it to the open air, that is now stifled to death for want of breath in a close chamber.

27. That no priest sell his ministrations for money, nor make demand of any thing for baptism, or any other ministration: and let him not be like them whom Christ drove with a scourge out of the temple, because they wickedly trafficked in it. Let not the servants of God now perform their ministrations for money, but to the end that they may merit eternal glory thereby.

28. Let no priest remove for gain from one minster to another; but ever continue in that to which he was ordained, so long as he lives.

\* This is not in the CCCC MS. L. 12\*.

29. And let no priest sottishly drink to intemperance; nor force much drink on others: for he should be always in readiness, so as to have his wits, if a child be to be baptized, or a man to be houseled: and if nothing of this should happen, yet he ought not to be drunk; for our Lord hath forbid drunkenness to His ministers.

30. Let no priest be a trader, or a covetous merchant; nor forget his relation to God, nor engage in secular controversies, nor wear arms, nor plead causes †, nor drink at taverns, as secular men do, nor swear oaths, but always speak without falsity, with simplicity, as becomes the well-instructed servant of God.

\* ƷeƷeƷe ƷaƷeƷe. Perhaps an usury taking trader. The said MS. has Ʒan-ƷeƷe, for ƷanƷeƷe, a perjurer.

31. He shall likewise with discretion injoin penance to sinners; to every one according to his circumstances, so as he may be able to bear it: and he shall housele the sick and weakly, while the sick are capable of swallowing the housele.

\* [‘This chapter, which is wanting in O., is supplied from X.’ T. See above, A.D. 740, c. 13.]

† [xxx. Ne ƷeoƷeƷe ne beo man-ƷeƷe ne ƷeƷeƷeƷe maƷeƷe, ne he ne ƷeoƷeƷe hiƷ ƷobcunbƷeƷe, ne he Ʒo to ƷoƷulb-ƷƷeƷeƷe, ne he ƷeƷeƷe ne

ƷeƷeƷe, ne ne ƷeƷeƷe ƷeƷe, S. W. T.]

30. Nor let a priest be a monger, nor a covetous merchant; nor let him forsake his divinity; nor take to worldly conversations; nor bear weapons; nor work strife. T.]

Let him not do it if the man be but half alive ; for Christ commanded that a man should eat the housel.

32. The priest shall also have oil hallowed distinctly for children, and for sick men ; and solemnly\* anoint the sick in their bed. Some sick men are full of vain fears, so as not to consent to the being anointed. Now we will tell you how God's Apostle <sup>¶</sup> Jacob † hath instructed us in this point, he thus speaks to the faithful : " If any of you be afflicted, let him pray for himself with an even mind, and praise his Lord. If any be sick among you, let him fetch the mass-priests of the congregation, and let them sing over him, and pray for him, and anoint him with oil in the name of the Lord. And the prayer of faith shall heal the sick ; and the Lord shall raise him up : and if he be in sins, they shall be forgiven him ; confess your sins among yourselves, and pray for yourselves among yourselves, † that ye be healed." Thus spake Jacob the Apostle concerning the unction of the sick. But the sick man before his anointing shall with inward heart ‡ confess his sins † to the priest, if he hath any for which he hath not made satisfaction, according to what the Apostle before taught : and he must not be anointed, unless he request it, and make his confession. If he were before sinful and careless, let him then confess, and repent §, and do alms before his death, that he may not be adjudged to hell ¶, but obtain the divine mercy.

[James v.  
13—16.]

\* So James the lesser is called also in our kalendar : for the first of May has the names of the two Apostles, Philip and Jacob, set over against it. It is probable that the nick-name James was not yet invented. It is strange that so pious and learned a man as Elfric should take such liberty in his translation of this passage of Scripture, but it was the practice of the age.

† Read *beon*, not *þeon*, Somner. He has many emendations of Sir H. Spelman's text hereabouts, but such as are very obvious, and of no great account.

‡ This addition, 'to the priest,' is from the CCC MS.

\* [symbles, W. T. ; always, T.]

† [Jacobus, James, T. ; but further on Thorpe's text has Jacob.]

‡ [So Spelman. *Ðis inreapþre geompunge þam færeþre*, W. T. ; with inward groaning to the priest, T.]

§ [he ðo þænne anbetrýsse 7 gefþýcenýsse, S. W. T. ; let him then make confession and promise cessation, T.]

¶ [7 he ne bið forþbened, S. W. T. ; and he shall not be condemned, T.]

33. There have been four synods in behalf of the true faith in opposition to the heretics, who spake absurdly of the Holy Trinity, and the incarnation of Christ: the first was at Nice, as we said sometime before; the second was afterwards at Constantinople [consisting of] one hundred and fifty bishops, holy men of God; the third was at Ephesus [consisting of] two hundred bishops; and the fourth at Chalcedon [consisting of] many hundred bishops; and all these were unanimous as to what was decreed at Nice, and they repaired all the breaches that had been made therein. And these four synods are to be regarded 'as the four books of Christ in His Church\*. Many synods have been holden since; but yet these are of the greatest authority. For they extinguished the heretical doctrines which were absurdly† invented against God by those heretics; and they established the service of the Church.

' God forbid.

34. How dare ye now overlook all these decrees? When the monks observe the rule of one man, the holy Benedict, and live by his direction. And if they "in any point break it, they afterwards make satisfaction according to their abbot's injunction, with all humility. Ye also have your rule if ye would read it. By it ye might see how the matter stands with you. But ye affect secular †judicatures, and choose to be reeves, and abandon your churches, and these decrees †with all †.

" hƿær, not ƿær.

† Sax., *græcum, altercationibus. Somner.*

† *Omnino. Somner.*

35. Yet we will inform you of these decrees, lest we perish together with you §. Christians ought to frequent the church,

\* [Da ƿeƿer ƿinoðar ƿýnb to heal-  
denne, ƿra ƿra þa ƿeƿer Cƿurceƿ bec,  
on Cƿurceƿ ƿealaðunge. These four  
synods are to be observed, so as the  
four books of Christ, in Christ's  
Church. T.]

† [Spollice, S. W., heretically, T.]

‡ [ac ge lufað ƿopulb-ƿræca, ƿ  
ƿýllað beon ƿeƿeran, ƿ ƿoplaetað

JOHNSON.

eoppe cýrcan, ƿ þa ƿeƿer nýƿra mib  
ealle; but ye love worldly conversa-  
tions, and will be reeves, and neglect  
your churches, and the ordinances  
totally, T.; Spelman and Wilkins read  
the same, but have þar (these) ƿeƿer-  
nýƿra.]

§ [The passage which follows, be-  
ginning at this point, is metrical, and

†but men ought not to prate or dispute there: because that is the house of prayer hallowed to God for ghostly speech. Nor ought men to drink or eat intemperately\* in God's house; which is hallowed to this purpose, that the body of God may be there eaten with faith. Yet men often act so absurdly as to sit up by night, and drink to madness within God's house, and to defile it with scandalous games and lewd discourse. But it were better for them that they were lying in their beds, than that they should do ——— *Cætera desunt* †. Thus far Sir H. Spelman.

At this mark † in the last canon the CCC MS. breaks off, and then goes on as here follows.

36. Ye ought not to \*make merry over dead men, nor to hunt after a corpse§, except ye are invited to it: when ye are invited forbid the heathenish songs of laymen, and their obstreperous ejaculations¶. Do not yourselves eat or drink where the corpse lies, lest ye become imitators of the heathenish superstition which they there practise. Ye ought not to be gorgeously drest with rings: nor let your garment be made in too gorgeous nor yet in too \*sordid a manner ||; but let every one wear what belongs to his order; the priest that to which he was ordained: and let him not wear a monk's shroud\*\*, nor that which belongs to laymen, any more than

is given by Mr. Thorpe as a variation of X.; it is omitted by Wilkins as not in the Cambridge MS.; Johnson's next mark is placed too low by six words.]

\* [bollice, T., thoughtlessly, T.]

† [Sir H. Spelman's remark is, *Reliqua abscondit nequam aliquis plagiarium, nec labore reparanda sunt vel pretio.* If this be meant of the Cambridge MS., it would appear by a comparison of the editions of Spelman and Wilkins, that more of the MS. was afterwards destroyed. However this may be, Mr. Thorpe continues the passage as an addition from X, (for the poetical arrangement of the Saxon, see his work, p. 448,) and translates thus;

"But for them 't were better that they in their beds lay,  
than that they God angered,  
in that ghostly house.  
Let him who will watch,

and honour God's saints,  
with stillness watch,  
and make no noise,  
but sing his prayers,  
as he best can;

and let him who will drink,  
and idly make noise,  
drink at his home,  
not in the Lord's house,  
that he God dishonour not;  
to his own punishment." T.]

§ [Ee ne pcytan rænigan forþre-  
peupa manna, ne þ lic gejecan,  
ye shall not rejoice on account of men  
deceased, nor attend on the corpse, T.,  
rather 'go to the corpse.']

¶ [7 heopa hluban cheahcetunga,  
W. T., and their loud cachinnations,  
T.]

|| [ne eyc to paclice, W. T., nor yet  
too poorly, T.]

\*\* [munuc-ƿepub, monk's clothing,  
T.]



a man wears the woman's attire. Christ saith of His ministers who diligently serve Him, that they shall always be with Him in bliss, where He Himself is, in life truly so called. To Him be glory for ever and ever. Amen.

\* Sax. *ƿænigan*, which I by conjecture understand as *ƿægnean*.

\* Sax. *ƿælice*, perhaps *fine, thin*.

Immediately after the above written canons of Ælfric, we have the following exhortation. It was evidently directed by the bishop to the priests, when they came to fetch or sent for the chrism, and the oils to be used in baptism and extreme unction for the ensuing year, which was regularly done upon Maunday Thursday; there is in the same MS. L. 12. CCCC an epistle in Latin to be sent to every priest that did not personally come to fetch the chrism and oils\*, entitled *Epistola quando dividis Chrisma*, p. 151; and in Saxon p. 336. I thought fit to translate and insert this exhortation first mentioned in this place, not only because it seems all of a piece with what goes before in the old MS., but because in several particulars it gives light into the doctrine and practices of this age; and especially contains a strong proof that transubstantiation was not yet believed, though they doubted not of a change wrought in the symbols, which was the universal belief of the ancients.

37. I charge you that ye take care of yourselves (as your books direct you) and how ye ought to act on the days now coming. Housel ought not to be hallowed on <sup>b</sup>Long Friday: because Christ suffered for us on this day. But yet what concerns the day must be done, for two lessons are to be read with two <sup>c</sup>tracts, and two collects, and Christ's passion, and afterwards the prayers, and let them <sup>d</sup>pay their adoration to the rood, then let all greet God's rood with a kiss. Afterward let the priest go to God's altar with the remains of the housel† which he consecrated on Thursday, and with

SAXON.  
[Thorpe,  
p. 448—  
451.]

\* [For the Saxon copy of Ælfric's ma,' see Thorpe, p. 464.]  
epistle entitled, 'Quando dividis chris- † [mib þæpe hujel-laye, with the

unhallowed wine mingled with water, and cover them with a corporal, and then presently say, *Oremus, præceptis salutaribus moniti, et pater noster*, to the end, and then let him say with a low voice, *Libera nos quæsumus, Domine, ab omnibus malis*, and aloud, *per omnia secula seculorum*. Then let him put a particle of the housel into the chalice, as it is customary, but with silence. Then let him 'go to housel, and whoever else pleases\*'. On the Thursday we sing our 'tide-songs together, and all the prayers with a low voice, *et miserere mei Domine* and collect †; on the Friday we sing all the tide-songs singly by ourselves with a low voice (except the uht-song only, which we sing together) and also on the Saturday till noon-song be sung. Let no oil be put in the font, except a child be there baptized. Let not the offertory be sung at the mass on Easter-eve, nor *Agnus Dei*, nor *Communia*; but while they are a going to housel, let the chanter begin † Alle-

housel bread, T.; Johnson's translation is better; the word here used is not hlaf, 'a loaf,' but laf, 'a remnant.'

\* [Let him then put a part of the housel into the chalice, as it is however usual; then let him go silently to the housel; and for the rest let look who will, T.]

The true punctuation is doubtless as in MS. X. f. 109.

Do ryððan runne ðæl þær huyler into þam calice ƿpa hit ƿepunelic is ƿpa þeah mid ƿƿigean, gange he to huyler ƿyð þan, ƿ elleſ loc hpa pille.

The translation should run thus:

Let him then put a part of the housel into the chalice, as it is usual however with silence; then let him go to housel; and for the rest, let look who will.

In addition to the Missal to which Johnson refers, and the Breviary, should be mentioned the Constitutions of Abp. Lanfranc, A. D. 1072, as throwing much light on the whole passage—

Dehinc sacerdos in silentio, 'Libera nos, quæsumus, Domine,' et cetera, usque 'In unitate Spiritus Sancti, Deus;' et post, moderata voce 'Per omnia secula seculorum,' et respondente choro 'Amen,' nihil amplius dicat; missa que in calicem, sicut solet, particula dominici corporis, communicet se, et fratres omnes, sine osculo pacis. Constitutiones Lanfranci, Wilkins, Conc. Brit., vol. i. p. 338 b.

Tunc celebrans facta reverentia us-

que ad terram, Sacramentum in dexterum accipit, et elevat, ut videri possit a populo; et statim dividit in tres partes: quarum ultimam mittit in calicem more solito nihil dicena. Rubric in Missal, Feria vi. in Parasceue.]

† [ƿ ealle þær ƿpæcer bigellice, ƿ mirepepe mei Deus, ƿ þa collectan, and all these prayers to ourselves, and 'miserere mei Deus,' and the collects, T.; ealle þa ƿpæcer, X, all the 'preces.']

‡ [On þone Eastep-mæn ne ƿƿgerungen, sæt þære mæƿƿan offerenda, ne Agnus Dei ne Communia, ac betƿux þam þe hƿgan to huyler onƿigne se cantop, On Easter-eve, let there not be sung at the mass-offering, neither Agnus Dei nor Communia, but among those who desire the housel, let the chanter begin, T.]

Johnson's translation of the first part of this sentence is right, as may be seen by the two following extracts.

— In hac consuetudine concordant omnes fere principales monachorum ecclesiæ, quæ nostro tempore majoris auctoritatis sunt, sicut et in eo quod offerenda, et 'Agnus Dei' et 'Communia' ad hanc missam non dicuntur, licet cetera festiue dicantur. Condit. Lanf. ('Sabbato Sancto.') Wilkins, vol. i. p. 339. b.

Non dicitur offertorium. Rubric in Salisbury and Roman Missal in 'Sabbato Sancto.'

The words betƿux þam þe hƿgan to

luia, Alleluia, Alleluia, and further the psalm, *Laudate Dominum omnes Gentes*; after that the anthem. At vespers\*, *Magnificat*; then let the priest say, *Dominus Vobiscum, Oremus*, and the collect after the Communion: and thus let him end the mass and the even-song with one collect after the Communion. Some priests reserve the housel that was hallowed on Easter-day over year for sick men. But they do very greatly amiss, who cause the holy housel to putrefy, and are unwilling to understand how great satisfaction the penitential directeth in relation to them, if the housel be putrefied, or musty, or lost, or if a mouse eateth it, through carelessness. The holy housel ought to be kept with great diligence and not be permitted to be stale†, but another be always hallowed anew for sick men in about a seven-night or fortnight, so as that it may not be musty at least. For that housel that was now hallowed to-day is altogether as holy as that which was hallowed on Easter-day. That housel is Christ's body, not corporally but spiritually; not the body in which He suffered, but that body of which He spake, when He blessed bread and wine for housel one night before His passion, and said of the bread blessed, "This is My Body;" and again of the wine blessed, "This is My Blood, that is shed for many for the forgiveness of sins." Know now that the Lord who was able to change the bread into His Body before His passion, and the wine into His Blood, in a spiritual manner, He Himself daily blesseth bread and wine by the hand of His priests into His spiritual body and blood. And the priest ought purely and carefully to perform the divine ministration with clean hands and clean heart; and let him beware that the oblation have not been too long baked, 'lest it be unsightly‡; and let him always mingle water with the wine.

huple probably mean, 'among those that give their mind to the housel,' which will agree with the rubric in the Roman Missal, *Post sumptionem sacramenti, pro Vesperis in Choro cantatar antiphona Alleluia, Alleluia, Alleluia: et Psalm, Laudate Dominum omnes Gentes, cum Gloria patri.* See also the Salisbury Missal.]

\* [This is a mistake, for the first words of the anthem from Matt. xxviii. 1. Mr. Thorpe thus translates:

"then the anthem, 'Vespere autem Sabbati,' and Magnificat to the end."

So MS. X, f. 109 b. *Laudate Dominum omnes, Gloria patri, ⁊ ƿyððan þone anretn, Ve-pere autem Sabbati ⁊ magnificat oð enbe, ⁊ Gloria patri.*]

† [man ƿceal healban þ halige huple mið micelpe gýmene, ⁊ ne ƿop-healben híz, the holy housel should be kept with great care, and not be retained, T.; rather 'not be miskept,' that is, too long, or carelessly, according to the force of ƿop in composition.]

‡ [ne yrele beƿepene, nor ill seen to, T.]

For the wine betokeneth our redemption through Christ's blood; and the water betokeneth the people for whom He suffered. Great honour dost thou merit if thou ministrest\* to God with earnestness and reverence; and again it is written, that "he is cursed that doth service to God with negligence." By this we may know that the man who has not his sight ought not to presume to celebrate mass, when he does not see what he offereth to God, whether it be clean or foul. Mass ought not to be celebrated with any other vessel but the chalice that is blessed for this purpose†. We charge you mass-priests that ye charge all the people that belong to you, and to whom ye are shrifts‡, that the four first days of Easter be kept free from all servile works. Because at this time all the whole world was set at liberty from the captivity of the devil: and let the feast of Sunday be kept from Saturday \*noon till Monday's light; and the feast of every mass-day that was appointed and enjoined as a feast in the days of the predecessors of our lord the king, and of our ancestors. And further let as many days be fasted as are established for this purpose, and have a service appointed for them. Let every man fast every Friday in the twelvemonth, save from Easter to Pentecost, and again from Midwinter till a seven-night after Twelfth-day; or except it be a public feast, or a full service belong to it: otherwise let no man break the fast on this day. And we bishops decreed when we were together, that the whole nation fast before the mass-days of St. Mary, and the mass-days of the Apostles: and that the mass *contra paganos* be sung every Wednesday in every minster, and that every mass-priest do the same at his church. Now ye have heard what is unanimously to be done by you, what is to be left undone. <sup>b</sup>If ye act contrary to this, we have not the government [of you,] but we shall be clean at God's doom. God grant ye may so <sup>1</sup>consider it, as it is your duty to do§.

\* [Great honours they merit who, &c. T.]

† ['which must be incorruptible, of gold, or silver, or tin, or glass;'] unpo-potænblic, gylben, oððe jeolpæn, oððe tynen, oððe glæpen; X add. Here the text in X. ends. T. See above, Ælfric's canon, 22.]

‡ [ ] ge oþer reþurcar fýnt, and

over whom ye are confessors, T.; reþurca or reþurc, is from the verb reþurfan, to prescribe (penance); so in K. Alfred's Laws, c. 1, fpa him his reþurc reþufe, as his confessor shall prescribe to him.]

§ [Now ye have heard positively what ye have to do, and what to fore-go: whether ye will do any of them or

<sup>b</sup> I know not that Good Friday is any where else called Long Friday; but it is evident no other day can here be meant: and it is on this day that the Church of Rome forbids the Eucharist to be consecrated, and on no other day in the whole year. But then they have a communion on this day, which is furnished out of the hosts consecrated on Maunday Thursday: this is called *Missa præsantificatorum*. N. B. I have since met with a passage in Mr. Wanley's catalogue, where Good Friday is called Long Friday, though I cannot now refer to it.

[I have also since observed the same name given to it in Chron. Sax. [Addenda.] 1137, and the learned Marshall in the place there referred to agrees that it is the same with the Latin *die parasceues*, and adds, *nam longa oratio est læng gebeb*, Luc. xx. 47\*.]

<sup>c</sup> Tracts are certain sentences to be sung after the epistle.

<sup>d</sup> Sax. 7 gebýbbon hý to þæp Robe, which I might turn, pray to the rood. He that would know the full meaning of all these directions, let him look into the Romish Missal, which, as it now stands, will sufficiently explain all that is here said of the Good Friday service, which seems to me the very worst that is in the whole year, save that there is on this day no elevation of the host, nor, by consequence, any divine honour required to be paid to it: but the honours paid to the cross are a full compensation for that defect.

<sup>e</sup> This is an old English phrase, signifying to receive the sacrament.

<sup>f</sup> Hours of the Breviary, uhtsang, prime, &c.

<sup>g</sup> See law of Edgar, 5, 958.

<sup>h</sup> Sax. 17 7e of þurum boþ pe naƿon 7epeald.

<sup>i</sup> Sax. apæbigan, perhaps read. †

not, is not in our control, but we wish to be pure at God's judgment; may God grant you, that ye may so resolve as may be beneficial to you. T.]

<sup>•</sup> [See Chron. Sax. ed. Gibson, p. 240, 40; Mareschalli, Obs. in Vera. Anglo-Saxon, Nov. Test., p. 536. The Holy Gospel for the day consisted of

the eighteenth and nineteenth chapters of St. John, and had the following rubric; Ðe7 ƿar7io 7ebýrað on Langfa-ƿriȝa-bæȝ, this passion falls on Long-Friday. Anglo-Saxon version of the Holy Gospels, ed. Thorpe.]

† [The note stands thus in Johnson.]

A.D. DCCCCLVIII.

KING EDGAR'S LAWS ECCLESIASTICAL.

PREFACE.

THOUGH these laws, and the first set of canons following next after them, are ascribed to King Edgar, yet they have nothing of the spirit of Dunstan in them; I mean, they inflict no punishments or hard censures upon the married clergy, as they certainly would if Dunstan had been at the making of them. It is possible that these laws, and the first set of canons, might have been made while Edgar shared the kingdom with his brother Edwy. But I rather choose to place them in the second year of his reign over all England. Dunstan was not archbishop of Canterbury before the year 962\*.

\* [‘Edgar, son of Edmund, succeeded his brother Edwi in the year 959, and died in 975.’ T.]

A.D. DCCCCLVIII.

THIS is the provision which King Edgar made with consent of his counsellors to the praise of God, to his own royal dignity, and the benefit of all the nation.

1. This is the principal† point, that God's churches possess their right, and that every one pay his tithe to the ancient minster to which the 'district belong, whether of the thane's demesne-land, or of his 'land let out to others, let it be so paid as his plough goes.

\* Sax. hýpneffe.

† Sax. inlanb.

\* Sax. Naetland. It is very evident that the thane had not the power of disposing of the tithes arising from his own lands; but was bound to pay them to the church or minster to which they did by custom belong. If he built a church, he could grant but one third of his tithes to it by can. 2.

2. If there be any thane who hath ou land, which he holds by written deed, a church with a burying-place belonging to it, let him pay the third part of his tithes into his own church ‡. If he hath a church with no burying-place belonging to it, let him give his priest what he will out of the nine parts; and let every church-scot go into the ancient minster from all the ground of freemen §.

3. And let all the tithe of young animals be paid by Pen-tecost, and of the fruits of the earth by the equinox; and let every church-scot be paid by 'Martin's mass, under pain of the full mulct which the doom-book mentions; and if any will not pay the tithe as we have commanded, let the king's

\* [The text is from a collation of the MSS. A, D, and G.—T.]

† [first, T.]

‡ ['See Def. of Pluralities, p. 93.' MS. note Wrangham.]

§ [be ælcum ƿrigan eopðe, L. S. W., de qualibet terra libera, W.; be ælcum

ƿrigan heopðe, 7 gelaſe man fulh-ælmerean þonne xv. niht beon on ufan Caſtƿan, according to every fire-hearth: and let plough-alsms be paid, when it shall be fifteen days over Easter. T.]

SAXON.  
[Lamb.,  
p. 62.  
Sir H.  
Spelman,  
vol. i.  
p. 444.  
Wilkins,  
vol. i.  
p. 245.  
Thorpe,  
p. 111.\*  
V. A.  
p. 523.]

reeve and the bishop's reeve, and the mass-priest of the minster, go to him, and take by force the tenth part for the minster to which it belongs, and deliver to him the ninth part; and let the eight parts be divided into two, and let the lord take one half, the bishop the other, whether it be a king's man, or a thane's man.

<sup>d</sup> November 11.

4. And let every hearth-penny be paid by 'Peter-mass-day, and let him who hath not paid it by that term carry it to Rome, and thirty pence over and above, and bring a certificate that he hath there delivered so much: and when he comes home, let him pay the king a hundred twenty shillings. And if again he refuse to pay it, let him carry it again to Rome, and another such satisfaction, when he comes home, let him pay the king two hundred shillings. If he refuse it the third time, let him forfeit all that he hath.

\* That is, Lammas-day, or St. Peter *ad vincula*. This Rome-penny was given by Ina and Offa for the maintaining an English school at Rome; and on condition that no one should be obliged to go by way of penitential pilgrimage from England to Rome; therefore he who refused to pay it was obliged to perform this pilgrimage as a penance for refusing it.

5. Let every Sunday be kept in a festival manner from the 'noon-tide on Saturday till Monday morning light, under the penalty which the doom-book mentions; and every other mass-day as commanded. And let enjoined fasts be kept with all diligence\*.

<sup>d</sup> That is, three in the afternoon according to our present account: and this practice, I conceive, continued down to the Reformation. In King Wihtréd's time the Lord's day did not begin till sunset on the Saturday. See 697, No. 10. Three in the afternoon was *hora nona* in the Latin account, and therefore called noon. How it came afterward to signify mid-day I can but guess. The monks by their rules could not eat their

\* [So L. S. W., but in Thorpe's text the law is continued thus:

7 *ælcer Frige-bæger fæsten, buton hit fpeolr 7ý, 7 kelæwte man fapl-  
freat æt ælcæn cnyrcenan men to þam  
mynrcne þe hit to-gebyrge, 7 fcanbe*

*ælc cyric gpið fpa fpa hit becyr ftoð,  
and every Friday's fast, unless it be a  
festival: and let soul-scot be paid for  
every Christian man to the minster to  
which it is due; and let every church-  
grith stand as it has best stood.]*



dinner till they had said their noon-song, which was a service regularly to be said at three o'clock ; but they probably anticipated their devotions and their dinner by saying their noon-song immediately after their mid-day song, and presently falling on. I wish they had never been guilty of a worse fraud than this. But it may fairly be supposed, that when mid-day became the time of dining and saying noon-song, it was for that reason called noon by the monks, who were the masters of language during the dark ages. In the Shepherds' Ahoanack noon is mid-day, high-noon three.

After these laws in Lambard's and Wheloc's edition follows [Lamb, p. 63. Thorpe, p. 112-3. V. A. p. 524-5.] another set of eight laws, two of which I have here inserted, though they are not in Sir H. Spelman. The rest are entirely civil\*.

6. Let a \*judge that gives an unjust sentence make satisfaction to the king with a hundred twenty shillings, unless he dare affirm on oath that he knew no better : and let him also forfeit his thaneship, unless he purchase it of the king according as he will grant it. And let the bishop of the shire levy the mulct for the king's use. [3. T.]

\* Sax. Dema : he was probably one that presided in the hundred court, or the burgh-mote, (which was the court holden in a city or borough,) yet it is evident he was a thane ; for otherwise he could not forfeit his thaneship by corruption : yet the bishop here has a civil power over this thane, so that he could distrain him.

7. Let resort be made to the hundred-court, as hath been ordained in time past. Let the burgh-mote be held thrice a year, the county court twice, <sup>b</sup>and let the bishop be at the county court †, and also the alderman ; and there let each of them put in use both God's law and the world's law. [5. T.]

<sup>b</sup> Not, I conceive, that the bishop was to pass sentence of death, or bodily punishment, nor that the alderman was to excommunicate ; but the bishop might enforce secular laws by ecclesiastical censure, and the alderman ecclesiastical laws with civil punishment, where it was thought most expedient.

\* [In Thorpe's edition there is also a 'Supplement to Edgar's Laws,' of sixteen chapters, of which the first is ecclesiastical and the rest civil.]

† [ȝ þær beo on þære ȝeape biȝceop, and let there be present the bishop of the shire, T.]

A.D. DCCCCLX.

CANONS MADE IN KING EDGAR'S REIGN.

PREFACE.

IMMEDIATELY after King Edgar's ecclesiastical laws in the CCCC MS. follow these canons, which I place before Dunstan's accession to the see of Canterbury, as containing no censure against the married clergy. Somner observes that many of them are taken from the capitularies of Charles the Great. The title is,

SAXON.  
[Sir H.  
Spelman,  
vol. i.  
p. 447.  
Wilkins,  
vol. i.  
p. 225.  
Thorpe\*,  
p. 395.]

HERE NOW FOLLOWS AFTER EDGAR'S PROVISION THE REGULATION  
OF THE LIVES OF ECCLESIASTICAL PERSONS.

1. WE charge that God's servants diligently perform their service and ministry to God, and intercede for all Christian folk, and that they be all faithful and obedient to their superiors, and all unanimous for their common benefit, and that they all be helpful to each other both in relation to God and the world; and that they be faithful and true to their worldly lords.

\* 'We charge' is repeated at the beginning of every canon in the original.

<sup>b</sup> Secular lords of clergymen were the king, their patrons, their founders' heirs, or such of whom they held lands.

\* ['The text is from D, the collations from X.' T. In MS. X. these canons begin at f. 25 b.]

2. And that they all honour each other, and that the inferiors obey the superiors, with diligence, and that the superiors love, and instruct diligently their inferiors.

3. And that at every synod every year they have their books, and vestments for divine ministration, as also ink, and parchment for [writing down] their instructions, and three days' provision.

4. And that every priest have his clerk to the synod, and an orderly man for his servant, none that is indiscreet, or that loves foolery, and let all proceed in order, and in the fear of Almighty God.

5. And that every priest<sup>c</sup> give information in synod, if any thing aggrieve him, and if any man hath highly abused him: 'and [let them be] for him all <sup>d</sup>in one\*, as if it had been done to themselves; and let them so assist him, that the man may do satisfaction, as the bishop directs.

\* *gecýþe* is to be added after *synod*. Somner. This and many other of the following canons do much resemble the laws of the Northumbrian priests. 950.

<sup>d</sup> *Sax.* on *ane*. Somner.

6. And that every priest give information in synod, if he know any man in his district† that is contumacious against God, or fallen into mortal crimes, whom he cannot reduce to satisfaction, or dare not by reason of secular men‡.

7. And that no suit between priests be commenced before secular men, but that their equals be arbitrators, and umpires; or let them lay their cause before the bishop, if there be a necessity§.

8. And that no priest do of his own accord desert the church to which he has been blessed and married¶.

‘ \* [ʒ fon hi þonne ealle on, and let them all take it up. T.]

† *rcpux-rcipe*, S. W. T., shrift-district, T.

‡ *oþþe ne þunpe fon poplþ-afole*, or dare not for worldly opinion, T.]

§ VII. *And þe lærað, þ̅ nan facu þe betreox p̅reortan ʒ, ne beo ʒeʒcoten to poplþ-manna ʒome, ac ʒeman ʒ ʒibbian heopa agene ʒeʒepan, oþþe ʒeʒotan to þam byrcope, ʒif man þ̅ nýþe ʒeule.*

7. And we enjoin, that no dispute

that be between priests be referred to the adjustment of secular men; but let them adjust among and appease their own companions; or refer to the bishop, if that be needful. T.]

¶ [þe he to ʒeblectroþ p̅ær, ac hæbbe him þa to piht æpe, to which he was consecrated but have it to him for lawful spouse. T. MS. X. adds, þa hpile þe h̅r l̅r ʒig, the while that his life lasts. T. This addition is in a later hand in the margin.]

9. And that no priest interfere with another in any thing that concerns his minster, or his parish, or his<sup>e</sup> gildship\*, or in any of the things which belong to him.

[Addenda.] [The word turned 'parish' is in the Saxon 'shrift-shire.']

\* See L. i. of Northumbrian priests, 950, and the note there.

10. And that no priest receive a 'scholar without the leave of the other by whom he was formerly retained.

' Clergymen were raised in this age, by putting children into the family of a bishop, or a priest, or into a monastery, where they were instructed in the books which contained their religious offices; and so soon as they could read and write, they received the first tonsure, that is, they were made ostiaries, though in after ages there was a distance of time between their being shaved, and receiving the first order; this Morinus shews to be a later corruption.

11. And that every priest do moreover teach manual <sup>arts</sup> with diligence †.

\* This was a commendable provision in an age when books were so scarce that a clergyman could scarce know how to employ his time innocently after he had well learned the public offices. I remember Bishop Grosthead after we had universities, complains that he could not find bibles for the use of such incumbents and clergymen of his diocese as he had sent thither.

12. And that no learned priest do reproach him that is half-learned, but mend him, if he know how ‡.

13. And that no noble born priest despise one of less noble birth. If it be rightly considered, all men are of one origin.

14. And that every priest do justly <sup>state</sup> his own accounts, and be not an unrighteous chapman, a 'covetous merchant §.

<sup>b</sup> Sax. *taligan*. This commonly signifies to follow agriculture, which was usual with the clergy of this age, but the adverb *pihtlic* joined with

\* [þ nan ppreortas oþrum ne wot-  
do, weng þara þinga þe him to-  
geþurige, ne on his mýnstre, ne on  
his scrift-scipe, ne on his gildscipe,  
that no priest deprive another of any  
of those things which appertain to him;  
neither in his minster, nor in his shrift-  
district, nor in his gildship. T.]

† [XI. And we enjoin, þ ppreortas  
geþuric, to eacan lape, leornunge hand-  
craeft georne.

11. And we enjoin, that every priest,  
in addition to lore, diligently learn a

hand-craft. T. Cf. Conc. Carthag. iv.  
c. 51, 52, 53. Concil., tom. iii. col. 955.]

‡ [gif he bet cunne, if he know  
better, T.]

§ [XIV. And we læpað þ ppreortas  
geþuric talige him pihtlice, ne beo  
weng mangle me mid unrihte, ne gylt-  
gende mæsse.

14. And we enjoin that every priest  
provide for himself lawfully, and let  
no one be a monger unlawfully, nor be  
a covetous merchant. T. See above,  
Canons of Elfric, A.D. 757. c. 30.]

it rather inclines me to take it as *rylean*. And it is no contemptible quality, especially in clergy-men, to keep exact accounts; and the rest of the canon seems to favour this sense.

<sup>1</sup> Somner's reading is *gyrgenb*. He understands it of one that takes usury.

15. And that every priest give baptism\* as soon as it is desired, and that he give it in charge to his district, that every child be baptized within thirty-seven nights†, and that no one too long remain unbishoped‡.

16. And that every priest industriously advance Christianity, and extinguish heathenism, and forbid the \*worship of fountains, and necromancy, and auguries, and enchantments §, and sooth-sayings, and †false worship, and ††legerdemain, which carry men into various impostures, and to ††groves, and ellens, and also many trees of divers sorts, and stones. And many do exercise themselves in variety of whimsys to such a degree, as they by no means ought to do.

\* *pilpeopbunga* is translated by Sir H. Spelman *factas ad libitum adorationes*. This led some puritans into a lepid mistake. See Dr. Hammond on Col. ii. 23, which text Sir H. Spelman too puts in his margin. The worshipping of wells and fountains was a superstition which prevailed in this nation till the age before the Reformation. Nay, I cannot say that it is yet extinguished among the papists. In the ages of dark popery, it

\* [γ γερυτεγ, and shrift, added in X.]

† [binnon vii. nihtum, X., 'within seven nights.']

‡ [unbiscopob, unconfirmed, T.]

§ [Mr. Thorpe translates the former part of the canon to the same effect, but gives the remainder as below :

According to MS. D., from which Spelman's text was taken ;

"and man-worshippings, and the vain practices which are carried on (man-peopðunga, γ þa gemeapp þe men ðurð) with various spells and with 'frith-splots,' and with elders, and also with various other trees, and with stones, and with many various delusions, with which men do much of what they should not."

According to variations of MS. X. : "and tree worshippings, and stone worshippings, and that devil's craft, whereby children are drawn through the earth, and the vain practices which are carried on on the night of the year,

(τρεογ-γυρðunga γ γαν-γυρðunga, γ ðone ðeoγeγ cγeγt, þe man ðurðð þeγ man þa cūð þurð þa eoγðan tūð γ þa gemeapp þe man ðurð on γeapγ niht) with various spells, and with 'frith-splots,' and with elders, and with many various delusions, with which men do much of what they should not."

This variation, as specifying the forms of false worship, seems to prove that the first part of *mán-peopþunga* in MS. D. is for *mán*, wickedness or wicked, and therefore that Johnson's translation 'false worship,' gives the true meaning. Compare in Bosworth's Dictionary, *mán-bæð*, a wicked deed; *mán-að*, a wicked oath, perjury; *mán-peoç*, a wicked work. Frith-splot, as explained in Thorpe's Glossary, is the same as 'frith-geard,' a spot or plot of land encircling some stone, or tree, or well, considered sacred, and therefore affording sanctuary to criminals. Compare above, Law of Northumb. priests, A.D. 960. c. 48.]

was thought sufficient to forbid the honouring of wells and fountains without the bishop's approbation.

<sup>1</sup> Sir H. Spelman's version here is *hominum cultus Divinos*, but this cannot be the meaning; because the worshipping of saints was now certainly practised in this church, and therefore could not be condemned by the author of these canons. And the Saxon word implies not what Sir H. Spelman supposed.

<sup>2</sup> *gemaþpa* in law first of King Edward in Lamb. seems to signify the substituting one thing for another by sleight of hand, therefore I turn it *legerdemain*.\*

<sup>3</sup> In this word I follow Mr. Somner's conjecture, in the next word, *elene*, my own. The elder-tree still passes by that name in some of the north-west countries. No tree looks more venerable, or divine, when it is full of blossoms, or berries. Mr. Somner turns it olive-tree. But our forefathers dealt not in exotics.

17. And that every Christian man diligently win† his child to Christianity and teach him *Pater Noster et Credo*.

18. And that men on holy-days forbear heathenish songs, and diabolical sports.

19. And that men abstain on the Sunday from markets, and county courts.

20. And that men abstain from fabulous readings, and absurd fashions, and scandalous shavings of the hair‡.

\* Here I follow Mr. Somner. It is well known that the several modes of cutting or shaving the hair were among the heathen tokens of men's being devoted to one idol or another. The Danes being heathens or half Christians, had introduced these fashions here in England.

21. And that men abstain from familiarity with concubines, and choose lawful marriage§.

22. And that every man learn to be expert at *Pater Noster, et Credo*, as he desires to lie in holy ground, or to be [ca-

\* [Lij hpa gemeaþpa manna wæpe, ðe wulde oþþer ƿyr to borpe reatan ƿop ƿyþer tynhlan. Si quis adeo fuerit animi scelerati, ut bona aliena, calumnie causa, pignori ponere non vereatur. Leges Edwardi Regis, (A.D. 901—924) Lambard, p. 38. Thorpe gives this in a note as the reading of MS. CCCC. 383, (19. 2,) but in the text has Lij enig yrelpa manna wæpe, if there were any evil minded man, &c., from Textus Roffensis. Compare Thorpe, p. 68.]

† [wænge, accustom, T.]

‡ XX. And þe lærað, þ man gewrice higeleappa gewæða (wæða MS. D.) biþhca gewæða 7 byrnþlicpa eƿerunga (oððe unewerunge in margia. MS. X. f. 27.)

20. And we enjoin, that unbecoming garments, and foolish discourses, and ignominious shavings be abstained from.

§ [7 lufge wult wæpe, and love his lawful wife, T. This canon is omitted in MS. X.]

teemed] worthy of the housel; for he who refuseth to learn that, is not a good Christian, and he cannot of right undertake for others at baptism, nor at the bishop's hands. Let him who knows it not first learn it\*.

23. And that there be no violent strife between men on festival or fasting days.

24. And that on festival and fasting days, oaths and ordeal be forborne.

25. And that every man abstain from his <sup>p</sup>wife on festival and established fasting days.

\* Read *þy*, not *þit*. Somner.

26. And that priests keep their churches with all honour for divine ministrations and pure services, and to no other purpose; and that they allow of no indecent thing either in or next it, nor of any idle word or work, nor of indecent drinking†. Nor let any dog or swine come within the verge of the church, so far as man can govern.

27. And that nothing be lodged in the church that is not befitting it.

28. And that men be very temperate at church-wakes, and pray earnestly, 'and practise nothing unbecoming <sup>q</sup>there‡.

<sup>q</sup> Read *þæp ne*, not *þæpne*.

29. And let no man be buried in a church, unless it be known that he in his lifetime have so pleased God, that men on that account allow him to be worthy of such a burying place.

30. And that no priest celebrate mass in any house but a hallowed church, except on account of <sup>r</sup>some man's extreme sickness.

<sup>r</sup> Not on account of any layman's sickness, the thirty-eighth canon pro-

\* [nor at the bishop's hand, ere he learn them, T.; *þe he hit geleoþrige*, L. S. W. T.]

† [The remainder of the canon is, *ne sæpe ænig idel, ne binnan cīcīc-tune ænig lūd (ne hōp, add. X.) ne cume, ne spīn þe ma, þæf þe man pealban mæge, nor ever any frivolity:*

nor within the church-enclosure let there come any dog, (nor horse,) nor yet more a swine, if it can be so ordered. T.]

‡ [*ʒ ænig gebīnc, ʒ ænig unnit þæp ne bpeoge, and suffer there no drinking, nor any vanity. T.*]

vides for this; but in case any priest had vowed, or through zeal was resolved, or had it enjoined him in penance to say mass, and yet was too sick to go to church. See also Can. 25 Ælfric 960\*.

31. And that the priest never celebrate mass at least without a hallowed altar.

32. And that a priest never celebrate mass without book; but let the \*canon be before his eyes to see to, if he will, lest he mistake.

\* The canon is the most essential part of the mass, viz., from the end of the Trisagium till the consecration be ended. It is fairly intimated here that the priests used to say this canon without book (of which see my *Unbloody Sacrifice*, Part II. Preface, p. 21, and Book, p. 147†) and even here the priest is only permitted, not enjoined to read it.

33. And that every priest have a †corporas‡ when he celebrates mass, and a †subumblem§ under his alb, and every †mass vestment decently put on¶.

† A linen cloth in which to lay the Sacrament||.

‡ I no where else meet with this term; Mr. Somner turns it *subucula*. To me it seems so called, q. *vestis subumbilicalis*, and to signify the amyt which, as it had a head-stall, and came over the shoulders, so it was strait about the reins, *in renibus stringitur*, says Durandus, lib. 3. c. 2\*\*.

¶ Here it may be seasonable to mention the whole missal attire of the

\* [See also Ælfric's epistle, *Quando dividis Chrisma*, Thorpe, p. 465, and *Ecc. Inst.* c. xi.; Thorpe, p. 473.]

† [Oxford edition, A. D. 1847. Part II. Pref., p. 20, and ch. ii. § 2. p. 176, note z.]

‡ [*corporalem*, (corporale, MS. X.), a corporale, T.]

§ [*subuculam*, (subumbrale, X.) a subucula, T.]

¶ [pupðlice behpoppfen, worthily appointed, T.]

|| [Duplex est palla, quæ dicitur corporale: una scilicet quam Diaconus super altare extendit: altera quam super calicem plicatam imponit.—Durandi *Rationale*, lib. iv. c. 29. n. 4.]

\*\* [The words of Durandus, lib. iii. c. 2, refer only to the amictus, *amice*, and the way in which it was fastened. The *subucula* seems to mean the linen garment worn by the priest next over his common clothes, under the *amice*, alb, and other mass-vestments, and to be the same as the 'surplice' mentioned in Johnson's next note and by

Durandus; but the latter name did not prevail at the date of these canons, being first used in the laws of King Edward the Confessor, *De Latronibus interfectis*, etc., c. 36; Thorpe, p. 199.

The surplice is recognised by one of the directions of the missal as a garment preparatory to the mass-vestments properly so called.

'Quibus ita dispositis, accedit ad paramenta, ubi calciatus pedibus, et indutus vestibus sibi convenientibus, quarum exterior saltem talum pedis attingat: induit se, si sit Prælati regularis, supra rochetum: si sit Prælati regularis vel alius Sacerdos secularis, supra superpelliceum, si commode haberi possit, alioquin sine eo supra vestes communes, dicens ad singula singulas orationes inferius positas.' *Ritus celebrandi Missam. De preparatione Sacerdotis.* See Dr. Rock's 'Church of our Fathers,' Part I. c. v. § 10, and c. vi. § 1-].



priest, as we have it in Durandus, lib. 3. c. 2—7°. The amyt before mentioned covered the head and shoulders, encompassed the breast and reins, and was tied with two strings. This was usually the innermost garment, but Durandus commends the practice of some in wearing a surplice over their own clothes under the amyt; next was the alb embroidered, made of fine linen, or byssus; it was strait, without any surples, and had strait sleeves, it had a head-stall, and covered the whole body: then the girdle; next was the stole, or scarf, which came round the neck, and down to the knees on each side: over this was the chesible, or planet, which was a surpled garment, stood up on the shoulders, and at the priest's lifting up his hands it opened itself on both sides. Last was the maniple, that was a napkin or handkerchief to be laid at his left hand to wipe off the sweat of his face, and it was indeed necessary, that the man under such a load of habiliments should be provided with this last too. And yet it were well if these habits were the greatest burden that the pope laid on his priests. Durandus further says, c. i. of the said book, that the archbishop had eight vestments, beside the ornaments of his hands and feet, and c. 10, 11, after the alb they put on a tunic, and some two of them, and over the tunic a dalmatic, which, he says, succeeded the colobium of the Apostles: the bishop also had a surcingle, which was an ornamental addition to the girdle. He mentions also the pluvial, or cope, in this chapter, but says it was used only on the greater festivals. He mentions also the dalmatic of the deacon, as straiter than that of the bishop; and the tunicle of the sub-deacon as straiter than the dalmatic of the deacon. Ostiaries, lecturers, exorcists, and acolyths, says he, go all in white, that is in surplices, with an amyt, an alb, and belt, c. i., and having there mentioned the name of the other vestments, he adds, there is also a surplice, which they who tend at the altar, and other holy offices, ought to wear over their common clothes.

34. And that every priest take great care 'to have a good book, at least a true one†.

35. And that no priest celebrate mass alone, without one to make responses to him.

36. And that no man take the housel after he hath broke his fast, except it be on account of extreme sickness.

\* [Durandus treats of vestments throughout his third book, which contains nineteen chapters, and gives the following enumeration:

Sex indumenta sacerdotibus, et episcopis communia sunt hæc: amictus, alba, zona, seu cingulum, stola, manipulus, planeta. Novem vero pontificibus specialia sunt hæc: Caligæ, sandalia, succinetorium, tunica, dalmatica, chirothecæ, mitra, annulus,

baculus pastoralis, de quibus omnibus singulatum prosequimur: et etiam de sudario et pallio, etc. Durandi Rationale, lib. iii. c. 1. n. 18.

For a learned discussion on the vestments of the Anglo-Saxon clergy, see Dr. Rock's 'Church of our Fathers,' Part I. c. 5 and 6.]

† [þ he gobe 7 hupu þi:ze bec hæbbe, so that he have good, and especially orthodox books, T.

37. And that no priest celebrate mass more than thrice at most in one day.

38. And that the priest have the housel always in a readiness for them that may want it; and that he keep it with diligence, and purity, and take care that it does not grow stale: if it be kept so long that it cannot be received, then let it be burnt in a clean fire, and let the ashes be put under the altar; and let him who was guilty of the neglect diligently make satisfaction to God.

39. And that a priest never presume to celebrate mass, unless he hath all things appertaining to the housel, viz., a pure oblation, pure wine, and pure water. Woe be to him that begins to celebrate unless he have all these; and woe be to him that puts any foul thing thereto; as the Jews did, when they mingled vinegar and gall together, and then invited Christ to it by way of reproach to Him.

40. And that it never be, that a priest celebrate mass, and do not eat the housel himself\*, or hallow again that which was hallowed before.

41. And that every chalice in which the housel is hallowed be molten, and that no man hallow it in a wooden chalice.

42. And that all things near the altar, or belonging to the church, be very cleanly and decently ordered, 'and let what is holy be laid up with reverence, and let nothing come near it †; and let a light be always burning in the church when mass is sung.

\* Sax. haligdom, the sacrament, or relics of saints, or both.

43. And that no hallowed thing be neglected, as holy water, salt, frankincense, bread, or any thing that is holy.

44. And that no woman come near the altar while mass is celebrating.

45. And that the hours be timely notified by ringing [the bells,] and that every priest then look out his tide-song in the church ‡, and that prayers be there diligently made in the fear of God, and intercessions for all people.

\* [7 ʃyʃ ʃ hup] ne ʒeþiʒe, and not taste the housel himself, T.]

† [7 þ..p ænig þiŋc fuleŋ neah ne cume, ac ʒeloge man þone haligdom ʃiðe appuðlice, and where nothing foul may come near them; but let the

'haligdom' be very reverently placed, T. HALIGDOM, relics of saints; the Gospels. T. Glossary.]

‡ [þonne hiŋ tab-ʒang on cipean ʒerece, then attend his canonical hours in the church, T.]

’ My translation is literal. Our reformers in preface to Book of Common Prayer take notice how difficult it was to find out the daily service in the old books. Mr. Somner turns the words *ad cantum ecclesiam petat*.

46. And that no <sup>a</sup>mass-priest, or minster-priest ever come within the church door, ’or into his <sup>a</sup>stall without a stole, at least that he do not minister at the altar without his vestment\*.

<sup>a</sup> The mass-priest is here, I suppose, the secular, the minster-priest the conventual. The words of Durandus, l. 3. c. 5, are very apposite, viz., “ though the priest may baptize, and do other such like offices without any other vestment, yet not without his stole, unless in case of necessity †. And the stole, or orarium, seems to have been the most ancient officiating habit. Mr. Somner turns *oreþrife* surplice, but I take it to be a mistake of that learned man.

\* Some say chancel, but I see no just reason for it.

47. And that no ecclesiastic cover his tonsure, nor permit himself to be mis-shorn, nor his beard to grow for any long time, if he will have God’s blessing, and St. Peter’s, and <sup>b</sup>ours.

’ Therefore these canons were made by bishops, or by one at least.

48. That all priests be uniform as to the feasts and fasts, and all bid them in the same manner, that they may not misinform the people.

49. And that all fasts be made meritorious by alms ‡, that is, that every one give alms in devotion to God, then is his fasting more acceptable to God.

’ \* ne binnan peoh-ƿealle (peoƿob-ƿealle, X.) bucon hy opep-ƿrife, (opep-ƿlope, X.) ne hupu æt pam peoƿode þ he þæp þenige. bucon þæpe þæbe, nor within the sanctuary without his upper vestment; nor on any account to the altar, so that he there minister, without that garment, T.: peoh-ƿeal, ‘holy place,’ or ‘place of the holy thing;’ and peoƿob-ƿeal, ‘altar-place,’ are clearly equivalent to ‘chancel’—peoh is a form of *piſ*, *sacrum*, from which also peoƿob (*piſ*-bed) is derived.—See Bosw. Dict., art. *pe-ƿod*; and Hickea, Thes. i. p. 113-4.

† [Dictum est autem orarium, quia quamvis sine aliis indumentis Sacerdotibus baptizare, consignare, et

alia plura orando facere liceat, sine orario tamen, nisi magna necessitate cogente, nihil horum facere licet. In concilio Triburiensi in Bucardo, (lib. 6. cap. Presbyteri,) legitur, ut Presbyteri non vadant, nisi stola oraria induti. Notandum autem est quod antiquitus stola erat vestis candida, pcrtingens usque ad vestigia, qua Patriarchæ utebantur ante legem; primogeniti cum benedictionem patris acciperent, induebant, et Domino victimas ut Pontifices offerebant. Sed postquam alba cœpit portari, mutata est in torquem.—Durandi Rationale, lib. iii. c. 5. De stola.]

‡ [mið ælmeƿƿan ƿepuƿðað, solemmized with alms, T.]

50. And that all priests use the same practice in relation to the service of the Church, and \*keep an equal pace in the Church service through the course of the year\*.

\* Not using the collect, epistle, and gospel for one of the later Sundays of Epiphany, or after Trinity, on Septuagesima, or Advent Sunday : these I mention as the most obvious instances of priests not keeping equal place with each other.

51. And that the priest diligently instruct the youth, and dispose them to trades, that they may have a support to the Church.

52. And that priests preach to the people every Sunday, and always give them a good example.

53. And that no Christian taste blood of any kind.

54. And that the priests remind the people of their duty to God, to be just in tithing, and other matters †, first the plough-alkms fifteen nights after Easter, and the tithe of young animals by Pentecost, and the fruits of the earth <sup>d</sup>by All Saints, the Rome-fee at Peter-mass, and Church-scot at Martin's-mass ‡.

<sup>d</sup> Yet by law third of this king nine hundred and fifty-seven tithes of the earth were to be paid by the equinox. By the way of paying them here mentioned they must probably first have been threshed, and cleaned; by the way mentioned in the third law they must have been paid while in the straw.

55. And that priests so distribute the people's alms as both to render God propitious, and to dispose the people to alms-deed §.

56. And that priests sing psalms, while they distribute

\* [L. *And ye lærað, þ þreortar on ciric-þenungum ealle an-þreogan, 7 beon efen-þeopðe on (e)fen-þeopðe orep, X.)* ƒeaþer ƒæce on eallum ciric-þenungum.

50. And we enjoin, that priests in ecclesiastical ministries all be on an equality, and in a year's space be like worthy in all ecclesiastical ministries, T. Johnson's seems to be the more probable version.]

† [And it is right, that this be admonished at Easter, a second time at Rogation days, a third time at mid-summer, when most people are assem-

bled. T. *Addition from X.*]

‡ [And light-scot thrice a year, first at Easter-eve, and a second time at Candlemas-eve, a third time on the eve of All Saints' mass. *Add. X.*]

§ [þ hig wæðþer bon ge ƒob geglabian ge ƒole to wilmertan gefærnan, that they do both give pleasure to God, and accustom the people to alms. T. *Cl. pænige*, above, canon 17.]

And it is right, that one part be delivered to the priests, a second part for the need of the Church, a third part for the poor. *Add. X.*]

alms, and earnestly charge the poor to intercede for the people.

57. And \*that priests guard themselves against over-drinking, and teach the same to other men\*.

\* The sense of this canon seems not difficult, yet the grammar of them<sup>1</sup> [sic.] is perplexed. I will not be positive that my translation is exact.

58. And that no priest be a 'common rhymer, nor play on the music by himself, or with other men; but be wise and reverend, as become his order†.

† I have translated here as in the forty-first law of Northumbrian priests, 950, and Mr. Somner here again says *cerevisiarius, Potefex*. I shall not contend with any man who gives his translation, the preference; after rylfum add oþþe mib.

59. And that priests guard themselves against oaths, \*and that they earnestly forbid them.

\* In common conversation.

60. And that no priest too much love the <sup>h</sup>company of women, but love his lawful wife, that is, his church‡.

‡ *Viciniam*. Somner.

61. And that no priest be concerned in false witness, nor be complice with a thief.

62. And that a priest ever <sup>1</sup>decline ordeal, not an oath§.

\* [LVII. And þe læpað þ̅ p̅p̅oer̅ta̅r beorgan w̅ð̅ o̅p̅e̅n̅-ð̅p̅un̅c̅e̅n̅, ⁊ h̅i̅c georne belcan oðrum mannum.

57. And we enjoin, that priesta guard themselves against drunkenness, and diligently reprehend it in other men. T.]

† [þ̅ w̅n̅ig̅ p̅p̅oer̅t̅ ne beo ealu-ƿcop, ne on w̅n̅ig̅ p̅y̅ro̅n̅ g̅l̅i̅g̅e̅ m̅ib̅ h̅im̅-rylfum, oþ[þe mib] oðrum mannum, that no priest be an ale-'scop,' nor in any wise act the gleeman, with himself, or with other men, T.; ƿcop is a common word for 'poet,' being derived from ƿceapan, *to shape, create*, as *poet̅r̅is̅* from *po̅i̅e̅w̅*: so, *Omepu̅r̅ ƿe̅ go̅ða̅*, ƿcop, *Homer the good poet*. K. Alfred's Boethius, c. xli. 1. The word 'ealu,' mistaken by Johnson for 'eal,' *all*, or an 'initiatory particle,' means *ale*, as *beop*, *beer*. Comp. above, A.D. 950. c. 41, note z.]

‡ [And it is right, if a minister of the altar direct his own life by the instruction of books, then he be worthy of full thaneship, both in life and in the grave: if he misdirect his life, let his dignity wane, according as the deed may be; let him know, if he will, that neither women nor temporal warfare are befitting him, if he will rightly obey God, and rightly observe God's law. Dunstan decided, that a mass-priest, if he had a wife, was entitled to no other 'lad' than belonged to a layman of equal birth, if he were charged with an accusation. And it is right, if a minister of the altar conduct himself rightly, then he be entitled to full 'w̅e̅r' and worship. *Add. X.*]

§ [LXII. And þe læpað, þ̅ p̅p̅oer̅t̅ b̅y̅r̅ce̅ o̅p̅el̅ w̅p̅pe̅ ne ge w̅e̅ð̅e̅.

62. And we enjoin, that a priest engaged in litigation never be juror in an

<sup>1</sup> I understand *byræc*, as *forþrac*, *ofþrac*, avoid or decline; not that the priest was to avoid the ministering of ordeal to others, but to use that way of purgation himself; for in truth none but slaves, and persons who had forfeited their credit by perjury were usually put to this purgation. (See law third of King Edward in Lambard\*) the story of Queen Emma is a fiction. Purgation by oath was more reputable. Somner puts a Q. on Sir H. Spelman's translation here.

63. And that a priest do not make his purgation against a thane, without the thane's \*fore-oath.

<sup>1</sup> Fore-oath hath several significations: here I take it to mean that oath which the informer, or accuser took, viz., that he believed his information to be true. And it was reasonable, that if the thane were known to be the principal party in impleading a priest, he should make such oath before the priest was put to his purgation; and that it should not be sufficient that any of the thane's under-agents gave their oath in this case.

64. And that no priest be a hunter, or hawker, or player at dice; but <sup>1</sup>divert himself with his book †, as becometh his order ‡.

<sup>1</sup> Ply his book, Somner.

65. And that every priest teach them who confess to him, penance and satisfaction, and help them in doing it, and that they housel sick men, when there is a necessity, and also

ordeal. T. "This interpretation is conjectural: that *byræc* may be an adjective, signifying *litigious, disputable*, appears from 'Institutes of Polity,' c. vii., where it is said, 'And gý þær hþæt byræcer rý, reme re byrcop, 'And if there be any thing disputable, let the bishop settle it.' That the text is corrupt, is rendered less probable from the concurrence of both MSS., which have obviously not been copied from a common source." Thorpe, p. 401, note a, p. 427.

\* [The following is the translation of the law to which Johnson refers; Of Perjurera.

3. Also we have ordained concerning those men who were perjurers; if that were made evident, or an oath failed to them, or were out-proved, that they afterwards should not be oath-worthy, but ordeal-worthy.—Thorpe, K. Edward's laws, c. 3. p. 69; compare K.

Wihtréd's laws, c. 18. p. 18.]

† [ac plege on hýr bocum, but apply to his books, T. Johnson is right in the translation of 'plege,' which means literally 'let him play,' but wrong in translating *bocum* the dative plural as if it were *bec* the dative singular. So also above in the thirty-fourth canon he mistakes the plural for the singular. See the declension of *boc*, a book, Rask's Grammar, No 106; and the list of Bishop Leofric's books; Cod. Dipl. 940, vol. iv. p. 275-6.]

‡ [The canon says: If any man in orders go a hunting, if he be a clerk, let him forego flesh for xii. months; a deacon two years; a mass-priest three; a bishop vii.; and if any bishop, or mass-priest, or any man in orders habitually over-drink himself, let him either desist, or forfeit his order. T. Add. X.]

anoint them, if they desire it; and after their departure diligently cover them\*; and not permit any undecency toward the corpse, but discreetly bury in the fear of God.

66. And that every priest have both oil for baptism, and for the anointing the sick, and be ready [in ministering] of rights to the people†, and earnestly promote Christianity in every respect, and both teach them well, and give them a good example, then will Almighty God reward him in the manner most desirable to himself.

67. And that every priest know to make answer, when he fetches the chrism, as to what he has done in relation to the <sup>m</sup>prayers for the king, and the bishop‡.

\* What these prayers were I know not, nor will I guess. It seems probable to me, that King Edgar approved of these canons, and that he required his bishops to put them in execution, and that priests when they fetched the chrism were to give account how they had observed them; and if we add but one letter to the Saxon word, and read *gebeobum*, it will signify the commands, or injunctions of the king, and bishop; every one knows that such slight variations are very common in all ancient monuments, especially in the Saxon.

\* [*georne behpeoppe*, L. S. W. T., carefully order,] T.

† [*Ʒ eac geapa Ʒ to folcer gehu- tum*, and also be prompt for the people's rights, T. The Anglo-Saxon word *gehuhtum* may mean either *rights* or *rites*, but the latter meaning seems to be required by the context in this place. See Bosw. Dict., art. Riht.]

‡ [LXVII. *And pe læpað, þ ælc*

*preost wite to cyðanne, þonne he cƷurman fecce, hwæt he on gebedum Ʒon cýnge Ʒ biŷcpe gebon hæbbe.*

67. And we enjoin, that every priest be able to declare, when he fetches chrism, what he has done in prayers for king and bishop. T. This canon is not in X. Compare Excerptions of Egbriht, A. D. 740, c. 7, 8.]

A.D. DCCCCLXIII.

PENITENTIAL CANONS.

OF CONFESSION.

PREFACE.

Sir H.  
Spelman,  
vol. i.  
p. 456.  
[Wilkins,  
vol. i.  
p. 229.  
Thorpe,  
p. 402.]

THE following canons have no other rubric, yet it is evident they are a distinct system from the former. There are few or no censures, or punishments inflicted in the former canons, here are certain penances assigned for sins of all sorts. And by the penance assigned to the monks and clergymen for cohabiting with their wives, can. 31, 40, which is the same as for murder, I should think it was Dunstan that compiled them, and that this set of canons might be called Archbishop Dunstan's Penitential; and therefore I date them as made in the second year of his presidency, viz.,

A.D. DCCCCLXIII.

**LATIN.** 1. WHEN any one will confess his sins, let him act like a man, and not be ashamed to acknowledge his wickedness and crimes by accusing himself; because from thence proceeds pardon: for without confession there is no forgiveness: for confession cures. Confession justifies\*.

\* [So Wilkins, who published these canons from D, the same MS. as Spelman; Thorpe gives from other MSS. the whole Latin preamble thus:

De Confessione.

Incipit Ordo Confessionis Sancti Hieronymi, qualiter confiteri debeat Christianus peccata sua.

Quando aliquis voluerit confessionem facere peccatorum suorum, viriliter agat, et non erubescat confiteri scelera et facinora se accusando; quia inde venit indulgentia, et quia sine confessione nulla est venia; confessio enim sanat, confessio iustificat, confessio veniam peccatis donat.



Here follows a \*chasm in the MS., and then these two short prayers, which were probably the absolution to be given by the priest, viz.,

Let Thy mercy, O Lord, prevent this Thy servant, that all his iniquities may be blotted out by a speedy indulgence, through Jesus Christ our Lord.

Hear, I beseech Thee, O Lord, the prayers of Thy supplicants, who cry unto Thee, I beseech Thee, Lord.

\* It seems probable that at this chasm there were intended to be inserted various forms of absolution, and till copies of others were found the form contained in the text was thought sufficient. I will as a supplement to this defect give my reader one from the MS. in the Cotton library, Tiberius A. 3. Fol. 1.\* The book is of the age of Edgar, or soon after. For it has his picture and St. Scholastica's in its front: the absolution is as follows; "The Almighty God, who created the heaven, and the earth, and every creature, have mercy upon thee, and grant thee forgiveness of all thy sins, which thou hast ever committed from thy being made a Christian to this time; through" &c.

2. Let him that is a physician to the souls of men, and takes cognizance of their deeds, study distinctions, and that discretion, how he may lay men under penance for their actions, and yet not pass a rash condemnation upon them, nor make them despair, 'when they are willing to confess their misdeeds: especially let him hear him patiently. <sup>b</sup>Let his own way [of doing it] be the road, if he be willing, and know how humbly to confess his deeds, and consider his crimes.

SAXON.  
[1. T.]

[2. T.]

Imprimis igitur prosternat se humiliter in conspectu Dei, super terram, adoratione, et lacrimas fundens; roget beatam Mariam, cum sanctis angelis, et sanctis apostolis, et martyribus et confessoribus, et virginibus, et omnibus electis Dei, ut ipsi intercedant pro se ad Dominum, ut Deus omnipotens dignetur ei dare sapientiam perfectam, et veram intelligentiam ad confitendum peccata sua: Christe audi nos; Saucta Maria, omnes Sancti, orate, et rel. Post hec autem cum fiducia surgens, confiteatur pœnitens credulitatem suam, dicens: Credo in unum Deum, et rel. Et post hec incipit confessionem suam

coram Deo, et coram sacerdote, confitens peccata sua. Sequitur oratio; Oremus: Preueniat hunc famulum tuum N. quæso Domine, misericordia tua, ut omnes iniquitates ejus, celeri indulgentia deleatur, per Jesum Christum, Dominum nostrum. (Exaudi quæso Domine, supplicum preces clamantium ad te, quæso, Domine. D. add.) Amen. T. Mr. Thorpe adds in a note, 'The Latin preamble is from Bx, the text is from N, collated with C, D, and Bx.'

\* [From this MS. referred to by the letter N, Thorpe's text of the following canons on confession is taken.]

<sup>b</sup> Somner removes the stop, as I have done, but he translates the words *suum sit prudens consilium, si . . .*

- [3. T.] 3. Enquire of him concerning his manners, squeeze out his crimes, represent [to him] his deeds\*, and beware that thou pass not the same judgment on the rich and the poor, the freeman and the slave, the old and the young, the healthy and the sickly, the humble and the proud, the strong and the weak, the ecclesiastic and the layman.
- [4. T.] A wise judge will discreetly make distinctions as to every action, how it was done, and where or when. Wrong is never allowed at any time: yet a man should also especially guard himself on festival and fasting days†: and as a man is of greater power and quality, so he ought to make deeper satisfaction, both to God and the world, for wrong done‡; therefore the mighty and the mean man, the healthy and the sickly, ought not to have the same burden; and therefore a man is to judge with moderation, and discreetly to distinguish.
- [5. T.] 4. After this let [the penitent] humbly rise to his shrift§, and first say, "I believe in the Lord, the supreme Father, the governor of all things, and in the Son, and in the Holy Ghost; and I believe life after death, and I believe that I

\* [II. ðonne je man him his myr-  
ðæba anbettan wille, gehype him  
æwerc gefylbelice, hu his werc geþab  
ri. Líf he wille 7 cunne eabmōðlice  
his ðæba anbettan, 7 þu ongyte þæt him  
his wýrta hpreopen, læp hine luflice  
7 miðheortlice.

III. Líf he ne cunne his ðæba an-  
bettan 7 his gyltas, arweagan, acra  
hine his wýrta, 7 acwep him þæt gyltas  
ut, 7 asec his ðæba (myrðæba, D.)

2. When the man wishes to confess to him his misdeeds, first hear him patiently, how his conduct be regulated. If he will and can humbly confess his deeds, and thou feel sensible that he repents of his sins, teach him kindly and tenderly.

3. If he cannot confess his deeds, and meditate on his sins, question him regarding his ways; and extort his sins from him, and enquire into his deeds. T.]

† [7 on wfeolwropan eac wpa, and in festive places also, T. Johnson substitutes 'also,' and differs both from

Spelman and Wilkins in omitting to translate the other Saxon words here given.]

‡ [The remainder, and a continuation nearly agreeing with the canons number 10 and 11 below, are thus translated by Mr. Thorpe:

"because the powerful and the feeble may not lift a like burden, nor the sickly a like one with the hale: and, therefore, we must moderate, and discreetly distinguish between age and youth, wealthy and poor, hale and sickly, and every degree. And if any one do aught amiss unwillingly, that is not like to him who willingly and wilfully doeth amiss of his own accord. And also he who is an unwilling agent in that which he misdoeth, is always worthy of protection and the milder sentence; because he was an unwilling doer of what he did. Let every deed be cautiously distinguished before God and the world."]

§ [7. wýrte, confessor, T.; so also in the next canon.]

am to arise at dooms-day: and all this I believe shall come to pass through God's power and mercy.

5. And then meekly bowing to his shrift with contrition [6. T.] and a sorrowful mind, let him humbly rehearse his confession, and say, "I confess to Almighty God and to my shrift, the ghostly physician, all the sins with which I was ever defiled by accursed spirits, either in deed, or in thought, either with men, or with women\*, whether according to nature, or contrary to nature.

\* It is evident the fashion of confessing to angels and saints did not yet prevail.

6. "I confess intemperance in eating and drinking, early [7. T.] and late, all manner of lust, evil-speaking, envy, doubling, lying, vainglory, idle-words, prodigality, and all the luxury which ever befel my unruly body†. I confess, that I have too often been a<sup>d</sup> contriver of sin‡, a consentor to sin, a complice in sin, a teacher of sin.

† Read *pýphta*, not *pihta*. Somner.

7. "I confess murder [committed] by my mind, perjury, [8. T.] unpeaceableness, neglect of God's denunciations. I confess all that I ever saw with mine eyes [tending] to covetousness, or evil-speaking, all that I ever heard with mine ears, [tending] to superfluity, or spake with my mouth [tending] to superfluity§.

8. "I confess¶ all the sins of my body, by my skin, by [9. T.] my flesh, by my bones, by my sinews, by my reins||, by my

\* [oþþe rið þæpman, oþþe rið þy-man, oþþe rið wige geþearft, or with man, or with woman, or with any creature, T.]

† [VII. Ic anbette gýrþneffe æter 7 þrencer, ge wær-tide, ge (þer-tide. Ic anbette wice gýrunga, 7 æfeft, 7 tælnesra, 7 trý-þpweasra, læsunga, 7 unriht gýp, 7 idel wæp, 7 unriht cýra, 7 wicne gýwige þe to mine lichaman unwæde wære beþampe.

7. I confess greediness in eating and drink, both before time, and after time. I confess all the cravings, and envy, and calumnies, and deceits, leasings, and unjust vaunt, and idle speech, and unjust quarrels, and every pomp that have ever been to my body's prejudice. T.]

‡ [rýnna pýphta, a worker of sins,

T.]

§ [VIII. Ic anbette mine moder morder, 7 mone aðar, 7 unrihte, 7 oferwicuigneffe, þeceleasnesra loder beboda. Ic anbette eal þ ic wære mið eagum geþeah to gýrunge, oþþe to tælnesra, oþþe mið eapum to unnytte gehýrde, oþþe mið minum muðe to unnytte geþæð.

8. I confess my mind's deadly sins, and perjuries, and enmity, and pride, [and] recklessness of God's commandments. I confess all that I have ever seen in covetousness, or in disparagement, with my eyes, or uselessly heard with my ears, or uselessly spoken with my mouth. T.]

¶ [Ic anbette þe, I confess to thee, T.]

|| [7 f. p. ædbpan, and of veins, T.]

gristles, by my tongue, by the lips, by the palate\*, by the teeth, by the hair, by the marrow, by every thing soft or hard, wet or dry. I confess I have kept my baptism worse than I promised to my Lord, °of my orders which I ought to have guarded to the praise of God, and His saints, and to my own eternal salvation, I have been too negligent †. I have often been tardy at my tide-songs. I have sworn false oaths 'in animam Dominorum meorum, and have taken the name of God in vain ‡.

\* This part of the confession relates to clergymen only.

† So I turn *ġinpa blaƿopa life*. Somner turns these and the remaining words of this canon, *Dominorum meorum vitam, et Domini nomen in vanum accepisse*. I rather think it is to be understood of the old way of procurators (such clergymen much affected to be of old) swearing instead of their principals, which is justly forbid by can. 132 of those published 1603.

[10. T.] 9. "I beg of my Lord forgiveness of all; and that the devil may never insidiously surprise me, so as that I die § without confession, and satisfaction for my sins; as I this day confess all my guilt before my Lord and Saviour Christ, who governeth heaven and earth, and before this holy altar, and these relics, and before my shrift ¶, and the Lord's mass-priest; and am [in a state] of pure, and sincere confession; and in a good disposition to satisfy for all my sins, and to abstain from the like, so far as I ever can.

[11. T.] "And Thou, O Saviour Christ, be merciful to my soul, and forgive my sins, and blot out my guilt, 'which I have now, or ever before contracted ||, and bring me to Thy supernal kingdom, that I may there dwell with Thy saints and elect without end, eternally. Now I humbly beseech thee, O priest of the Lord, that thou be my witness at dooms-day, that the devil may not prevail against me, and be thou my intercessor with

\* [ƿ ƿop ƿoman, and for gums, T.]

† [ƿ minne hab þe ic ƿcolbe Lobe ƿ hiƿ halƿum to lore healþan, ƿ me ƿylƿum to ceƿne hæle, ic hæbbe unmedumlice ƿhealþen, and my condition, which I ought to have holden to the praise of God and His saints, and to my own eternal salvation, I have unworthy holden, T.]

‡ [ƿ ic ƿƿop mæne aðar minpa hlaƿopa life ƿ miner Drihtenes naman ic nemnobe in ibelnesse, and I have sworn

false oaths by the life of my lords; and my Lord's name I have named in vain. T.]

§ [beo, am, T., rather, be: in Lambard, Spelman and Wilkins, the Anglo-Saxon text has no corresponding verb, but 'moriar' is inserted in the Latin translation.]

¶ [ƿcƿurte, confessor, T.]

|| [þe ic ƿið obbe æƿ æƿre ƿermeobe, that late or early, I have ever perpetrated, T.]

God, that I may satisfy for my sins and guilt, and abstain from other such like. The Lord assist me in this, who liveth and reigneth without end for ever. Amen \*."

*The manner of imposing Penance.*

Sir H.  
Spelman's  
number-  
ing.

10. If any one commits any fault unwillingly, be he old or young, rich or poor, healthy or sickly, and of what rank soever, he is not to be compared to him that commits it of choice and self-will; he who does amiss through compulsion always deserves excuse, and a more favourable doom, in that he did it of necessity so far as he did it.

1.

11. Every action is warily to be distinguished both in regard to God and the world.

2.

*The rites observed beyond sea.*

\* þearf not þearf, Somner. Dunstan probably brought these canons from France, where he lived in exile.

12. Every bishop shall be in his episcopal chair, on the <sup>3.</sup> [1. T.] Wednesday called *caput jejunii*; then every one that is defiled with capital crimes shall come to him by day, and declare his sins; and then he directs a satisfaction to every one according to the quality of his crimes. He separateth from the communion of the Church those who deserve it; and yet exhorts and persuades them to their own necessary duty. Then [the penitent] with [the bishop's] leave goes home.

<sup>b</sup> Ash-Wednesday.

13. Again on the Thursday before Easter all meet at the <sup>4.</sup> [2. T.] same place, and then the bishop sings over them, and gives them absolution; and they afterwards return home with the

\* [The next two canons are given as part of canon [4] of the foregoing series in Mr. Thorpe's edition, which goes on at this place thus, the text being taken from MSS. C and D.

Modus imponendi pœnitentiam.

1. Ðaþ þearf man healt beþeonban  
ræ þ 17 þ ælc bircop, &c.

1. Hæ consuetudines trans mare observantur; id est quod quilibet episcopus, &c. See Ancient Laws, &c., p. 406; also p. 366 of 'Penitentiale Egberti,' ed. Thorpe, from which it will be seen by Mr. Thorpe's references that many of the following canons are taken.]

bishop's blessing. This is thus to be observed by all Christian people.

- [3. T.] 6. 14. Yet the 'priest ought diligently to enquire with what compunction and exactness the penitent performed the satisfaction that had been enjoined him, and to give him absolution accordingly\*.

' Clearly the bishop, and this is an usual way of speaking.

- [4. T.] 6. 15. If one layman slay another without cause, let him fast seven years<sup>k</sup> on bread and water, and four as his shrift directs him†; and after the seven years' satisfaction, always earnestly lament his crime so far as he is able: for it is not known how acceptable his satisfaction has been with God.

<sup>k</sup> Here ought to be added three.

- [5. T.] 7. 16. Let him who would kill another, but could not fulfil his desire, fast three years, one in bread and water, and two as his shrift † directs.
- [6. T.] 8. 17. If a layman kill another, against his own will, let him fast three years, one in bread and water, and two as the shrift † directeth, and let him ever lament his misdeeds.
- [7. T.] 9. 18. If it be a sub-deacon, let him fast six years, if it be a deacon seven, if it be a mass-priest ten, if it be a bishop twelve year, and ever lament it.
- [8. T.] 10. 19. If one kills his own child against his own will, let him fast five years, three in bread and water—as above.
- [9. T.] 11. 20. If a bishop or mass-priest kill a man, let him forfeit his orders, and ever earnestly make satisfaction §.
- [10. T.] 12. 21. If a woman murder the child within her, or after it is come forth, with a drink, or with any other kind of thing, let her fast ten year, three in bread and water, and seven as her shrift in mercy directs her, and ever lament it ¶.
- [11. T.] 13. 22. If one slay his 'slave without cause out of a present fury, let him fast three year ||.

<sup>l</sup> Mr. Somner had turned *whit*, *persecutorem*, but he crossed it out.

\* [Cf. Ecg., P. I. 12.]

† [ſærte vii. gear. iii. on blage 7 on pætere, 7 þa iii. ƿpa hiƿ reƿiƿt him tæce, vii. annos jejunet, iii. in pane et aqua, et iii. prout confessorius ejus ei p̄scripserit. T.]

‡ [reƿiƿt, confessorius, T. So also

below, can. 10. T.]

§ [This and the five preceding canons are the same as Ecg., Part II. 1; Thorpe, p. 367.]

¶ [Ecg., P. II. 1.]

|| [ib., P. II. 3.]

23. <sup>m</sup> If a wife beat her husband out of any matter of 14.[12. T.] jealousy, and he be dead, and she herself be innocent; yet let her fast three years, and ever lament her misdeeds\*.

<sup>m</sup> Sir H. Spelman turns it, If a man beat his wife, and so on *mutatis mutandis*. I pretend not to determine what translation is most just, which is not to be done upon any certain grounds by reason of the looseness of the pronouns here used. But I must observe, that the words "if he," or "she be innocent" must be understood of the party slaying, and in relation to the keeping the bed undefiled, not to the murder, for without this supposition, I know not what the particle "yet" does here.

24. If a man wilfully kill himself, with a weapon, or 15.[13. T.] through any instigation of the devil, it is not allowed to sing mass for such an one, nor that his body be committed to the earth with psalmody, nor that it be buried in an holy place; the same doom belongs to him that loseth his life as a punishment for his crimes, that is the thief, and murderer, and traitor to his lord †.

25. If one defile himself with a beast, or one man with 16.[14. T.] another, if he be twenty winters old, let him fast fifteen winters. If the man hath a wife, and be forty years old, and practise such a thing, let him desist, and fast during life. And he is not to presume to receive the Lord's body till the time of his death. The young, unknowing man that doth such a thing shall be severely scourged †.

26. Let the wife or husband that breaks wedlock, fast 17.[15. T.] thrice a week on bread and water for seven years§.

27. He that relinquisheth his wife and taketh another 18.[16. T.] woman breaketh wedlock. Let none of those rights which belong to Christians be allowed him, either during life, or at his death, nor let him be buried with Christian men: and let the same be done to a [delinquent] wife: and let the kindred

\* [Lif þy hipe man fpingð, S. W.; Johnson was misled by this reading. The text and its meaning according to Thorpe are quite clear:

XII. Lif þy hipe þy man fpingð for hplcum lðþnum audan, 7 heo on þam brð deab, 7 heo beo unrcýlbig, fæste vii. gear, 7 gyf heo beo rcýlbig fæste iii. gear, 7 beþeoprige hipe murgæba wpre. Si mulier ancillam suam flagellis verberaverit, ex prava aliqua invidia, et ex illa verberatione moria-

tur, et innocens sit, [domina] vii. annos jejunet; si autem nocens fuerit, iii. annos jejunet, et delictorum suorum usque pœniteat. T. Cf. Ecg., P. II. 4; Th., P. XXI. 13: Elf. Can. c. 6, above, p. 390, note †.]

† [Ecg., P. II. 5; cf. Cap. Theodori, Thorpe, p. 308.]

‡ [Ecg., P. II. 6; Th., P. XVI. 7. 12, 34.]

§ [Ecg., P. II. 7; Th., P. XIX. 5. 17.]

that were present at the contract suffer the same doom, except they will first be converted, and earnestly make satisfaction\*.

- [17.T.]19. 28. Let no priest perform any rights belonging to Christians, to him that hath a wife and a concubine, except he will be converted so as to make satisfaction: whether it be a wife or a concubine, let him be under the same restraint †.
- [18.T.]20. 29. If a married man defile the lawful wife of another, or a wife [i.e.] with another woman's lawful husband, let [them] fast seven years: three in bread and water, and four as the shrift ‡ directs. And let them ever bewail their crime.
- [19.T.]21. 30. If any woman takes two brothers for her husbands, one after the other, °let them be parted, and be very diligent in their satisfaction, so long as they live, according as their shrift directs §. But at their departure, let the priest perform the rights of Christians to them, if they promise, that they would lengthen their satisfaction, if they might live longer ¶.

\* Sax. to-do man hi.

- [20.T.]22. 31. If one continue in such unlawful marriage to his life's end without cessation, we know not how to resolve upon any determination, but that it be °reserved to the divine doom. They cannot be absolved ||.

° Sax. æt Lober dom gelang, *Differatur ad Judicium Dei*. Somner.

- [21.T.]23. 32. If a woman be married, it is not allowed that any

\* [Ecg., P. II. 8; Th., P. XIX. 6. 12.]

† [Ecg., P. II. 9; Th., P. XIX. 33.]

‡ [hƿ ƿeƿƿt, confessarius ejus, T.; cf. Ecg., P. II. 10; Th., P. XIX. 32.]

§ [ƿƿa heopa ƿeƿƿt heom tæce, prout confessarius eorum eis præscripserit. T.]

¶ [Ecg., P. II. 11; Th., P. XX. 12.]

|| [ne he to clænanne mot, S. W., neque potest absolvi. W.]

The text and Latin version of this canon is thus given in Thorpe's edition:  
XX. Lƿ hƿa on ƿƿlcum manƿullan ƿƿcƿe ƿƿhpunað oð hƿ lƿeƿ enbe, buton ælceƿe geƿcencƿeƿe, ne cunne ƿe him nænne ƿæb geþencan, buton hƿ ƿ æt Lober dome gelang, ne he to

clænan (legepe, *add.*?) ne mot.

20. Si quis in tali nefando conjugio permanserit usque ad vitæ suæ finem, sine ulla respiciencia, non possumus ei aliquod consilium excogitare, sed Dei judicio est relinquendum; nec mundo (sepulcro) committatur.

In support of this interpretation of the last clause, see above, p. 380, *Law of Northumbrian Priests*, c. 62; Thorpe, p. 420. The parallel passage in *Ecgbriht's Penitential* runs thus:

Lƿ hƿa on ƿƿlcum manƿullan ƿƿcƿe ƿƿhpunað oð hƿ enbe, ne cunne ƿe him nane boce tæcan, butan hƿ ƿ æt Lober dome gelang. Si quis in tali nefando conjugio permanserit usque ad finem suum, non possumus ei aliquam emendationem præscribere, sed Dei judicio est relinquendum. Ecg., P. II. 11; Thorpe, p. 369.]



other man 'bereave [the husband] of her\*. If any one do it, let him be excommunicated.

83. If one by his subtlety force a woman or maid to un- 24.[22. T.] righteous copulation, against her will, let him be excommunicated.

34. If one seduce another man's domestic from him for 25.[23. T.] carnal purposes, with his P gins†, and lies with her against her will, if he be an ecclesiastic, let him forfeit his orders, if he be a layman, let him be excommunicated from all things that belong to Christians.

† Sir H. Spelman's translation supposes that an ecclesiastic might charm a woman with locks of his hair, whereas he was really to have his hair so short as to have no locks properly so called. And the picture of any old ecclesiastic will sufficiently prove that their hair could never strike the fancy of a young woman: therefore I rather understand the word *loccum* of some trickish lock or bolt, which any one could shut, but none except the person that was well acquainted with it could open, and by which men given to vicious amours might make young women their prisoners.

Since my writing this I have found the first words of this canon transcribed out of an Oxford MS. by Mr. Wanley in his catalogue, p. 53 *ad calc.*, save that for *loccum*, he has *lot-ppencum*, and though Mr. Somner passes over this place in his Annotations on Sir H. Spelman, yet he has *lot-ppencar* in his Dictionary, and turns it *versutia*, &c.

85. If any maid be betrothed, and in the mean time be 26.[24. T.] taken captive, or by some occasion driven away from him to whom she was betrothed, and it happen 'that she comes into the sight of him ‡, they may remain together for the future. For she was absent from him against her will.

86. If a religious woman turn herself to secular vanity, 27.[25. T.] and betake herself to the retinue of some family, and thinks

\* [hine bæŕ beþearge, illam ei auferat, T.]

† [mib hŕ loccum, suis illecebris, L. S.; mib hŕ lotppencum, versutis suis, T. So also in Ecg., P. II. 14, where Wilkins (p. 130) reads as Thorpe, although in this place he has *lotppencum*, the letter c in the first part of the word being perhaps inadvertently substituted for r:

Lŕ hpa mib hŕ lotppencum oþŕer manŕ folgeþe fram him apæce for hæmeb-þunge, Si quis versutis suis alius hominis pedisequam ab eo fornicationis causa, allexerit,—T. Ecg.

Pœnit. II. 14, Thorpe, p. 369.

Johnson's note makes it necessary to add, that the word 'loccum' (dat. pl.) in Lambard's text, and that of Spelman, though probably a genuine variation and rightly translated by them, contains no allusion to 'locks of hair' or fastenings of doors, but is merely equivalent to the other reading. Compare the German words *locke*, an *alturement*, *locken*, to *entice*, *decoy*.]

‡ [þ heo on neapeŕte becueme, ut alter in alterius viciniam veniat, T. So also in Ecg., P. II. 15.]

that with her wealth she may make satisfaction for having incurred the divine wrath, this is nothing: but let her forsake her carnal life, and live as her shrift directs her, and diligently make satisfaction for her crime\*.

- [26. T.] 28. 37. If a mass-priest or a monk kill a man, let him forfeit his orders, ' and fast ten years on bread and water, and for five [years] three days in the week, and on the other days let him enjoy his meat, but ever lament his crime.

The deacon eight years, [five] in bread and water, the 9 other †.

\* Q. of the word *curum* †.

The clerk six years, four in bread and water.

The layman five years, three in bread and water—as above.

- [27. T.] 29. 38. 'If one slay an ecclesiastic, or his own nearest kinsman, let him leave his country and estate, and do as the pope directs, and ever lament it §.

† This was a case in other places reserved to the bishop only in this age. But Dunstan was a flaming papalin, and to make some amends to

\* [XXV. *Lif þis man gehabob bið, 7 heo riþþan to popullicre idelnerre gecýrped, 7 hippædene underfelð, 7 þencð þæt heo nuð hipe sæhtan gebete, þæt heo Lobe abealh, nis þæt naht, ac folwæte þone riwcrife, 7 gecýrpe to L.riwce, 7 libbe hipe lif rpa hipe rcrur tæce, 7 bete þa riwðæða ærpe rriðe georne.*

25. Si mulier ordinata fuerit, et deinde ad mundanam vanitatem reversa fuerit et familiam susceperit, et cogit possessionibus suis id emendare quo Deum irritaverit, id nihili est; sed conjugium illud relinquat, et ad Christum revertatur, et suam vitam vivat prout confessarius ejus præscripserit, et valde diligenter debita sua usque emendet. T.

The same canon is more expressly laid down, Ecg., P. II. 16. See also Th., P. XVIII. 16.]

† [7 riwce x. gear, v. on hlare 7 on pætere 7 riw, þreo ðagar on pucan, 7 þa oppe bpuce hir metes, 7 beheworpe hir riwðæða ærpe. Diacon vii. (viii. MS. D.) on hlare 7 on pætere 7 þa oðre ut ruppa, — et x. annos jejundet; v. in pane et aqua, et quinque, tribus diebus per hebdomadam, et reliquis

fruat cibis suis, et usque eum debitorum suorum pœniteat. Diaconus vii. in pane et aqua, et reliquis ut supra. T. Cf. Ecg., P. IV. 2—5; Th., Cap. p. 314—317; Th. P. XXI. 16, 17.]

‡ [The word *curum*, which in Lambard and Spelman's text stands in the place of 'ut supra' of Thorpe, is probably a genuine variation, meaning 'with clean meat,' as distinguished from flesh: so in Ecg., P. IV. 9. 7 þa oppe bpuce hir metes, butan riwce anum, et reliquis fruatur cibo suo, excepta carne sola. See Thorpe, p. 378, and note b. Maresballi Obs., p. 523.]

§ [The following is the parallel passage in Ecgbriht's Penitential:

VI. *Lif hpa gebabode man orleas, oððe hir neahstan mæg. riwleste hir earb 7 hir sæta, 7 rpe to Rome, to þam papam, 7 bo riwððan rpa re papa him tæce.*

6. Si quis ordinatum hominem occiderit, vel proximum suum cognatum, discedat a patria sua, et a possessionibus suis, et adeat Romam ad papam, et faciat postea prout papa ei præscripserit.—Ecg., P. IV. 6; Thorpe, p. 377. Cf. Th., P. III. 6; XXI. 9; Th. Cap. p. 311.]

the clergy for depriving them of their wives, he made the murdering of their persons more penal than it was before. It seems to have been a hundred years at least from this time, before this practice took place in other countries.

39. If a mass-priest or monk practise uncleanness, or 30.[28. T.] break marriage\*, let him fast ten years, and ever lament it. A deacon seven, a clerk six, a layman five, 'as before†.

\* So Somner f. 77a beƿop. See Can. 37.

40. If a mass-priest, or a monk, or deacon had a lawful 31.[29. T.] wife before he was ordained, and dismisses her, and takes orders, and then receives her again 'by lying with her, let every one of them fast as for murder, and vehemently lament it‡.

† *Per concubitum.* Somner.

41. If a mass-priest, or monk, or deacon, or clerk, or lay- 32.[30. T.] man lie with a nun, let them fast as those of their rank ought to do for murder, and ever forbear flesh; and let the nun [fast] ten years as the mass-priest, and ever lament it§.

42. If any man would lie with a nun, and she refuse, 'or 33.[31. T.] with the lawful wife of another, and she refuse¶, let him fast one year in bread and water, for his unlawful desire.

43. If any man would lie with another man's lawful wife, 34.[32. T.] and she refuse, let him fast "three Lents in bread and water, one in summer, a second in harvest, a third in winter||.

\* There were of old for some time, and in some churches, particularly in the English, or rather among the more superstitious part of the people, three Lents observed, beside the great one before Easter, viz., before St. John Baptist's Nativity, June 24, in summer, before the Assumption of the Virgin, Aug. 15, in harvest, and Advent in winter; but they were not fasts of forty days.

44. If a man desire to lie with [any] woman unlawfully, 35.[33. T.] let him fast forty days on bread and water\*\*.

\* [hæmed-þingc ƿrihð, oþþe æƿe-  
þricð, fornicationem commiserit, vel  
adulteraverit, T. So in Ecg., P. IV. 7.]

† [77a be man-ƿliþze, ut pro homi-  
cidio, T. Cf. ibid.]

‡ [Ecg., P. IV. 8; Th., P. XVIII.

§ [Ecg., P. IV. 9; Th., P. XVIII.

13.]

¶ [These words are not part of this  
canon according to Thorpe, and in the  
texts of Lambard, Spelman, and Wil-  
kins, the corresponding Saxon words  
seem to be redundant. Cf. Ecg., P.  
IV. 10.]

|| [Ecg., P. IV. 11.]

\*\* [1b., IV. 12.]

- [34. T.]36. 45. \* If one steal another man's daughter, let him make satisfaction to [her] 'friends, and let them both fast on Wednesday and Friday, for one year, and on other days enjoy their meat without flesh, and let them be lawfully married\*.
- \* Literally, If one bereave another man of his daughter.  
\* *Cum puellæ amicis.* Somner.
- [35. T.]37. 46. If one defile himself with a beast; let him fast fifteen years, eight in bread and water, and for [the other] seven years [let him fast] three Lents, and on Wednesday and Friday so long as he lives, and ever lament the crime †.
- [36. T.]38. 47. If one wilfully defile himself, let him fast three Lents for three years, every year in bread and water, and forbear flesh every day but Sunday †.
- [37. T.]39. 48. If one destroy another by witchcraft, let him fast seven years, three in bread and water, and the [other] four years, three days in a week in bread and water, and ever lament; it §.
- [38. T.]40. 49. If one drive a \*stake into a man, let him fast three years in bread and water, but if the man be dead by means of the staking, then let him fast seven years, as is here written, and ever lament it ¶.

\* For Sir H. Spelman's *ræcas*, and *rac*, Mr. Somner puts in his margin *ræac*, and *ræacunge*. It is none of his own conjecture; for then he would have explained his meaning. But it was a MS. reading, which he had not with himself determined how to translate, and therefore says nothing. I only guess from the similitude of the ancient and present name, that it signifies a stake. It is certainly a magical phrase, for the foregoing and following canons are against witchcraft. Witches are said to burn, or run pins and nails into others by performing those actions upon the images (made of wax or clay) of the persons whom they would hurt. By the same

\* [Ecg., P. IV. 13.]

† [Ecg., P. IV. 14; Th., P. XVI.]

7. 34.]

‡ [Ecg., P. IV. 16; Th., P. XXVIII.]

3.]

§ [Ecg., P. IV. 16; Th., P. XXVII.]

9.]

¶ [XXXVIII. *Lif hpa ðriþe ræcan on man, ræcete iii. gear, an on hlafe 7 on wætere, 7 þa u. iii. ðaȝar on pucan on hlafe 7 on wætere, 7 gif se man for þære ræcuuge deað bið,*

*bonne ræcete he vii. gear, rpa hit aw apwicen is, 7 hweoþrige his mætþæba swipe.*

38. Si quis acus in homine aliquo defixerit, iii. annos jejunet, unum in pane et aqua, et ii. iii. diebus per beddomadam in pane et aqua; et si homo ex illa confossione mortuus sit, tunc vii. annos jejunet, prout jam scriptum est, et debitorum suorum usque pœnitest. T. So in Ecg., P. IV. 17. Wilkins gives the same text.]

way, and according to the same way of speaking, they might drive stakes into them.

50. If one by witchcraft cause love in another, and give it <sup>41.</sup>[39. T.] him either at meat or drink, or by charm, \*so that by this means their love is increased; if it be a layman, let him fast half a year on Wednesday and Friday, and on other days enjoy his meat, excepting flesh: if it be a clerk, let him fast a [whole] year, as above in bread and water, the deacon three year, as above: the mass-priest five year, two in bread and water, and then for four years every Friday in bread and water, and let him forbear flesh on other days.

\* Mr. Somner here adds to the text, *þ hysa lufe forþon þe mape beon forþe*.\*

51. If any one foully defile himself with any thing against <sup>42.</sup>[40. T.] nature, contrary to God's creation, let him lament it so long as he lives in proportion to the fact.

52. If one in his sleep overlay his child, so that it is dead, <sup>43.</sup>[41. T.] let him fast three years, one in bread and water, and for the [other] two years three days a week, and if it were through drunkenness, let him make deeper satisfaction, as his shrift<sup>1</sup> directs; and ever lament it†.

53. If a child being sick die a heathen, and <sup>44.</sup>[42. T.] be with the priest†, let him forfeit his orders, and earnestly make satisfaction; if it happened through neglect of friends, let them fast three years, one in bread and water, the two [other] years, three days a week §.

† Sax. on Ppocrt gelang ry. *Ex procrastinatione, vel mora Sacerdotis.* Somner.

54. If one sell a Christian man into a heathen country, <sup>45.</sup>[43. T.] let him be incapable of any thing that belongs to Christian people, unless he redeem him whom he had sold abroad; if

\* [This addition is probably not taken from any MS. of the above canon, but from the parallel passage in Ecg., P. IV. 18, which has the words, *oððe on wænger cýnner gealbon-cpærtum, þ hysa lufe forþon þe mape beon forþe, vel per alicujus generis incantationes, ut eorum amor inde angustur.* See Thorpe, p. 379. Cf. Th.,

P. XXVII. 10.]

† [Cf. Th., P. XXI. 36, *þis forþe, confessarius ejus, T.*]

‡ [7 hit on ppeorte gelang ry, et culpa presbyteri acciderit, T. Cf. Ecg., Conf. 19. n. 1; Thorpe, p. 351.]

§ [7 behpeorþian hit æppe, L. S. W. T., et usque pœniteant, T.]

he cannot do that, let him distribute the whole price of the man for God's sake, and buy another with other money, and then set him at liberty, and add thereto three years' satisfaction, as the shrift directs\*. And if he hath no money to buy a man with, let him make the deeper satisfaction †.

- [44. T.] 46. 55. If a man have undone himself with manifold sins, and afterwards be willing to desist from them, and earnestly to make satisfaction, let him betake himself to a monastery, and there diligently serve God and man for ever, as he shall be directed, or let him travel abroad far from his own country [in pilgrimage], and ever be making satisfaction so long as he lives, and so recover his soul: or at least let him make the deepest satisfaction in [his own] country, that he can come to the knowledge of, according as he shall be informed.

Sir H. Spelman, vol. i. p. 468. [Wilkins, vol. i. p. 235. Thorpe, p. 410.]

*Of satisfaction for sin ‡.*

56. The necessary assistance of a man of God is very effectual for [the cure] of sin in penance§: even as the recovery of a sick man is [what depends] on a good physician.

1.  
2. 57. Men are full often 'abundantly guilty¶ through the impulse of the devil; but this is horrible, that ecclesiastical men are so exceedingly guilty before God as to vitiate their orders.

\* *Lýflice*, not *Lýft* . . .

3. And there ought in this case <sup>d</sup>to be <sup>1</sup>a rigid satisfaction for sin, yet always <sup>e</sup>according <sup>2</sup>to the quality of the person and the guilt, agreeably to canonical discipline||; and diligent

\* [ƿpa ƿpa hƿ ƿcƿƿt him tæce, prout confessorius ejus ei præscripserit, T.]

† [þ ƿ ƿ. gear ƿulle, ƿ behneopƿrige æƿre, L. S. W. T., id est vii. annos plene et usque poeniteat, T. Cf. Ecg., P. IV. 26, but the term of penance is taken from Th., P. XLII. 3—5.]

‡ [Be Dæbberan, Of Penitents, T. From this point to the 73rd Penitential Canon, below p. 446, the numbers given in the margin as those of Sir H. Spelman are the same as those in the editions of Wilkins and Thorpe.]

§ [I. On ƿƿum ƿcƿƿre, bið ƿƿiðe

ƿƿðgelang ƿƿƿƿngober manneƿnð-help. On a wise confessor is greatly dependent the needful help to a sinful man. T.]

¶ [II. Wƿlice men aƿƿicað, of ƿ unƿelbon, men sin in various ways, oft and frequently, T.]

|| [III. And þar mot to <sup>1</sup>boce ƿiðlic dæb-bot, a þeah <sup>2</sup>be habet ƿ be ƿylceƿ mæðe, ætƿer canoneƿ dome. And there must be for <sup>3</sup>bið' strict penance; though <sup>4</sup>always according to the degree of order and of guilt, according to the canon's doom. T.]

enquiry ought to be made for it in proportion to the power and quality of the man, and his voluntary contrition of heart. Let some make a year's satisfaction, some several years'; and again according to the degree of the guilt, some a month's satisfaction, others several months'; some a week's satisfaction, others several weeks'; some one day's satisfaction, others several days'; and some all the days of their life.

\* I read to-beon, not bore.

• be, not he. Somner.

58. The physician that is well to cure a sore wound, must use good salve: there are no wounds so bad as those of sin: because, by means of them a man incurs eternal death, except by confession, and abstinence, and satisfaction he be cured. 4.

59. Then the physician that is to cure these wounds must be 'wise and wary. They must principally be cured with good doctrine; and by that means bring it to pass, 'that the poison that is within them be cleansed away\*; that is, that he first clear himself by confession. 5.

† p̄r, not p̄r. Somner.

60. All men should wipe away† their sins through good doctrine with confession, even as a man does poison by a good potion. 6.

61. Nor can any physician work a good cure till the venom is out, \*nor any man direct them to satisfaction who refuse to confess; nor can any man make satisfaction for sin without confession: much more can he be well healed who hath taken poison, except he cleanse it well out‡. 7.

\* Here is an unnecessary repetition of some words in Sir H. Spelman's text. Somner.

62. After confession a man may soon merit God's mercy, by satisfaction; if he do with inward heart grieve for what 8.

\* [þ man arpipe þ attop ut, þ him on innan bið, that the man vomit the venom out that is within him, T.]

† [arpipan, vomit up, T.]

‡ [be ma be je mæg pel hal pur-

þan þe unlibban geþpuncen hært, buton he þ attop p̄rbe p̄rpe, any more than he can well become whole who hath drunk poison, unless he vigorously eject the venom. T.]

he is repenting of, viz., that he through impulse of the devil ever committed evil\*.

9. 63. 'Discreet satisfaction is of very great moment in penance, as necessary medicine also is in a good physician †; and enquiry must be made for it in proportion to men's [evil] works, according to canonical discipline: and it must be tempered according to men's strength, and in proportion to the contrition of heart, and the voluntary earnestness that is perceived in them.
10. 64. Deep satisfaction is this, that a layman lay aside his weapons, and travel far 'away ‡, and not be a second night in the same place, and fast, and watch much, and pray earnestly night and day, and wear woollen §, and be unshorn, so as that no iron come upon his hair or nails.
11. 65. That he come not into a warm bath, nor a soft bed, nor taste any flesh, nor any thing that is intoxicating, that he come not within a church (though he zealously enquire after holy places) and declare his guilt, and earnestly beg prayers for himself, and kiss no body, but be always vehemently bewailing his sins.
12. 66. Let him that thus condemns himself proceed in a penitential manner. 'And happy is he, even if he awake no one else [to do the same] in that he is making full satisfaction ¶: forasmuch as there is no man in the world so involved in sin, but that he may make satisfaction to God, so that he undertake it in earnest.
13. 67. Satisfaction for sin is enjoined in several modes, and much of it may be redeemed by alms-deeds ||.
14. 68. Let him that hath riches rear churches to the praise of God, and endow them according to his abilities, and

\* [8. After confession a man may with penitence quickly merit God's mercy, if he groan with inward heart, and that repent which he, through impulse of the devil, previously perpetrated in unrighteousness. T.]

† † [IX. On þinum þerþurce brō eac ƿrāðe ƿorð gelang ƿiƿlic dæbbot, ealƿa on Lōðum læce þearƿlic ƿroceƿ bot, On a wise confessor, is also greatly dependent a rational repentance; just as on a good leech is the necessary remedy of a disease. T.]

‡ ‡ [bæp-ƿot, bare-foot, T.]

§ [ƿ ƿýllen þerþurce, and voluntarily suffer fatigue, T. In support of Johnson's translation, see below, can. 21.]

¶ ¶ [ƿ geƿerlyc brō he þeah ƿar he na ne aƿacōð þ he ƿulþere, and yet is he happy, if he never relax, till he make full 'bōt.' T.]

|| [XIII. Dæbbota ƿiñð gebihte on miþlice ƿiƿan, ƿ micel man mæg eac mið wilmerran alƿran.

13. Penance is devised in various ways, and a man may also redeem much with alms. T.]



give them lands, and let <sup>b</sup>inferior [clergymen] be brought thither\*, there to officiate for him, and daily to minister to God; 'and let him repair God's churches every where, according to his abilities; and let him repair the public roads†, with bridges over deep waters and foul ways: and diligently distribute what he has for God's sake, according to the utmost of his power. 'Let him assiduously relieve the poor, the widow, the step-child, the stranger. Let him free his own slaves, and redeem slaves from other men in order to free them: and especially let him take pity on such as are plundered, and give meat and clothes, and house-room, firing, bath, and bed to them who want it, and let him diligently for his own benefit procure on all hands the assistance of prayers in masses and psalmody; and chastise himself very severely with abstinence from meat and drink, and every bodily lust‡.

<sup>b</sup> geonge-men, says Mr. Somner; which he renders *vicarios, substitutos*. I conceive he could not mean vicars, in the present sense of the word: for there were not yet any impropriations. But the word signifies any inferiors. See Sir H. Spelman's Gloss. Juniores.

69. And further, if he be of less substance, let him diligently do what he can according to his power. 'Let him pay tithes of all that he hath in <sup>1</sup>devotion to God; and travel as often as he can, and frequent the churches with his alms, and salute holy places with his <sup>2</sup>light§, and give hospitality, and meat and protection to them that want it; and afford

15.

\* [ ] gƿ hine þap-to on haƿige, ƿýlle þap land to, ƿ læte þap teon geonge men to, and if he have the means, let him give land thereto; and let young men be drawn thither, T.]

† [ ] gobje eac Lober cƿpican geh-ƿap, be þam þe hine to-onhaƿige, ƿ gobje folcer ƿap, and let him be a benefactor every where to God's Church; according as he may have the means; and facilitate the people's journeyings, T.]

‡ [and readily help poor men, widows, and step-children, and foreigners; free his own slaves, and redeem to freedom their slaves from other men; and especially poor plundered men; and feed the needy, and clothe, house and fire, bathe and bed them, to

their and his own benefit: let him every where diligently obtain intercession by mass-songs and psalms; and for his Lord's love (on hƿ Drihteneƿ eƿt) chasten himself very severely by abstinence in meat and drink, and from every bodily lust. T.]

§ [teobige on Lober eƿt eal þ he age, ƿ pege hine ƿýlme ƿpa hine oƿt-to-onhaƿige, ƿ pece inb hƿ sá-meyra cƿpican gelome, ƿ halige ƿopa inb hƿ leohƿe gegreƿe, let him tithe for love of God, all that he owns, and ponder with himself as often as he has an opportunity; and frequently visit churches with his alms, and greet holy places with his light. T. In illustration of this last clause, see below, A. D. 994, c. 24.]

fire and food, and bed and bath, and clothing and succour to poor men, if he can do it in any measure.

<sup>1</sup> *ert*, not *ert*. Somner. And the same correction is to be made in one or two places more.

N.B. This was a voluntary tithing of all a man's estate, not a tithing of the fruits of the earth yearly renewing.

<sup>1</sup> Lamp or candle.

16. 70. Let him visit the sorrowful and sick with relief, and bury the dead in devotion to God, and kneel down often in secret, and often vehemently extend his limbs on the ground, and fast, and watch and pray full oft and earnestly by day and night.

And let him who hath yet less ability do according to his condition what he can: at least let him afflict his body by way of retaliation for lust. If he formerly obsequed the devil through effeminacy\*, now let him fast by way of retaliation for what he hath unrighteously committed through intemperance. Let him watch and labour by way of retaliation for his former frequent oversleeping and sloth, when he ought not, and<sup>1</sup> of his immoderate waking to vain purposes. Let him endure the cold and the cold-bath by way of retaliation for that self-indulgence which he hath at any time committed. 'And if he hath 'wilfully' offended any man any where by wrong-doing, let him diligently make satisfaction. And if any man hath provoked him to be angry, let him with all his might make satisfaction [for his anger], such as may be sufficient by way of retaliation for every sin<sup>2</sup>, which through a diabolical 'principle' was formerly rife within him†. And if he hath carried any man beside himself out

<sup>1</sup> [or, T.]

\* [*gif he æp þuþh liðerne lurt beorle geþembe, if he ere through wanton lust, gave pleasure to the devil. T.]*

† [*ʒ gif he abilhðe ahpam on unriht ahpap geþeolde, gebete hit georne, ʒ gif him abulge ænig man ʒiðe, forgyfe þ on Lodeʒ ert, ʒ aa bæʒ þe he mæge þence ʒiðe georne hæt to bote mæge ongean ælcne ʒyn-pær, þe þuþh beorles ʒað æp pearð apeaxen. T.* The text of Lambard and Spelman, translated by Johnson, differs from this, and is probably corrupt, but the Saxon text of the re-

mainder of the canon is alike in all the editions. The following quotation from Thorpe's translation supplies the best correction of that of Johnson, but it should be noticed that Johnson's expression 'by way of retaliation for,' is a good rendering of the Saxon word 'ongean' in this canon.

"And if he in anger any where have unjustly 'done violence to any one, let him diligently make amends; and if any man have greatly angered him, let him forgive it for love of God; and ever, as much as he can, let him think very earnestly what remedy there may

of the way, let him endeavour to bring him into it again; what <sup>a</sup>I mean is, if he hath seduced any man to sin, let him reclaim him, as it greatly concerns him, and lead him into his right way<sup>b</sup>.

gepealber, not peolbe.

<sup>a</sup> ræb, not pæb. Somner.

<sup>b</sup> By this one would think these canons were drawn by some single prelate, as Sir H. Spelman seems also to hint.

71. The man who is willing uniformly\* to desist from his sins, and to make satisfaction for them, may with his shrift's advice pass this sentence on himself. Let him distribute all that he hath in devotion to God, and wholly relinquish all, his home and country, and all that he loves of this world, and serve his Lord, day and night, and belabour† himself as much as possible he can by way of retaliation for his lust, all the days of his life. What can he do more, but to reduce all men to right, as well as himself, so far as in him lies? 17.

*Here let us declare how infirm men may redeem their fasting.*

72. One day's fasting may be redeemed with a penny, or with two hundred<sup>1</sup> psalms. A year's fasting may be redeemed <sup>1</sup> [ccxx. T.] with thirty °shillings, or <sup>2</sup> with freeing a slave that is worth that money. A man for one day's fasting may sing <sup>3</sup> *Beati* six times, and six times *Pater Noster*. And for one day's fasting let a man bow down to the ground with *Pater Noster* sixty times. And a man may redeem one day's fasting, if he will prostrate himself on all his limbs to God in prayer‡, and with sincere grief and sound faith sing fifteen times <sup>4</sup> *Miserere mei Deus*, and fifteen times *Pater Noster*; and then his penance for the whole day is forgiven him§. 18.

be against every <sup>a</sup>sinful impulse, which, through the devil's <sup>4</sup>seed, had formerly grown up; and if he have brought any one out of the way besides himself, let him diligently bring him again into his right way: this is what I mean; if he have allured any man to sin, let him do what is his duty, let him bring him from it, and lead him

into his right way: <sup>4</sup>and let him diligently draw every man from sins; then shall his sins soon be the lighter." T.]

• [anræblice, resolutely, T.]

† [rænce, mortify, T.]

‡ [æt hÿr gebedum, at his prayers, T.]

§ [ ] þonne bið him ealne bærg ge-

\* It seems evident that the shilling here mentioned contained twelve-pence, for the redemption of the fasting was at the rate of a penny a day, and twelve times thirty is 360, the odd five days coming not into the account.

† In King Ina's time a slave was worth sixty shillings, or fifty at least. See his laws, 693, N. 3. and 8.; now the common price was thirty shillings, and therefore by freeing one of them, but one year's fasting was discharged at a penny a day. By this one would, *prima facie*, apprehend, that the devastations of the Danes had so lessened the coin of the nation, as to increase the value of it by one half. And see 950. No. 24. to the same purpose. Yet if the shilling did now contain twelve-pence, as I have observed at note o, and if the penny were still the same, then thirty of Edgar's shillings were worth above seventy of Ina's.

‡ The CXIX. Psalm.

§ The LI. Psalm. The reader will observe that there is no mention of *Ave Maries*, or prayers to any saints.

19. 73. A man may complete\* seven years' fasting in twelve months, if he sing every day a psalter of psalms, and another in the night, and fifty in the evening, \*with one mass twelve days' fasting may be redeemed; and with ten masses four months' fasting may be redeemed†, and with thirty masses twelve months' fasting [may be redeemed]‡ if a man will intercede for himself, and confess his sins to the shrift, (with a sincere love of God,) and make satisfaction as he directs, and diligently cease from them for ever.

\* One would think by this, that twelve-pence was now the stated price of a mass. For a penny was a commutation for one day's, and one mass for twelve days'. But if one of their pence was three of ours, then one of their shillings was three of ours. I am assured that the price of a mass is under twelve-pence of our present money. Upon the whole we may well say, nothing so uncertain as the value of old English money before the Conquest.

### *Of very wealthy men †.*

1. 74. 'Thus may a very wealthy man §, and one that abounds in friends, make his satisfaction much more easy by the assistance of his friends. First in God's name, and under the testimony of his shrift, let him manifest his sound faith, and

reals hƿ ƿinna lhtangc, and then shall be all day granted to him an alleviation of his sins. T.]

\* [gebetan, compensate, T.]

† [man mæg gelhtan, a man may lighten, T.]

‡ [Be mightægum mannum, Of pow-

erful men, T.]

§ [mihƿæg man, a powerful man, T. Mr. Thorpe makes the first sentence a distinct preamble, but otherwise his numbers agree with those of Spelman and Lambard here given in the margin.]

forgive all that have sinned against him, and perform his confession without any halks, and promise to desist, and make satisfaction with weeping and wailing.

\* Compare this with can. 27. of Cleves-hoo 747. And see the degeneracy of discipline.

75. Then let him lay aside his weapons, and all his vain pomp, and take his staff in his hand, and let him seriously walk barefoot, and put woollen <sup>2</sup>on his body, and not go into bed, and do it seven years by tale. Let it thus be completed in three days. First, let him take to his assistance twelve men\*, and let them fast three days in bread and raw herbs and water; and let him by all possible means procure seven times a hundred and twenty men to fast for him three days, then are there as many fasts kept as there are days in seven years.

\* I take l'haipan here to be the addition of some Norman hand, and the † shews it to be so †.

76. When the man fasts, let him distribute all the entertainment which he himself should have enjoyed to all God's poor, and let him lay aside all worldly business for the three days of fasting, and frequent the church night and day, as oft as possible, and watch there with alms-light, and call on God, and pray earnestly for forgiveness, with weeping and wailing, and often kneel before the sign of the cross; and sometimes in an erect posture, sometimes prostrating himself on the ground †. And let the great man diligently learn to shed tears from his eyes, and to weep for his sins; and let him feed as many poor as possible, for those three days, and

\* [II. Alcege þonne hƿ pæpna, ƿ ƿbele pænca, ƿ nime ƿcƿƿ him on hand, ƿ ga bæpƿot geopne, ƿ ðo pƿllen zo hce oððe hæpan, ƿ ne cume on bebde, ac hcege on fletze, ƿ ðo þ vii. gear-geƿælu beon binnon þƿim dagum þƿƿ gefabode, ƿo on mid fulrume, nime him to æpƿt xii. manna, Let him then lay aside his weapons, and vain ornaments, and take a staff in his hand, and go barefoot zealously, and put on his body woollen or haircloth, and not come into a bed, but lie on a pallet, and so do, that in three days the series of vii. years be dispensed with thus; let him proceed with aid; and first let him take to him xii. men,

T.]

† [Johnson here mistakes l' of the editions of Lambard and Spelman which is not an abbreviation of the French definite article *le*, but of the Latin word *vel*, and which under the form † is commonly used for the Saxon oððe, or, written at length in Thorpe's edition. Dr. Hickes observes, *i vero videtur truncatum a ul'*, quod in vetustis MSS. scribitur pro *vel*. Hickes, Gr. Anglo-Saxon, p. 2.]

‡ [ƿ cneopian gelome on pobe tacne, hƿilum upp hƿilum nƿðep æpenige, and kneel frequently on the sign of the cross; sometimes up, sometimes down, extend himself. T.]

on the fourth day let him bathe them all, and distribute provision and money; and in his own person make satisfaction for his sins, by washing of their feet. And let masses be said for him this day, as many as can possibly be procured: and at the time of the \*masses let absolution be given him, and then let him go to housel, unless he be yet involved in so much guilt, as that he ought not to receive it\*; at least let him promise that he will always from that time forth do the will of God, and desist from the contrary by the divine help in the best manner that he ever can; that he will retain Christianity, and wholly abandon all heathenism; and rectify mind and manners †, word and work, with all diligence; that he will advance all that is right, and destroy all that is wrong, through the help of God, as earnestly as he can. And he who performs what he promises to God does it to the best advantage in his own person ‡.

\* æt þære ritmærcan, at the last of them. Somner. I can give no account how it should come to pass, that the absolution here is directed to be given after the penance was done: it is evident that in this age absolution was generally given so soon as the offender submitted, and promised to do enjoined penance. I can give no account I say how it came to be otherwise ordered here, unless it may be supposed that Dunstan translated these canons from some old French copy written before this new practice of giving absolution before the penance was performed, did yet prevail. It is evident from the canon of Cloves-hoo, that this sham-penance was an invention of two hundred years standing before Edgar's reign: and it was probably of French original; from thence Dunstan brought over this fantastic mode, and blindly followed his author, without making such proper variations as change of times and things required.

† Strange, that any doubt should be made whether he who had done seven years' penance, and received absolution, were fit for the communion. It is evident that the author of this mock-penance did not put trust in his own invention. See the next canon.

\* [Ʒ Ʒeopmige. Ʒ Ʒeoh ðæle. Ʒ ƷylƷ  
Ʒe ðæbbeta beo Ʒnibe heopa Ʒot-þƷeal,  
Ʒ mæƷƷige man þƷ ðæge Ʒop hine ƷƷa  
Ʒela mæƷƷan ƷƷa man æƷne mæƷƷe be-  
Ʒitan mæge, Ʒ æt þære Ʒiðmærcan,  
ðo man him abŷolutionem, Ʒ ga he  
þonne to hƷele, buton he to þam  
Ʒiðe ƷopƷylte Ʒi, þ he þonne gƷe ne  
mote, and shelter them, and distribute  
money; and let the penitent himself  
employ himself in washing their feet,  
and let as many masses be said for him  
on that day as can possibly be obtained,

and at the last, let absolution be given  
him; and then let him go to housel,  
unless he be so highly criminal that he  
yet cannot. T. æt þære, omitted in  
Y. \* Ʒið mæƷƷan, D. ƷƷiðan, Y.]

† [ge þane ge þeapƷ, both thoughts  
and habits, T.]

‡ [Ʒ to miclepe þeapƷe geðeð he  
hit him-Ʒylfum, Ʒeþe ge læƷe þ he  
Lod behet, and to his own great bene-  
fit he does it, who performs that which  
he promised to God. T.]

77. This is that softening of penance which belongs to 4.  
wealthy men, and such as abound in friends ; but one in a  
lower condition cannot make such dispatch\* ; but therefore  
he must pursue it in his own person with the greater ear-  
nestness. And it is most righteous, that every one revenge  
his own crimes on himself by diligent satisfaction ; for it is  
written, 'Every one shall bear his own burden.'

[Gal. vi. 5.]

The story of King Edgar's deflowering a nun of Wilton [Post-  
script.] is well known ; by this he incurred seven years' penance, as  
in case of murder, by the 41st of the foregoing canons : and  
our historians say, that King Edgar did accordingly submit to  
the seven years' penance, which was enjoined him by Dunstan.  
And if Dunstan accepted of such a mock-penance as is de-  
scribed in can. 75, 76, it was no hard matter for the king to  
perform it. His not wearing his crown during those seven  
years was a more bold and unreasonable injunction on  
Dunstan's part, and a much greater mortification to the king  
himself. An earl of King Edgar's also fell under Dunstan's  
censure for an incestuous marriage. Neither the king nor  
the pope could prevail on Dunstan to give him absolution,  
till the earl, in the habit of a penitent, came into a synod  
called by Dunstan, and threw himself down at the other's  
feet, and craved, and received absolution : but notwithstand-  
ing this, he was, according to the method of that age, to do  
his penance : and the method above described was an easy  
and compendious way of doing it. It must be owned that  
this was an abominable corruption of discipline ; yet not so  
great a corruption, in my opinion, as the want of all disci-  
pline against mighty offenders.

\* [IV. Ðiſ ɪſ mihtrigeſ manneſ ɣ  
ƿreond-ƿrebiſeſ bæbboſ-lihtinge, ac  
an unmaſa ne mæg ƿiſe ƿeƿoſðian,  
This is the alleviation of the penance  
of a man powerful, and rich in friends ;  
but one not possessing means may not  
so proceed. T.]

A.D. DCCCCXCIV.

THEODULF'S CAPITULA.

THE CAPITULA OF AN UNKNOWN BISHOP, AS SIR H. SPELMAN  
CALLS THEM, FOLLOWING THOSE OF ELFRIC IN THE BEN-  
NET MS.

PREFACE.

If the following *capitula* were to bear the date of their first author, I must have placed them near two hundred years backward; for they were composed in Latin by Theodulf, who was preferred to the see of Orleans in France, toward the latter end of the eighth century. Baronius puts them in the year 835, which is too late by far; you have them also in the seventh tome of the councils\*. But I insert them here not as a Latin or French composition, but as the English translation of an old Saxon translation, made undoubtedly by the same Elfric, whose charge or canons I have given to my reader at the year 957. These I presume were translated by Elfric for his own use, when he was advanced to the see of Wilton, in the year 994, or at farthest the next year, when he became archbishop of Canterbury. They are found in the same volume with his sermons, which he confesses to be translations from the Latin.

\* [Baronii Annales, A.D. 835, tom. xiv. p. 206: Concil. Labbei, tom. vii. p. 1137: Concil. Mansi, tom. xiii. p. 995, Capitulars Theodulfi, Ep. Aurelianensis, c. A.D. 797, ex editione Sirmondi, coll. cum Cod. Vatic. 3827.]



N.B. The reader will not wonder that he finds these *capitula* among the national and provincial laws and provisions, when he considers that though it was first composed for the diocese of Orleans, yet it was so regarded by those of other sees and churches, as that part of it is still extant in the papal decrees; and there is reason to believe that it became a common form to be used by bishops in the synods, or chapters of their clergy, both in France and England, to say nothing of other nations.

A. D. DCCCCXCIV.

SAXON.  
[Sir H. Spelman,  
vol. i.  
p. 585.  
Wilkins,  
vol. i.  
p. 266.  
Thorpe,  
p. 469.\*  
LATIN.  
Mansi,  
tom. xiii.  
p. 996.]

I CONJURE you, most beloved brethren, 'that with a wakeful diligence ye study the practice of good works, and the satisfactions for sins of the people that are subject to you †; how ye may always most plainly teach them the way to eternal salvation, both by your doctrine and by the example of the right life: that both you by their improvement, and we by your diligence 'producing the fruit of virtue acceptable to God, \*may bring forth the profit of that commission which is from us ‡.

\* Sax. *þringan of ur þære beþærta nýtte*. So I distinguish the words and render *beþærta* commission: but this is a conjectural version; I dare affirm it to be as just a version of Elfric, as Elfric's was of Theodulf, but these words seem to have nothing that answers to them in the original.

And I earnestly charge you brethren <sup>b</sup>that ye often read over these few directions which we for our common benefit have gathered out of holy books, and that you carefully preserve them in your memories; and adorn and amend your lives by daily reading holy books, and by the practising of good works; and labour with the help of God for the heavenly kingdom, together with the people subject to you.

<sup>b</sup> *ge, not æ. Somner.*

1. 'Ye ought to know and always to bear in mind that the

\* [In 'Ancient Laws,' &c., these canons are called 'Ecclesiastical Institutes,' and are printed, together with an introductory homily, besides the preface here given, from MS. D, that is, CCCC. 201 (S. 18.), the same MS. which was used by Spelman and afterwards by Wilkins.]

† [† *ge mid wæccendþre gýmen gehýcgen ýmbe þa fræmunge godpa peopca, 7 ýmbe þa bore þa (l. þapa) mir-þæba eop þær unþeþeobban folcer, that ye with watchful heedfulness meditate on the advancement of good*

works, and on the 'böt' for the misdeeds of the people subjected to you, T., ut erga subditarum plebium profectum, et emendationem vigilantissima cura laboretis, *Theodulf.*]

‡ [† *[mægen Lobe heþýrðe þærta-þære a þringan of ur þære beþærta nýtte, may bring to God grateful fruit from the charge committed to us.*

\* 'The substantive is wanting.' T. Domino nostro Jesu Christo auxiliante, fructuosos Illi manipulos repositurus. *Theodulf.*]

care of God's people is without doubt intrusted 'with' us and the government of their souls; that we shall justly be punished at dooms-day for all those that perish through our neglect\*; and that we are to receive the reward of eternal life for them that we have gained to God with our example and doctrine. To us it is said by our Lord, "ye are the salt of the earth." If then Christian people are God's meat, and we the salt; then shall the people by the divine assistance by our means be with pleasure enjoyed by God†. And ye ought to know, that your order is the second after ours and the next to us. As the bishops are in the stead of the Apostles in the assembly of the saints; so are the mass-priests in the stead of Christ's disciples. The bishops have the order of Aaron, the mass-priests the order of his sons; 'for it behoves you always to be mindful how 'high the dignity'<sup>2</sup> of the order [is,] and the consecration, and the anointing of your hand, which ye received from the bishop when ye took orders‡; that ye may never forfeit so high a favour, and never defile, by sinning, the hands that have been anointed with so holy an unction; but that ye keep your heart and body in purity, give all people an example to live well, and teach those over whom ye are, the right way to the kingdom of heaven.

\* *riþ*, not *peþe*.

† I read *heahlic*, or *heallice geþincþneýre*. Here Somner has in the margin *hæres*.

## 2. It behoveth you 'to read the holy \*book §, and to pray

' \* [Butan tpeon ge feolon pīan 7 fýmble gemunan, þ' 1 pe þe uý be- fæst is feo gýming Lober folcef 7 fe feccenðom heopa fapla, þ' fop eallum þeom þe fop upe gýmeleafce fopfeor- ðað fe feolon pīht agýlban on ðomeý bæge, without doubt ye ought to know, and ever to bear in mind, that we, to whom is committed the care of God's people, and the direction of their souls, for all those who perish, shall have to account on dooms-day. T.]

† [þonne, Lobe fultumienðum, þuph uý feal þ' folc beon Lobe to pīllan gehealben, then God aiding, through us shall that people be held to God's will. T.]

‡ [fopþon hit gebafenað þ' ge fien fýmble gemýnðige fpa 'heallice ge- þinþneýre eopneý haber, 7 eac þæpe halgunge 7 bæpe fmyþunge, be ge on

eopne hanba on feogon set byfopa hanðum þa ge hab unbepfeogon, "it is therefore fitting that ye be ever mindful of the high dignity of your order, and also of the hallowing, and of the anointing, which ye received on your hands at the hands of the bishop, when ye were ordained." This is Thorpe's translation, except that the word 'hands' is in both places altered from the singular to the plural, as below and in the Latin, Unde oportet vos semper memores esse tantæ dignitatis, memores vestræ consecrationis, memores sacræ quam in manibus suscepistis unctionis, *Theodulf*. Compare Rask, Gr. 83, 142, 409; Durand. Rat., lib. i. c. 8. n. 14.]

§ [þ' ge fpeðe fmgalhce halige bec pæban, that ye very constantly read holy books, T.]

[Pa. cxiv.  
11.]

often, for the life of a righteous man is inclined and strongly bent to God-ward by reading of holy books; and it is beautified by prayer. Accordingly David says, "Thy words have I hid within my heart, that I might not sin against Thee." These are clearly the weapons with which the devil is overcome; these are the instruments by which we may gain the kingdom of heaven; by these weapons every vice is quelled, and with this food every virtue is cherished and improved.

\* beo or boc, not bec.

3. At that time on which you lay aside the reading of holy books and prayers, ye ought to take up some 'profitable worldly work, for idleness is the 'very fiend \*of the soul; and the devil soon brings them into some vice, whom he finds unemployed in every good work. By the <sup>h</sup>habitual reading of good books you may learn how yourself may come to the kingdom of heaven, and also how to teach it to others. By prayers ye may be very helpful both to yourself and others, with whom you are united by a sincere love, as well living as dying †. By handy work ye may subdue your bodies, so that they be more slothful in vice; and 'by good works ‡ ye may provide wherewithal to help the poor and indigent, and such men as have not ability to work.

† Nýrlc, not Nýrlc.

‡ gepunan, not —punan. Somner.

4. When the bishop requires a <sup>h</sup>gemot, take with you such a 'vestment for the mass, such a book, such housel vessels, and such conveniences as may serve for the ministrations committed to you, and two or three priests, or as many laymen to <sup>h</sup>make the responses; that they, with you, may worthily solemnize the holy service; that so it may appear how earnestly and diligently you perform your ministrations to God §.

\* [reomb, foe, T.]

† [forðgæpenum, departed, T.]

‡ [þurh þ̅ peopc, by that work, T.]

The two last sentences of the chapter stand thus in the Latin:

Per usum orationis, et vobis, et his quibus in caritate conjuncti estis procedere valebitis. Per manuum operationem et corporis macerationem, et

vitiis alimenta negabitis, et vestris necessitatibus subvenietis, et habebitis quod necessitatem patientibus porrigatis. *Theodulf.*

§ [Dæm t̅ybum þe ge birceopa gemot recen, habbað eop mid pp̅lce mæsse-pear, 7 pp̅lce bec, 7 pp̅lce hurel-paza, 7 (del? T.) pp̅lce ge mab þurnum eop þa beærtaen þeununga þe-

<sup>a</sup> Synodus is not only a translation, but explanation of gemote. By this canon it should appear, that priests in synod were obliged to give a specimen of their abilities in performing divine offices before the bishop, which was a very commendable practice; or perhaps he means a consecration of masses, that is, the priests joining with the bishop in pronouncing the words of the whole service.

<sup>1</sup> This practice long continued in some places at least. In the year 1521, John Rumpain, rector of Willingham, was absolved from an excommunication incurred for appearing at a synod without his surplice, contrary to the decree of the commissary of Ely. See Sir H. Spelman, vol. ii. p. 731<sup>e</sup>.

<sup>k</sup> to þening cpýðpa. So I read by conjectura.

5. And we charge you that the 'oblation which ye offer to God in that holy mystery, be either baked by yourself, or by your servants, in your presence; and that ye know that it be done in purity and chastity †; and that both the oblation, and the wine and the water, that belongs to the offering in the mass-song, be provided, and regarded with all purity and diligence, and with the fear of God; 'and that nothing be done unchastely or impurely ‡, for there can be no mass-song without these three things, viz., the oblation, the wine and the water; as the holy writ says, "Let the fear of God be with you; and do all that is here with great carefulness." [2 Chron. xix. 7.]

nian mægon, 7 ii. ppeortay oððe iii. obbe ƿpa þela læpeþpa to þam gecýðpa, þ hie þ halige gepýne apþurðlice mid eop þpeman mægen. þ mon on eop gejeon mæge hu geornlice 7 hu hihtlice ge Lode on eoppum þenungum þeopten. T.

At those times when ye attend the gemot of bishops, have with you such mass-vestments, and such books, and such house vessels, such as ye may therewith decently administer the services committed to you; and ii. priests or iii., or as many laymen called that they may reverently celebrate the holy mystery with you; that it may be seen in you, how zealously and how cheerfully ye serve God in your ministries. T.

If this be the meaning of the canon, the Anglo-Saxon translator has either through mistake or design given quite a different rule from that of Theodulf; but it seems possible that the Saxon text as given by Thorpe means no more than the Latin given below, to wit, that priests were to bring with

them to the synod, for inspection, their mass-vestments, books, and holy vessels, together with two or three of their clergy or lay communicants, to prove that they were in the habit of celebrating the holy mystery with due honour in their own churches. Compare Canons of Ælfric, above, A. D. 957, c. 22 and 960, c. 3.

Quando more solito ad synodum convenitis, vestimenta, et libros, et vasa sancta, cum quibus vestrum ministerium et injunctum officium peragitis, vobiscum deferite. Nec non duos aut tres clericos, cum quibus missarum solemniam celebratis, vobiscum adducite; ut probetur, quam diligenter, quam studiose Dei servitium peragatis. *Theodulf.*

• [Wilkins, vol. iii. p. 693.]

† [clænlice 7 ƿýpeþlice, cleanly and neatly, T., nitide ac studiose, *Theodulf.*]

‡ [þ þæp nan þing unƿýpeþer on ne ƿý ne unclænner, so that there be no uncleanness or impurity in it. T.]

"The wine betokens the Lord's sufferings, which He endured for us; the water the people for which Christ shed His blood\*.

<sup>1</sup> The bread in the Eucharist is often called the oblation, by the best Christian writers.

<sup>2</sup> This following clause is not in Theodulf: and it is very probable it was added by Elfric, who seems to have guarded the clergy and people against all notions bordering upon transubstantiation, with all possible diligence.

6. We charge that at the time when the priest sings mass, no woman be nigh the altar, but that they stand on their own place, and that the mass-priest there receive of them what they are willing to offer; a woman should be mindful of her own infirmity and the weakness of her sex; and should therefore dread to touch any of those holy things that belong to the ecclesiastical ministry. And laymen should also dread this, lest they deserve such a punishment as Uzza did, when he would bear up the ark of the Lord, for then he was soon struck dead by God.

7. Mass-priests ought by no means to sing mass alone by themselves without other men, that he may know whom he greets, and who answers him. He ought to greet the bystanders, and they ought to make the responses. He ought to remember the Lord's declaration in His Gospel, He saith, [Mat. xviii. 20.] "wheresoever two or three are gathered together†," &c.

8. "We often see corn, hay, or any such like worldly thing kept in the churches. Now we will not that any thing be kept there, but what belongs to the ornament of the churches, that is, the holy books, the housel vessels, the mass vestments, and the furniture of the churches as to all particulars 'whether in vails or implements‡; lest if we [do]

\* [Nearly the same explanation is given by St. Cyprian and Beda:

Videmus in aqua populum intelligi, in vino vero ostendi sanguinem Christi. Quando autem in calice vino aqua miscetur, Christo populus adunatur, et credentium plebs ei in quem credidit copulatur et conjungitur. Ep. LXIII. ad Cæcil. frat. S. Cypriani, Op., p. 153. Oxon. A.D. 1682; Beda in Lucam, c. xxii., Op., tom. v. p. 424, Co-

lon. A.D. 1612. See above, p. 405-6, Ælfric's Canons, A.D. 957, c. 37; Thorpe, c. 36, p. 450; also above, p. 420, Canons in K. Edgar's reign, A.D. 960, c. 39; Thorpe, p. 398.]

† ['There where two or three men shall be gathered in My name, there will I be in the midst of them.' T.]

‡ [ge on hprægelum ge on farum, both robes and vessels, T.]

otherwise it be said to us as it was to the Jews, "My house [Mat. xxi. 13.] shall be called\*," &c.

\* Observe that there is no mention of images in the instruments and the furniture of the church, well nigh, or altogether 200 years after they had been used in the Church of Rome, as well as elsewhere: not but that they were now had, and honoured too much in England; but because Theodulf's original made no mention of them: and Elfric had not so great a zeal for this practice, as to make any additions of his own upon this head.

9. It has been an old custom in this land, ° to bury dead men within the churches, and places hallowed and blessed to the service of God, to make oblations to Him, have been made burial grounds. Now for the future, we will that none be buried in churches but he that is in <sup>p</sup>holy orders †; or further a layman so righteous (as is known by his careful living) as to have deserved such a place of rest for his body. Nor yet is it our will that corpses buried in churches be thrown out; 'but the risings of the graves there. That men [choose] °one of these [two], either to bury them deep 'in the ground, or at least to 'make a way over them, and to make the floor of the churches even and convenient, that no risings of graves be seen or be there. If in any place there are so many risings of graves, 'that this is difficult to be done, then let it remain for a burying ground ‡, and let the altar be taken away and set it in a clean place, and let a church be there raised, where men may offer to God in a worthy and pure manner.

° dele lan. Somner, presently after read papon, not þær— Somner.

\* [My house is called a house of prayer, now ye have made it a den of thieves, T.]

† [butan hit hpylc racenbaber mon rý, unless it be some man of the priesthood, T.]

‡ [ac þa býrgena þe þær gerýne rýn, þ mon oðer þara, oðþe hig zeon on eorðan bebelfe, oðþe oreppege, ⁊ þære cýrcean flor emlice ⁊ gerýrgenlice gerþýnce, þ þær nan býrgen gerýne ne rý, sý þonne on hpylcepe rcope rpa rela þara býrgena rý, þ hit to eapþroðlic rý to bonne, þonne læte man þa rcope to lic-tune, T., but the tombs<sup>1</sup> which are there seen, that either they be dug further in the earth, and

paved over', and the church floor evenly and decently wrought, so that no tomb<sup>1</sup> be there seen: (or) if in any place there be so many tombs', that that be difficult to do, then let the place be left as a cemetery. Mr. Thorpe suggests oreppege, which seems an unnecessary alteration, and in place of the words in italics translates 'graves,' 'or covered over,' 'grave,' 'but,' 'graves.'

Sed tumuli qui apparent profundius in terram mittantur, et pavimento desuper facto, nullo tumulorum vestigio apparente, ecclesie reverentia conservetur. Ubi vero tanta est multitudo cadaverum, ut hoc facere difficile sit, locus ille pro cœmeterio habeatur, Theodulf.]

\* Sax. *raepb* seems not to signify a priest only but any ordained person as distinguished from the laity.

† Here I follow Somner; *oþeþ þapa*, one of the twain.

\* I conceive that it appears from hence that corpses buried in churches were not laid several feet under ground as now, but that the body was laid on the floor, or perhaps on stones raised upon the floor and covered over with other stones: and of this practice many instances are yet to be seen in ancient churches, especially cathedrals. *þeop*, not *þeop*.

\* *oþeþ-þrege*. Somner. I do not understand this.

\* Churches must have been very indifferent structures, when it was in some cases more difficult to make even the floors, than to erect a new fabric; *eapþohc* not *eapþr*.—And I think it is agreed that few or no churches in this age were built of stone\*, but generally of timber.

10. Nor is it fit that men should go to church for any other purpose but for prayer and the love of God; 'therefore we forbid both quarrelling and playing, and all unbecoming words. And [we forbid] every thing that even is 'becoming to be done in the holy place excepting two [viz.] there is God's name often to be called upon, and the holy mystery to be offered in the mass-song. There is no doubt but the presence of God's angels is there, [and] He Himself full near†. And therefore it is very dangerous to do or say any thing in the holy places which befits them not. Since our Lord threw those men out of His temple that bought or sold there what they offered to God; how much more thinkest thou will He cast those thence with indignation who pollute and defile the places hallowed to the service of God with lying and undecent speeches, and immoderate laughter, and with any misdemeanours.

\* *unnýt*. Somner, but by mistake.

11. Moreover it is not lawful to sing mass in any place but churches, not in houses, nor in any place \*but what God

\* [Cf. Bed. Hist. Eccl., lib. iii. c. 4. Vit. S. Ben. c. 5.]

† [*for þan þe we forþeobað ægðer ge geflycu, ge plegan, ge unnýtta forþ, ge gehþýlce unnýttesþýrre, in þam halgan frotum to ðonne. Buton tpeon þær þær Lober nama gelome geeþgeb bið ⁊ þa halige gehþýne on mæsseange georffod, nær nænig tpeo þ þær bið Lober engla anbpeapðner rþýðe genehhe, therefore we forbid brawls, and play, and useless words, and every idleness to be done in the*

holy places. Without doubt, there where the name of God is frequently invoked, and the holy mystery offered in the mass service, there is no doubt, that [the presence of God's angels is there very near. T.]

Discepciones vero, et tumultus, et vaniloquia, et cæteræ actiones ab eodem sancto loco penitus prohibendæ sunt. Ubi enim Dei nomen invocatur, Deo sacrificium offertur, Angelorum frequentia inesse non dubitatur, *Theodulf.*]



hath chosen (as it is written, "offer not thy sacrifice in every place that thou seest, but there, in that place that God chooseth for that purpose to place His name there,")<sup>†</sup> except it be in the army; then let a tent\* be had to this only [use,] and a hallowed altar, and on that let the ministrations of the mass-song be accomplished.

\* þær þær, not þær þær. Somner.

† The following clause is not in Theodulf.

12. Nor is it lawful for any woman to dwell in the house with a mass-priest, though the canons have allowed it to a mother or sister, 'and persons whom one dares not suspect of any thing that is infamous†; yet we forbid it to all women; because if their kinswomen are there, they have other comers and goers who it may be feared will tempt the mass-priests to sin.

\* þorpe, not þorpe

13. And it very greatly concerns every mass-priest to guard himself against drunkenness; and that he teach this to the people subject to him. Mass-priests ought not to eat and drink at ale-houses; 'nor ought they to visit the habitations or houses of strangers, out of an affectation of shewing their grandeur‡: nor to feast with women or persons of impure lives. But if any worthy father of a family invite him to his house, who is willing, with his wife and children, to rejoice in a ghostly manner, and to accept from him spiritual entertainment, and give him bodily repast out of true love; then it is proper that you visit him with a comity of mind, and treat him with spiritual instruction, who entertains you with the good things of this world.

\* pæpnerp.

14. Let no mass-priest wheedle to his own church a man that belongs to the district of another church, nor instruct him to come to his church out of the shire which belongs

\* [Cf. Durand. Rat., lib. ii. c. 10. n. 8.]

† [ʒ þæm habum þe mon naner unhlýran æt penan ne þorpe, and those persons from whom no evil report need be expected. T. See above, A.D. 740, c. 31.]

‡ [ne hýs ne pceolon pæmþa manna tunas, ne þur, ne þop nanpe pæp-eornýpfe pcan, nor should they visit strange men's 'tuns' nor houses, from any eagerness for sights. T.]

Neque domos aut vicos curiositate qualibet peragretis, *Theodulf.* ]

to another priest, and to pay him the tithes and rights which belong to the other. 'But let every one rejoice over him that comes to his church, and thank God for it; because it is written that no man should do that to another which he would not have done to himself, &c. Observe who opposes this and contemns our instruction. Further let him incur one of these [two punishments;] he shall either forfeit his order, or else make rigid satisfaction according to the doom-book\*.

\* By this it is evident that bounds of parishes were not yet settled by law, or established by custom, and as the diocese was called the bishop's shire, so the houses and vills next adjacent to a little church were called the priest's shire, just before this shire is called *hýpnýrre*.

15. And we do by all means forbid any mass-priest to take away a priest who belongs to another mass-priest; and to entice him, or to accept him though he desire it; for this is strictly forbid by the canons.

16. If any mass-priest be discovered to give or have given any bribe either to a priest or layman, on account of his desiring indirectly to obtain another priest's church, let him be punished for this rapine and violent covetousness by one of these [two], either he shall forfeit his orders or make satisfaction for it in prison, with the longest and strongest penance according to the doom-book, and by the command and privity of the bishop.

\* *repengre*, not *rep*.

17. If any one bring a sick child to a mass-priest let him baptize it out of hand, to what mass-priest's district soever

\* [Æ gehþýlc rý blýðe þær þe him sæt hir cýncan cume, 7 þær Lobe þancne, for þon hit is awriten, þ̅ nan man ne rýcle oþrum ðon þ̅ he nelle þ̅ him man ðo, 7 hit cnið eac on þæm halgan Lodbelle, loca, hþæt ge mllen þ̅ eop oþre men ðon, ðo ge hiom þ̅ ýlce. Donne loca, hpa ongean þ̅ rý pýnne, 7 upe lape forhicgen, þonne pite he, þ̅ oþer þara, oððe he rceal þær hader þolian, oððe hit rýrðe rcaðlice gebetan særteþ boca bome.

But let every one be content with that which comes to him from his church, and thank God for it, because

it is written, that no man shall 'do to another what he will not that it be done to him:' and it is said in the holy Gospel, 'Behold, what ye will that other men do to you, do ye the same to them.' Then behold, whoever strives against this, and despises our doctrine, be it known to him, that he shall either forfeit his order, or very rigidly make 'bót,' according to the judgment of the books. T.

Sed unusquisque sua ecclesia et populo contentus, quod sibi non vult fieri, alteri nequaquam faciat juxta illud.—*Theodulf.*]

it belongs; 'and let him not neglect it for any 'dispute, from whencesoever it be; if he neglect it on any account\*, let him know, that he shall be answerable to God at dooms-day for the soul of the child.

\* In this age the priest was not called to the sick child, but the sick child carried to the priest.

\* Parish is a word never used for the priest's shire; nor does it appear that they had any such word.

† unæmtan, not unænit.

18. Let there be no man of the †sacred, especially of the lay-order‡, that dare presume to use either the cup or the dish or any of the vessels, which are hallowed to divine service, for any worldly purpose. Plainly he who drinketh any thing out of the hallowed cup, but Christ's blood, †which is consecrated in the mass-song; or that puts the dish to any other service but that of the altar, †he ought to consider that that concerns him, as it did Balthasar‡ (when he had seized the vessels hallowed to the Lord for his own use) viz., he lost at once his life and his kingdom.

† facepð habef.

‡ þe on, not þon.

† he mæg þencan, not þenan. Mr. Somner seems to prefer þenan.

19. If any mass-priest will put any of his nephews, or kinsmen, to be taught at any of the churches †committed to our custody, †we very readily grant it.

† Theodulf's Latin is, *in ecclesia sancta crucis, aut in monasteriis sancti Aniani, aut sancti Benedicti, aut sancti Liferdi, aut in cæteris de his cænobiiis, &c.*

† þe, not ðe.

20. Mass-priests ought always to have a school of learners in their houses, and if any good man will commit his little

\* [‡ for næmīgum unæmtan ne foplære he (þ he add ?) hix ne fullie, fý þonon þe hix fý, gif he þonne fop næmīgum þinge foplæt, ‡ hix buton fulluhte gefre, þonne, and for no business let him neglect to baptize it, be it from whence it may. If he on any account neglect it, and it die without baptism, then—T.]

† [ue fý nan facepð-habef man ne

læpeber habef þe ma, Be there no man of the priesthood nor of lay condition, T.]

Nullus presbyter seu clericus. *Theodulf.*]

† [he mæg þenan þ him gefipige fpa Balbazape ðýbe, may expect that to him will happen as it did to Balthasar. T.]

[Dan. xii.  
3.]

ones to them to be taught, they ought gladly to accept them, 'and to teach them at free-cost\*. Ye should consider that it is written, "they that are learned shine as the brightness of heaven; and they who persuade and instruct men to right as the stars for ever and ever;" yet they ought not to demand any thing of their relations for their learning, but what they of their own accord are willing to give.

21. Plainly, though all holy Scripture be filled with examples and instructions to good works, and men in the field of these writings may easily meet with weapons for the overcoming of vice, and the promoting of good works; yet it was needful for us† in this our writing to insert a citation from a holy father for the promoting and teaching of good works. In this citation what we ought to do is said in a few words. In the preface a man is commanded to love his Lord God with all his heart, with all his soul, with all his strength, and his neighbour as himself. After this, that he commit no murder, nor unlawful copulation, that he do not steal, nor unlawfully covet another man's things, and be not concerned in false witness. Also it is commanded that he honour every man, and do that to none which he would not have done to himself, and renounce his fleshly lusts, and follow Christ's commands, and keep his body pure, and do not affect worldly pomps; that he love fasting, "feed the hungry, clothe the naked, visit the sick, bury the dead, help them that are in straits, comfort the sorrowful;" and always arm and defend himself, so far as he may, against worldly words and worldly deeds; and admit nothing within in that manner that he does the love of Christ; and that he do nothing in his anger 'that he may have an occasion to reflect upon afterwards‡, have no deceit in his heart, and give the kiss of peace to none unless he have full peace with him in his heart, and retain anger against no man beyond the going down of the sun; but forgive all those that° are angry at him in his mind, ere the sun goes down §, and desist not at all from the love of the

\* [7 him eƿtlice tæcan, and kindly teach them, T.; sed cum summa caritate eos doceant. *Theodulf.*]

† [beah uƿ geƿearð, nevertheless it has seemed good to us, T. libuit nobis, *Theodulf.*]

‡ [be him eƿt oƿbýncean býƿfe, of which he may afterwards repent, T.]

§ [ac æloum þara be ƿýð hýne abelge æƿ funnan fecl-gange, he lýt on hƿr mobe ƿopƿƿe, but every one of

true God and of man; and swear not at all, lest he should forswear; and always bring forth the truth from his heart and from his mouth, and repay to none evil for evil, give no provocation, bear that with patience that is given to him, and love his enemy out of love to God: if any one curses him, he curses not again, but rather blesses; if any have an aversion to him, or persecute him for righteousness' sake, he bears it with pleasure. Let him not be of a gluttonous temper, nor given to immoderate drinking, sleeping or eating, not too slow, not a murmurer, or too severe in his censures\*. Let him place all his hope in God, and when he does what is good let him attribute that to God †. For what he does or ever did that is evil, let him know that it comes from himself. Let him always bear dooms-day in his mind, and dread hell punishments; and with all spiritual eagerness let him covet everlasting life; and let him daily consider the last day he is to live, and at all times exercise himself in doing good, and consider that he is without doubt under the eyes of God; and if any evil thoughts come into his mind, then let him forthwith confess them to his ghostly physician, that is his shrift; and let him consider the sufferings of our Lord, how He who made all creatures, out of His humility condescended so far, that for our behoof He <sup>p</sup>was hanged on the rood, and how both His feet and His hands were run through with nails, and how His side was pierced with a spear; with such meditations as these he may expel and banish all evil thoughts out of his mind. He ought always to restrain his mouth from perverse evil words. He ought not to affect to speak much, and little to the purpose ‡, or idle words, which raise unbecoming laughter, nor ought he to love immoderate obstreperous cachinnation, but with pleasure hear the read-

those who may have offended him ere sunset, let him forgive in his mind, T.]

\* [Ne beo he oþermode, ne beo he ðpuncen-georn, ne beo he to flapol, ne beo he to micel sote, he beo he to flap. ne beo he to eornigenbe, ne beo he to tælenbe. Let him not be proud, nor given to drink, nor too much given to sleep, nor too much given to eating, let him not be too slothful, nor too eager, let him not be too evil speaking, T.]

Non esse superbum, non vinulentum, non multum edacem, non somnulentum, non pigrum, non murmuratum, non detractorem. *Theodulf.*]

† [Johnson omits nær him fylfum, not to himself, T.]

‡ [ne sceal him beon leof yela to fpeccanne on unspæht, nor shall he be fond of speaking much unrighteously, T. Multum loqui non amare. *Theodulf.*]

ing of the holy books, and often apply himself to prayer, and daily in his prayers confess to God the evil that he has formerly done, with tears and groans, and beg forgiveness of Him; and earnestly pray, that He may defend him both from repeating the evils, which he has formerly committed, and from all misdeeds whatsoever: he ought not to follow his fleshly lusts, or his own will, 'but in all things obey the command of his teachers, though it be so, as that God's will is, it should not be, viz. that the teacher gives good instructions, but acts otherwise himself\*, he ought to remember

[Mat. xxiii. 3.] what our Saviour hath said in His Gospel, "do what they bid you to do, not what they themselves do, when they teach you what is good, but themselves act the contrary." Nor let him desire to be called a saint before he is one; but first labour to be so, that he may 'with the better right be called so. Let him daily fulfil God's will in his actions; let him love purity, avoid all self-exaltation; honour the old and love the young with a christian affection, and pray for his enemies. Let him hasten to a reconciliation with those at variance, before the going down of the sun; and never 'despair of God's mercy. Now these are the documents and tools of ghostly craft, which if it be day and night indefatigably plied by us, and perfected by the end of our lives, 'then have we that promise 'signed to us, which the Lord hath declared and will perform at the [day of] recompense, "which no eyes ever saw, nor ear heard †," &c.

[1 Cor. ii. 9.]

\* Fýþman, not Fnyþ—

† Some word seems to have been dropt here, probably þearp, overlooked by the transcriber, because it begun as the foregoing þeah.

• Read þe býpe. Somner.

\* [ac on eallum þingum he sceal his læweper bebodum hýpan, ge þeah þe hýt rý, rpa Lob rýlle þ hit ne rý, þ re læweper þe him tæla tæce him rýlyr eller-hu bo, but in all things he shall obey the biddings of his teacher, yea though it be (so may God will that it be not) that the teacher, who teaches him what is good, do otherwise himself. T. Præceptis sacerdotis et præceptoris in omnibus obedire, etiamsi ipse aliter, quod absit, agat. *Theodulf.*]

† [þonne bið ur reo með æt Drih-

tene wrot, þe he gehet þam þe his bebodu healban 7 ge læwran polban, þa næppe nan eage ne geryð, ne nan eape ne gehýpde, ne on naner mannes heortan ne arčan, þa gegeappode Lob þam þe hýne lupiað, then will the meed be decreed us by our Lord, which He promised to those who would hold and execute His commandments: what no eye hath ever seen, nor any ear hath heard, nor ever entered any man's heart, hath God prepared for them who love Him. T.]

- Read *ræg*, not *þæg*. Somner.
- *rihtenlicop*, not *ðrihten* \*.
- *geoptrype*. Somner.
- *reonbe*, not *reomeb*.

22. All believers in general from the least to the greatest, are to be reminded, that every one learn the Lord's Prayer and the Creed, and he is to be told and to observe, that on these 'two is the ground-work of the whole Christian belief †. And unless one can sing both these, and so believeth as he there saith, 'and prays often for himself, he cannot be a good "Christian. It was an ancient constitution, that none who did not know the *Credo* and *Pater Noster*, should be surety for any one either at the bishop's hand, or at baptism; and that none should \*support such an one at his receiving baptism or being bishoped, unless he were one that was not of age to learn them ‡.

\* *træger*, not *træb*—

• The Latin has *catholicus* for *pel* *cristen*.

• This alludes to the ancient custom of the sureties holding the person to be baptized or confirmed, whether a child or adult, at making of the professions †.

23. Christian laymen are also to be told, that every one should pray for himself twice a day at least, that is morning and evening, except one can pray oftener. Unless he be expert at *Pater Noster et Credo*, let him sing or say, "Lord thou hast fashioned and formed me, be merciful O God, be merciful to me a sinner;" and let him thank God for his daily food,

\* [*ðrihtenlicop*, more authoritatively, T. Verius, *Theodulf*.]

† [*þ* on þyrrum *trām* *crýðum* *if* *re* *rcæðol* *ealles* *crýstener* *gelesfan*, that in these two utterances is the basis of all Christian belief, T. ; quod in his duabus sententiis omne fidei Christianæ fundamentum incumbit. *Theodulf*.]

‡ [*ʒ* *hýne* *mib* *oft* *gebibbe*, *ne* *mæg* *he* *beon* *pel* *cristen*. *Hic* *pær* *gegyrn* *gerett* *þ* *nan* *þara* *manna* *þe* *ne* *cude* *lreðan* *ʒ* *Pater* *nofter* *þ* *he* *ne* *mofter* *næþer* *ne* *æt* *biscopes* *handa* *ne* *æt* *fulþihte* *nanum* *men* *on* *foon* *ne* *hiue* *mon* *furðon* *fullubte* *fullian* *ne* *mofter*, *ne* *biscopian*, *butan* *he* *þa* *ýlbe* *næþe* *þ* *he* *þonne* *gýt* *þa* *ær* *genemneban* *crýðas* *geleoþian* *ne* *mihre*. T. In Thorpe's English the first clause is put into the next sentence

apparently through inadvertence, but the Saxon text closely follows the Latin original given below. It should be remarked that *ʒ hýne* *mib* *oft* *gebibbe* means, 'and withal pray often,' the word *mib* is elliptical, and *hýne* is governed by the reflexive verb *gebibbe*; see Bosw. Dict. art. *Biddan*.

et in oratione sæpissime frequenter, catholicus esse non poterit. Constitutum namque est, ut nullus christi-metur, neque baptizetur, neque a lavacro fontis illius suscipiatur, neque coram episcopo ad confirmandum quemlibet teneat, nisi aymbolum, et orationem dominicam memoriter tenuerit; exceptis his quos ad loquendum ætas minime perduxit. *Theodulf*.]

§ [See above, A.D. 785. c. 2. p. 267, note †.]

[Pa. ciii.  
22.]

and that He hath made him in His own likeness and distinguished him from the beasts. This being thus done, and having worshipped his Creator only, let him call upon the saints, and pray that they would intercede for him to God; first to St. Mary, and afterwards to all God's saints. Let them that can reach to a church do it at church; they that cannot, let them do it wheresoever they are, both evening and morning. For the Psalmist says, "God's dominion is in every place:" and again he says to God, "Thou art in every place;" as he also said, "I cannot find any place in which Thy government is not\*."

24. Sunday is highly to be honoured, therefore we forbid that any man presume to undertake any work, except dressing his meat, on that holy-day: unless a man be obliged by necessity to travel; then he may ride or row, or use any such passage as is usual to his journey; on condition that he hear mass, and do not neglect his prayers. On the Sunday God first created light; and on that day He sent the people of Israel heavenly bread in the wilderness. And on that day He arose from death, when He had first of His own accord suffered death for the salvation of mankind; and on that day He sent the Holy Ghost on His disciples; therefore it is highly proper that every Christian do very solemnly observe this day. And it behoves every Christian that can do it, to come to church on Saturday, and bring a light with him, and there hear even-song and nocturns in their proper hour †; and come in the morning with an offering to high mass. And when they come thither let not any quarrel ‡ or dispute or discord be heard; but [let there be] a calm of the mind at the holy ministration; let them intercede, both for themselves, and for all God's people, both with their prayers and their alms. After the holy service, let every one betake himself to his

\* [ƿoppon ƿe ƿealms-ƿeop cƿæð, On ælpe ƿƿe ƿe Lobeƿ anpealb, ƿ eƿt he cƿæð to Lobe, On ælpe ƿƿe þu biƿt, ƿ þeah ic on heofonas aƿtýge, þæƿ þu biƿt, ƿƿýlce he cƿæbe ne mæg ic nane ƿƿe gemetan. þe þin onpealb on ne ƿý, because the Psalmist said: 'In every place is God's power.' And again he said to God: 'In every place Thou art, and though I ascend to the heavens, there Thou art.' As if he

had said, 'I can find no place in which Thy power is not.' T. Dicente psalmista: 'In omni loco dominationis;' et, 'si ascendero in cælum, tu ibi es,' &c. *Theodulf.* Cf. Pa. cxxxix. 7.]

† [ƿ on uhtan þone uht-ƿang, and before dawn, matins, T., sive ad matutinum officium, *Theodulf.* See above, A. D. 957, c. 19. p. 393, note †.]

‡ [ƿacn, iniquity, T.]



own home, and entertain himself in a ghostly manner with friends, neighbours and strangers; and guard himself against immoderate eating and drinking.

ʒ perzen, not þer—

ʒ fac, not facn.

25. It also greatly concerns every mass-priest earnestly to persuade and teach them that belong to his district, that they be hospitable to strangers, and never turn a traveller out of their house; let them do out of perfect charity that they are willing and able to \*do, to God\*. For what a man does out of charity to strangers, that no doubt he does to God; as He Himself will say at doomsday to them that are placed at His right hand, "I was a stranger and ye received Me." They [Mat. xxv. 35.] therefore who receive any stranger out of charity, let them not desire any worldly requital. Many men have so greatly pleased God by their hospitality that they <sup>b</sup>deserved to be visited by angels; no worldly recompense ought to be taken of the strangers, because eternal joy in the kingdom of God is promised on this account.

\* bon, not þonne.

<sup>b</sup> p̄p̄be, not p̄p̄e. Somner.

26. It greatly concerns you to restrain perjury, and to tell those of your district how vast a sin it is, and how strictly it is forbidden, both in the law, in the books of the prophets, and in Christ's own book.

We have been informed, that some place it among the lesser sins; now it is not so, but it is one of the greatest; and satisfaction is to be made for it as for slaying a man, or for adultery, or any other of the capital crimes. Ye ought also to know, and inform those of your district, that whoever has committed any of the capital crimes, and will not be converted so as to make satisfaction, he is forbidden all communication with Christian men, both within and without the church, 'even in drinking and <sup>c</sup>dwelling together, unless they will be converted so as to make satisfaction †.

\* [bon him eller Lober þanceʒ to gode þ̄ hig þonne pillen oððe mægen, but do for his comfort, for love of God, what they then will or can, T.]

† [ge æt, ge bync, ge famob-punung on hurum, butan hig to bæð-bote gecƿppan pillun, both in eating

and drinking, and dwelling together in houses, unless they will turn to penance. T.]

ut nullus cum eo comedat, neque bibat, neque in suam eum domum recipiat. *Theodulf.*]

\* pununge not þun.

27. It is also the great duty of mass-priests to tell those of their district that every one ought earnestly to take heed of bearing false witness, because this is a very grievous sin; and our Lord on mount Sinai did strictly forbid it, and saith thus, "Never be [guilty] of any false witness, because false witness is never unpunished\*." Whoever commits this sin, or hath committed it, ought to purify himself by the same satisfaction which we before appointed for perjury, and also other capital sins; or be "separated from every thing that is Christian. What can be more agreeable than that a man who out of covetousness of gold, or silver, or precious garments, or any worldly thing, falls into so grievous a sin, should live seven years in anxious misery, or else be deprived of every thing that is Christian. Our Saviour said, "that it would not profit that man a whit who should gain the whole world and lose his own soul."

[Mat. xvi.  
26.]

† A full stop at arceaben.

28. We also command the mass-priests that are subject to us, that they be very diligent in the instruction of the people; that they who are book-learned do often and carefully teach them of their district by book; let them that are not so book-learned command the young men of their district that they "cease from evil and do good, seek peace and follow it," and let them know that "God's eyes are over the righteous;" that "His ears hear the prayers of the righteous;" that "the countenance of the Lord is against them that do evil;" that He destroys and blots out their memories. You cannot excuse your not teaching of them. All of you have tongues: he that is willing to speak good, may reclaim some. As soon as a priest sees one in the wrong, he shall endeavour with all his power to reduce him to right, both by reproving, conjuring, or beseeching him; and not let him alone till he have brought him to good works. And my will is that every one do certify me, at those times that we come by God's help to assemble in synod, what fruit he hath pro-

[1 Pet. iii.  
11, 12.]

\* ['non falsum testimonium dixeris: sive; 'Testis falsus non erit impuni- tus.' *Theodulf.* Cf. Exod. xx. 15; Prov. xix. 5.]

duced in his district, by the help of God, and what men of his district, that formerly lived in wrong, he hath reduced to right. And if any want my help, let him [do his part and I will] soon be ready in the true love of God and man so far forth as it is possible for me to do it.

29. Also ye ought to admonish those of your district that they closely apply themselves to prayer: in this manner ye shall teach them to pray. First they shall sing *Credo*, since it is most proper that they shew the firmness of their right faith; and after he hath sung the Creed, then let him say thrice, God, Thou art my Creator, have mercy on me; and thrice, God be merciful to me a sinner. After that let him sing *Pater Noster*; and after that if he hath place and leisure, let him first pray to St. Mary, and the holy apostles and martyrs, and all God's saints, that they would intercede for him to God; and then arm his forehead with the holy rood-token, that is, sign himself [with the cross] and then with hands and eyes uplifted let him give thanks to God for all that He has given him, both prosperity and adversity. If he have not leisure for the doing it all in this manner, then let him do as we said before, that is say thrice, "God, Thou art my Creator, have mercy on me." And thrice, "God be merciful to me a sinner;" and then with inward heart let him say *Pater Noster*, and sign himself.

30. We should every day once, or twice, or oftener, if we can, confess our sins in our prayers, since the prophet says, "I declared my sin unto Thee, and mine unrighteousness I hid not from Thee." I said, "I confess my unrighteousness against myself to the Lord, and do Thou, Lord, forgive the impiety of my sin." Then after confession with groaning and compunction of heart, we should pray for ourselves to the Lord, and sing the l. psalm, or the xxiii. or xxiv., or one of them to the same purpose\*, and thus complete your prayers. That confession of our sins, which e we make to

[Ps. xxxi.  
5. Vul-  
gate.]

\* [We sceolon up to Dpyhtzenegeb-  
biban, 7 þone fyrigan realm gyngan,  
oððe þone xxiii. oððe þone xxv. oððe  
þara sumne þe þap to ppylcum be-  
lympð, we should pray to the Lord  
and sing the fiftieth psalm, or the  
xxiiiith, or the xxvth, or one of those

which belong to such cases, T. These  
numbers of Psalms are according to  
the Vulgate, and answer to Psalms  
51, 25, 26 in the English version: in  
Theodulf's Capitula the third Psalm  
named is xxxi, that is the thirty-second  
in the English version.]

the mass-priest, this 'contributes to our good, inasmuch as by ghostly advice received from him, and medicine for those blemishes which we confess to be in us, by means of our own deeds, and by observing the injunctions that he gives us \*, we may by this means blot out our sins. Further, the confession † which we make to God only, that is to our benefit, inasmuch as the oftener we remember [our sins] the sooner God forgives them ‡: since the Lord says by the prophet,

[Jer. xxxi. 34.] "b Thy sins I will not remember." On the other side the oftener we forget our misdeeds the more 'carefully doth God

\* remember them. It concerns us to consider what David the prophet saith, and to do accordingly as near as we can,

[Ps. li. 3.] "I acknowledge mine unrighteousness, and my sin is always before me."

\* pe, not þe.

† We are here informed of the benefit of confession to the priest, that it consists in the spiritual counsel he gives, and the proportioning the penance to the crime; and of this Monsieur Petit's collections are full. Not one word here of the benefit of the priest's absolution: and probably there was no such thing as an absolution yet invented: I mean a positive indicative absolution. See also Conc. Cabilon, c. 33. A. D. 813 †.

‡ This the Latin calls the true confession. *Confessio, vera<sup>1</sup> quam Deo Soli facimus.*

b gemýnbie ic, or gemunie ic, not germanic §.

† geopnop, not ——— nopy.

b Read gemunab, not gemon——¶.

\* [Theodulf adds, sive mutuis orationibus.]

† [Donne reo aubetnef þe pe Lobe anum aubettað beð hio ur þ to gobe, ꝥpa pe ortop hig gemunað ꝥpa ꝥopgyt Lob hýpa hpaðop. But the confession which we confess to God alone, does this for our good, the oftener that we remember them, so does God the sooner forget them, T.]

Confessio 'vero quam soli Deo facimus, in hoc juvat, quia quanto nos memores sumus peccatorum nostrorum, tanto horum, Dominus obliviscitur, Theodulf.]

‡ [XXXIII. Quidam Deo solummodo confiteri debere dicunt peccata, quidam vero sacerdotibus confitenda esse percensent: quod utrumque non sine magno fructu intra sanctam sit ecclesiam. Ita duntaxat et Deo, qui remissor est peccatorum, confiteamur

peccata nostra, et cum David dicamus: "Delictum meum cogitum tibi feci et injustitiam meam non abscondi. Dixi; confitebor adversum me injustitias meas Domino, et tu remisisti impietatem peccati mei." Et secundum institutionem apostoli, confiteamur alterutrum peccata nostra, et oremus pro invicem ut salvemur. Confessio itaque quæ Deo fit, purgat peccata: ea vero quæ sacerdoti fit, docet qualiter ipsa purgantur peccata. Deus namque salutis et sanitatis auctor et largitor, plerumque hanc præbet suæ potentie invisibili administratione, plerumque medicorum operatione.—Conc. Cabilon. II. A. D. 813. c. 33. Concil. tom. xiv. p. 100.]

§ [ne german ic, I remember not. T.]

¶ ꝥpa gemon hig Lob 'geopnop, the more readily does God remember them, T.]

31. A man ought to confess to the shrift all the sins that he ever committed, either in word, work, or thought: there are eight capital sins: there is but a small number of men that is not smitten with some or all of them; the first is gluttony, the second is unlawful copulation, the third is worldly grief, the fourth, covetousness of riches, the fifth is vain-glory, the sixth is envy, the seventh is anger, the eighth is pride. When one <sup>1</sup> comes to his shrift with a resolution that he will declare to him his wants, and confess his sins, then ought the shrift diligently to enquire of that man when he confesses to him, how the thing was done, whether willingly or unwillingly, whether by way of surprise, or by way of deliberate design, <sup>m</sup> and then injoin him penance for every misdeed, according as the deed was done. ' He that kills another man in defending himself, is not to be compared to him that lies in ambush for another and kills him. So it is in unlawful copulation, and in every misdeed \*; the shrift shall examine him that declares his want to him in every particular, and teach him to conceal nothing of what he supposes he ever committed against the will of God, either in word or deed, and shall declare the satisfaction that belongs to every one of them.

<sup>1</sup> hpa, not ppa. Somner.

<sup>m</sup> A stop at pīran.

32. We ought to give meat to the hungry, and drink to the thirsty, and <sup>n</sup>cover the naked, and visit them that are sick or in prison†; as our Lord saith, " I was hungry, and ye [Mat. xxv.] gave Me to eat; I was thirsty, and ye gave Me to drink; I was naked, and ye clothed Me; sick and in prison, and ye visited Me." Now every one ought to apply this to himself in a spiritual manner ‡, and to fulfil it towards others in a corporal manner. Yet <sup>o</sup>can it not avail him to life eternal if he lead his life in uncleanness, pride, envy, or other manifest immoralities, which it would be too long to number. But as soon

\* [Very unlike is the man who defending himself slays another man, to him who seeks another and slays him: so it is, both in adulteries, and in every misdeed. T.]

† [Johnson omits ] cumum pe pceolon onpōn, and strangers we should receive,

T., et hospites colligendi, *Theodulf.*]

‡ [Ðonne pceal ælc mon on him pīlīfum þar þing gærllice habban, Now every man should have in himself these things spiritually, T.]

Nam hæc omnia et in se quisque debet spiritaliter agere. *Theodulf.*]

[John vi.  
61.]

as a man perceives that he has not Christ within him, (who saith, "I am the living bread that came down from heaven,") and that true love which is the nurse of the soul, then undoubtedly he is hungry; and then if he join himself to Christ\* by good works, discarding his former immoralities, and fill himself with the sweetness of true love, then hath he fed himself that was hungry in his soul. He that sees himself to be deprived of the streams of the doctrine of the holy Scripture, and of the Holy Ghost, is then sufficiently thirsty; and if he then watereth himself at the spring of God's word, and fill his soul with the sweetness of the ghostly liquors, he then giveth drink to his thirsty soul. Then he who seeth himself destitute of righteousness, and other good works, is not he sufficiently naked? If he then dress† himself with righteousness, and other good works, what doth he but clothe his naked self? Then he that lies in his bed of vices, and labours of the disease of his unrighteousness, and is bound with the cords of his sins, and surrounded with the walls of his misdeeds, and in the darkness of his unrighteousness, he is sick enough, and in a gaol sufficiently dark. But if he arise out of the bed of his immorality, and goes out by confession, and by the mournings of a sincere satisfaction be loosed from his sins, and then proceeds to the light, by the practice of good works, he without doubt visits his sick and imprisoned self. Then he who sees himself fatigued in the pilgrimage of this present life, and with the storms of immorality, as one tired with the strong blusters of the air, and that he wants the calm haven of good works; he may then consider that he is in the road, and in need of an hospitable house. And if he then conduct himself to the sacred house of virtues, and cover himself under their protection, then in what he does to himself he entertains a stranger. The man that applies all this spiritually to himself‡, he gives food and drink, he clothes, and visits, and entertains Christ, whose member he is in himself.

\* [him *Episc* to *geladað*, he call Christ unto him, T., Christo adjungit se, *Theodulf.*]

† [be*gæð*, exercise, T., induit, *Theodulf.*]

‡ [Eall þar þing þonne se mon be him

*rýlfum gæthce beð.* Therefore the man who does to himself spiritually all these things, T.

Quæ omnia cum sibi spiritaliter exhibet. *Theodulf.*]

- ppeon, not ppeon. Somner.
- Dele the point at mæg.
- Ðane reolyn, not hig ne.

33. God's friends are also to be admonished, that they teach their children to be obedient to their parents; for the Lord saith, "Honour thy father and thy mother that thou mayest be a long liver on the earth:" the parents also should be gentle towards their children; since the apostle saith, "Ye parents provoke not your children to wrath:" yet ought they not to let any misdeeds go unpunished. Solomon saith, "He that spareth the rod, hateth his child." No misdeed is allowed to pass without punishment in the world to come, except satisfaction be made for it here. Therefore it is better for one to correct his child for his misdeeds here, than that he be reserved for God's wrath there.

34. And the priests also shall teach the people, that that is true love by which a man loveth God better than himself, and his neighbour as himself, and that none do aught of that to another that he would not have done to himself, and many other things too long now to be reckoned up. Some suppose that true love is meat and drink; but it is not so at all; concerning this, saith the apostle, "God's kingdom is neither meat nor drink:" yet nevertheless when men give meat and drink out of true love to God, it is a work perfectly good, and it is numbered among other good works.

35. They also that live by dealing are to be admonished, that they do not so covet worldly gain, especially so as to lose life eternal\*. Without doubt they greatly err who are more intent on worldly gain than on the salvation of their souls; and of these a wise man saith, they lose their inwards by the way. The present life is what he called the way. But it is necessary that they hear the apostle's doctrine; the apostle saith, "over-reach not one another in dealing, 'for (look well to it) God will be His own avenger of what is done to the wrong of others, or for any other cause†." The

\* [þ hig swa þara woruld-gefeornea pilnigen swa hig hupu þ ece lif ne forleoran, that they so desire worldly gains, that they at all events lose not everlasting life. T.]

Ut non plus terrena lucra quam vitam cupiant æternam. *Theodulf.*]

† [forþon loca hwæt hwa oðrum on þon to so gebo oððe on anigum þingum, Lof hig his ppeceb, 'for lo, what any one therein does wrongfully to another, or in any thing, God will be its avenger, T.]

same command is given to mariners, and to landmen, 'and all that raise profit to themselves by dealing\*'; that they give God the tenth part: and give their alms out of the nine parts; so it is enjoined to all men, that out of the same craft from which they produce necessaries for the body, they also produce necessaries for their souls, which are better than the body.

\* Lat. *intima sui*. Saxon *ingeþanc*, conscience.

36. On the week next before 'holy night shall every one go to his shrift †, and his shrift shall shrive him in such a manner, as his deeds which he hath done require; and he shall charge all that belong to his district, that if any of them have discord with any, he make peace with him: if any one will not be brought to this, then he shall not shrive him: [but] then he shall inform the bishop that he may convert him to what is right, 'if he be willing to belong to God: then all contentions and disputes shall cease ‡, and if there be any one of them that hath taken offence at another, then shall they be reconciled, that they may the more freely say in the Lord's Prayer, "Lord, forgive us our trespasses," &c. § And having thus purified their minds, let them enter upon the holy fast-tide, and cleanse themselves by satisfaction against holy Easter, 'for this satisfaction is as it were a second baptism. As in baptism the sins before committed are forgiven; so by satisfaction are the sins committed after baptism.

\* It is pretty plain here is a mistake in the Saxon, and that it should be *lenten* instead of *halgan nýht*.

\* A point at *Eartpena*.

The Holy Scripture informs us that sins are forgiven by seven means; the first is baptism, which was given us for the remission of sins. In the second place by suffering.

[Pa. xxxii. 2.] Concerning this the psalm poet saith, "Blessed is the man

' \* [þ eallre þær þe him on heopa ceape geþeaxe, that of all which increases to them of their stock, T.]

† [On þære nýhtan pucan seþ halgan nýht ſceal gehpa to hys ſcþurte gan, ⁊ hys bæðū (bæba?) geandettan, In the week immediately before Lent, every one shall go to his confessor, and confess his deeds, T.]

Hebdomada una ante initium quadragesimæ confessiones sacerdotibus dandæ sunt, *Theodulf*.

By *halgandæg* was meant the first

Sunday in Lent, and doubtless by *halgan nýht* the night before.—See *Mareschall's Anglo-Saxon Gospels*, Annot. in *Mat. iv. l. p. 522-3.*

‡ [Lýf he Loðer beon pýlle, þonne man ſceal wæce unſome ⁊ ealle gefrýhtu geſcýllan. If any one desire to be of God, then ought he to still every enmity and all strifes. T. Thorpe's translation makes a full stop at the word 'right.']

§ [ſpa ſpa þe forþſýrað þam þe wæð uſ aſýltað, as we forgive them who sin against us, T.]



to whom the Lord imputeth no sin." According to this same saying of David\*, sins are forgiven by baptism, they are covered by satisfaction, they are not imputed through martyrdom. In the third place they are redeemed through almsdeeds. Of this saith Daniel to Nebuchodonazor<sup>1</sup> the king, "Redeem thy sins with alms [given] in mercy to the poor." And that [text] "'as water quenqueth fire, so doth almsdeed sin." And the Lord saith in the Gospel, "give your alms then, by that you may clean." The fourth is, if thou forgive them that have sinned against thee, as it is said in the Gospel, "Forgive, and it shall be forgiven you," &c.† [Luke vi. 37.] The fifth is, if one by instruction and preaching God's commandments, converteth a man from wrong to right, "he ransoms his soul from death, and covers a multitude of sins," as the apostle declares. The sixth way is, by the true love of God and man. As it is said, the true love of God and man covers the multitude of sins, through the Saviour Christ our Lord. The seventh way is, by satisfaction, as David saith, "I am turned about in my misery, and my back is broken:" and he says presently, "I ceased from my pride, and my misdemeanour, and do penance and satisfaction for them before God, so I have forgiveness." [James v. 20.]

<sup>1</sup> Eclus. iii. 30.

<sup>2</sup> Luke xi. 41.

<sup>3</sup> The text here alluded to is Psalm xxxii. 4, 5, the xxxi. according to the vulgar Latin, in which it runs thus, *Conversus sum in cerumna mea dum configitur spina mea*<sup>2</sup>. *Delictum meum cognitum tibi feci, et justitiam*<sup>3</sup> *meam non abscondi. Dixi, confitebor adversum me injustitiam meam Domino, et tu remisisti impietatem peccati mei* †.

37. Men shall observe the lenten fast with a more singular regard; so as to eat no meat till the tenth or twelfth hour, (but Sundays only) except one be so sick that he cannot fast, or so young as not to be of age to fast. For these days are the tithe of the year, and we should therefore spend them with all piety and holiness. There is a custom frequently

\* [Æfter þær ylcan Daub eþbe, according to the saying of the same David, T.]

† [gýllað þonne bið eop gerealb, 7 efc. gýr ge forgyrað þæm þe pið eop gerýngode, þonne forgyreð eop eoppe heofonlice Fæder eoppra gýnna; 'Give, then shall be given unto you.' And

again: 'If ye forgive those who have sinned against you, then will your heavenly Father forgive you your sins.' T.]

‡ [The Vulgate omits 'mea' after 'spina,' and has not 'justitiam' but 'injustitiam,' as in the next sentence.]

to redeem other fasts with alms, out of love to friends [that we may eat with them]. This no man must 'break by any means. They who fast at other times earn a reward, and forgiveness of sins from God; yet upon condition, that they adorn their fast with almsdeed: but at this time he that can fast, but will not, without doubt earns eternal punishment to himself. For Christ hath hallowed these days to fasting by Moses, by Elias, by Himself.

' A point at bpecan.

38. It is the duty of every man daily to give alms to them that are in want; yet more on the days on which we fast, than on other days. For then we should distribute to the poor the meat and drink that we should use if we fasted not. For if we fast and reserve our \*first meal till supper time, that is not fasting, but is only a delaying of the time of eating, and the supper is doubled.

\* *Lat. Prandium unbepngepeopb\**.

39. It is the practice of many, when they should fast, that as soon as they hear the noon-bell ring, they take meat; but it is not to be thought that that is to be deemed fasting; but it is requisite that after noon-song a man hear mass, and after mass his even-song, at the [proper] season, and let every one give his alms, according to what is incumbent on him, and afterwards take meat. If any one be so straitened in time that he cannot come to mass and even-song, yet let him continue fasting till he know that mass and even-song are ended; and then having finished his prayers and his alms, let him enjoy his good things and take his meat.

40. During this time shall be an abstinence from all delicious meat, and we must live soberly and chastely; when men are able on this holy tide to forego cheese, and eggs, and fish, and wine, this is the most perfect fast. They who cannot forbear them, by reason of infirmities, or for any other \*cause, are obliged to use these with moderation, and at the season allowed, that is, after even-song; and that he take neither wine nor other drink to drunkenness, but for the

\* [That is the meal of the third hour, 8-9 a.m.; breakfast. See above A.D. 957, c. 19. p. 393, note †.]

refreshment of his heart. Intemperate drinking of wine, and sinful lust, is forbidden, <sup>b</sup>not milk, nor cheese: the apostle doth not say, eat not cheese or eggs, but, "be not drunk with wine," or other strong liquor, in which is fiery lust\*.

\* Latin, *Quolibet opere.*

<sup>b</sup> Make a point at *ropboben*, dele point after *rynt*.

41. Men are to go to housel every Sunday during this holy time, except they be excommunicated. So also on Thursday and Friday before Easter, and on Easter-eve, and on Easter-day: and all the days in Easter-week are to be observed with the same devotion.

42. On this holy fast none shall raise any quarrel or contention, 'but ye ought to exercise the fasting vacation in the love of God, and in necessary business†. For our Lord threateneth those who will on their 'fasting-days demand their 'debt, and raise quarrels and contentions, who by the prophet says thus, 'Your victory is on the fasting day, ye have all your pleasure on this day, ye make search after all your debtors, ye fast for strife and debate, and impiously ye bear hatred to your brethren‡. All Christian men are brothers in God.

\* *Quadragesimæ tempore*, Latin. This was too gross for Ælfric.

\* Saxon, summon their debtors.

† I understand *gerýne* as *gerýgor*. I suppose it answers these words of the prophet, *percutitis pugno*. *gerýne* may perhaps signify conspiracy, but then there is nothing that answers to it in Isaiah.

43. It is also the great duty of married persons, that on this holy tide they keep themselves pure, without all pollu-

\* [*rypen-lust*, sinful pleasure, T., *luxuria*, *Theodulf*.]

† [ac *rymble* in *Lober love* and in *nyð-behefum* *peopum* *pe rceolon* *ra-ðol-æwlice* *gepunigan*, but we should stedfastly continue in praising God, and in necessary works, T.]

‡ [On *ærten-dagum* *bīð* *gerýne* *hwilcne* *wilian* *ge* *habbað*, on *bæm* *dagum* *ge* *arecað* *ealle* *eoppe* *þopgar*, *7* *to* *gecibe* *7* *to* *gerýstum* *ge* *ærtað*, *7* *ryðe* *apleawlice* *ge* *bærað* *hýnað* *eoppe* *þroðru*, 'On fast-days is seen what will ye have, on those days ye all seek your debtors, and for strife and brawls ye fast, and very impiously

ye oppress your brothers.' T.]

The whole canon in the Latin runs thus:

XLII. In his jejuniorum diebus nullæ lites, nullæ contentiones esse debent, sed in Dei laudibus, et in opere necessario persistendum. Arguit enim eos qui contentiones et lites quadragesimæ tempore exercent, et qui debita a debitoribus exigunt, Dominus per prophetam dicens; "Ecce in die jejunii vestri inveniuntur voluntates vestræ, et omnes debitores vestros repetitis, Ecce ad lites et contentiones jejunitatis, et percutitis pugno impie." *Theodulf*. Concil., tom. xiii. p. 1006 E.

tion of copulation; that their hearts and their bodies being purified by a pious life, they come to the Easter-day with deeds well-pleasing to God; for that fasting avails not a whit that is polluted with conjugal work: 'nor is that in the least point more [availing]\* that is not adorned with watching and alms-deed.

\* ne hpon þe ma, not neh þon, &c.

44. The people also who at the holy time are to take the holy mystery of Christ's body and blood (that is the holy housel) are to be instructed, that they do it with much awe and reverence. And let them first cleanse themselves, both with fasting and alms, and abstain from the conjugal work, and from every vice, and adorn themselves with alms and every good work, and so with great reverence receive it. Both is very dangerous, either that a man take it without being prepared, in a negligent manner; and also that any man be too long without it; \*especially let no man receive it without his shrift's leave. To him he shall first have confessed all that he has done against God's will, so far as he can recollect, and made satisfaction according to his doom. But there are many minster-men and widows, of so holy, religious a life, that they may do it every day when they please.

\* Theodulf's Latin makes no mention of the shrift, or confessor; and has the last clause thus, "It is dangerous to abstain from it for a long time, only with an exception to them, who being excommunicate receive it not when they please, but at certain times only," (he means such as were under excommunication for any grievous crime, and during those years did public penance in Lent, and were received into the church on Maunday Thursday, and continued there, and might communicate till low-Sunday, but were then to absent themselves from church, till next Lent,) "and the religious, who live in an holy manner, and do it almost every day." From this it appears that there was in Theodulf's time a daily communion in monasteries, if not Elfric's too.

45. Further we command all mass-priests, who are willing to sing mass before high-mass, either on Sundays or other mass-days, that they do it secretly, so as that they may draw no part of the people from high-mass; for it is a very evil

\* [ne þ fopneh þon þe ma, nor that hardly more so, T.]

custom which some men practise both on Sundays and other mass-days, that they will hear mass early in the morning, and then presently all the day after, serve their own belly, not God, by drunkenness and junketing. Now we command that no man taste any meat till the service of the high-mass be finished; and that all women as well as men assemble themselves to high-mass and to the holy ghostly church, and there hear high-mass, and the preaching of God's word. And as we said before, let not the mass-priests in the <sup>h</sup>oratories sing at all\*, except they do it so secretly as to draw no man from the high-mass. And we charge men of every rank to frequent the high-mass, except the holy maidens only, whose custom or manner it is not to go from their own minster. They ought to remain within their own cloisters, and there hear mass.

<sup>h</sup> Sax. *gebeb-hur*, clearly the side chancels, or chapels joining to the church.

\* [*þa mæsse-ppreortar geomb þa mass-priests sing about the house of gebeb-hur na ne gýngen*, let not the prayer, T.]

## A.D. MIX.

### LAWS ECCLESIASTICAL AND CANONS AT EANHAM.

#### PREFACE.

Sir H.  
Spelman,  
vol. i. p.  
513.

THIS year, or however, between the year 1006 and 1013, which includes the whole time of St. Alfeage's presidency in the see of Canterbury, a council was called at Ænham, (probably now Ensham in Oxfordshire,) at the command of King Ethelred, and by the advice of both the archbishops of Canterbury and York. It was therefore a national assembly, and the great men of the laity were present, as well as the bishops and abbots. And though most of the laws are ecclesiastical, yet some are purely secular. The old Latin copy is far from being a translation. It rather seems to me to be an account which some one there present did write down by strength of his memory; which afterwards falling into the hands of some archbishop of York, was transcribed by him, or at his command, with two paragraphs added at the end. But because the Latin preface gives some account of the synod, which is not in the Saxon, I thought fit to prefix the translation of it to the following decrees.

LATIN.  
[Sir H.  
Spelman,  
vol. i. p.  
525.  
Wilkins,  
vol. i.  
p. 292.]

It happened on a certain time, that all the great men of the English were summoned to appear on the holy day of Pentecost, at a place by the inhabitants called Eanham, by the preceptory edict of King Ethelred, at the instigation of Ælfeah and Wulfstan the arch-prelates. A multitude of venerable worshippers of Christ being therefore assembled in that place, they being divinely inspired, conferred together for the recovering the exercise of the catholic religion, and

for repairing the state of the commonwealth at large, and not briefly. Further, at the beginning of their synodical conferences, first the bishops with mutual instructions exhorted each other in their wholesome discourses, to adorn themselves with the comeliness of faith, hope, and charity, and of the four principal virtues, viz., prudence, justice, fortitude, and temperance: and they appointed a daily mutual \*intervention; and faithfully confirmed a league of peace and concord between themselves.

\* By mutual intervention in the civil law is meant, being mutual security for each other. Perhaps here it may signify, that they would every day during this council, meet together, apart from the great seculars, to consult of ecclesiastical affairs; or it may signify a mutual intercession to God for each other: for words in these ages did not keep their proper sense and meaning, but were used according to the fancy of the writer.

## A.D. MIX.

### THE PROVISIONS OF THE WISE MEN.

SAXON.  
[Sir H.  
Spelman,  
vol. i.  
p. 513.  
Wilkins,  
vol. i.  
p. 286.  
Thorpe,  
p. 133\*.]

THESE are the ordinances which the English counsel-givers chose, and enacted, and strictly charged to be observed.

1. And this, in the first place, is the prime decree of the bishops, that we all turn from our sins, so far as we can, and earnestly confess our misdeeds, and make satisfaction for them, and duly love and honour the one God, and uniformly maintain the one Christianity, and earnestly avoid all heathenism, and advance devotion † among ourselves, and affect peace and unity, and faithfully obey one royal lord, and guard him duly and trustily ‡.

[2. T.] And the ordinance of the wise men is, that abbots and abbesses do rightly regulate their lives, and prudently take care of their flocks, and that men of every order do in earnest submit themselves every one to that law that concerns them, both in regard to God and the world; and especially that God's servants the bishops and abbots, the monks and \*mynikens, canons and nuns, betake themselves to what is right, and live regularly, and earnestly intercede for all Christian people.

\* Here mynikens and nuns are distinguished. The former seems to denote the strictest sort, the other those that were less strict †. See Cnut's law sixth.

\* ['The text from D; the variations from K.—T.]

† [gebeþnæbene, prayer, T.]

‡ [ ] georne hne healþan, mub þihtan getryþþan, and diligently support him, with right fidelity. T.]

§ [MYNECEN, fem. of munuc, monialis. NUNNE—NUNNA—nun. Du Cange defines nuns as 'sanctimoniales præsertim antiquæ et senes virgines, aut sacræ viduæ; sicut enim nonnus reverentiam paternam, ita nonna maternam deno-

tat.' From the above it would seem that the chief distinction between nuns and mynchens consisted in the superior age and strictness of the former. In C. E. 8, (see below A.D. 1017, c. 6,) nuns are classed with canons, and mynchens with monks. Thorpe, Glossary, art. NUNNE.

The Italian nonna f. signifies *grandmother*, and nonno m. *grandfather*. Bosw. A. S. Dict., art. Nunne.]



And the ordinance of the wise men is, that every monk [3. T.] that lives out of a monastery, and neglects his rule, <sup>b</sup>do as it is his duty, betake himself to the monastery with all humility, and desist from his misdeeds, and carefully <sup>c</sup>build up what he hath broken down\*, and call to mind the word and promise which he hath plighted to God; and let the monk that hath no monastery, go to the bishop of the shire, and engage himself before God and man, to observe three things at least for the time to come, that is, his chastity, the wearing of the monastic habit, and the serving the Lord in the best manner that he can: and if he performs this, then he deserves to be the better respected, wheresoever he dwells.

<sup>b</sup> so ꝥpa him, not doꝥpalum.

\* I read bet ꝥꝥþe, not beaꝥ—.

Let canons where there is an estate sufficient to have a dormitory and refectory, keep in their monastery, with chastity, as their rule directs. But it is just, that he who will not, do forfeit his place. [4. T.]

2. And we command and charge all God's servants, especially the priests, that they obey God, love chastity, and guard themselves against God's wrath. Let them earnestly consider, that they cannot lawfully cohabit with a wife: yet this is worse, <sup>d</sup>that some have two, or more, and some though they dismiss her whom they formerly had, afterward take another, the former living, as it becomes no Christian man to do. Let him who will desist from this, and preserve his chastity, obtain God's mercy; and as an addition of worldly honour [we decree] that he be equal to a thane, both as to his weregild, and to his rights in his life-time, and at his burial. And let him who is averse to that which befits his order, be deprived of his honour both in relation to God and the world. [5. T.]

<sup>d</sup> I read with Mr. Somner ꝥꝥþe, not ꝥþe.

3. And look ye! we agree to command every friend, and to charge all people, in earnest, with inward heart to love the one God, and diligently to avoid all heathenism. [6. T.]

\* [7] beaꝥ ꝥꝥþe georne, ꝥ he abþo- for that which he may have committed,  
cen hæbbe, and make 'bót' very strictly T.]

[7. T.] 4. And if witches, wizards, \*magicians, or whores, privy-murderers, or false-swearers be caught any where in the nation, let them be zealously driven off this earth; and the people be purged; 'or let them wholly get them gone out of the land\*, unless they will desist and make deep satisfaction.

\* For *ſc̅m c̅wæc̅ can*, I read *ſc̅m c̅wæc̅hcan*, or *ſc̅m c̅wæc̅igan* †.

[8. T.] 5. And it is the ordinance of the wise men, that right law be advanced both in relation to God and the world, and that every thing contrary to it be earnestly abolished; and that every one both poor and rich be henceforth esteemed worthy of common justice; and that peace and friendship be duly preserved both in relation to God and the world, within this land.

[9. T.] 6. And it is the ordinance of the wise men, that he who is a Christian, and has not forfeited himself, be not sold out of the land, at least not into an heathen nation. But let men take special care, that a soul, which Christ bought with His own life, do not perish.

[10. T.] 7. And it is the ordinance of the wise men, that Christians be not rashly condemned to death for every trifling cause; but on the other side let the judge correct with lenity for the public good; and not for a small matter destroy God's own handy-work, and His own purchase, which He dearly bought. And let every fact be cautiously scanned; and [let] judgment [be] according to the fact, and moderation according to the quality [of the offender]; 'so that it may be gentle in relation to God †, tolerable in relation to the world, and let him that judges others, seriously consider what he requests for himself, when he thus says, "Forgive us our trespasses, as," &c.

[11. T.] 8. And we strictly charge every Christian, that he earnestly avoid all unrighteous copulation, and duly observe the Christian law.

[12. T.] And never let it be, that a Christian marry 'within the 'fourth degree of relation, among his own kindred, that is

' \* [obbe on eapbe gop̅p̅e h̅ m̅b ealle, or let them totally perish in the country, T. Compare above, Laws of King Edward and Guthrum, c. ii. p. 336,

no'e \*.]

† [ſc̅m c̅wæc̅igan, magicians, T.]  
‡ [ſc̅m, ſc̅m lode ſc̅ gebeohtic, so that before God it be fitting, T.]

within the fourth generation \* ; nor to the widow of one that is so near akin, in worldly affinity, nor one nearly related to the wife, whom he formerly had, nor to any consecrated nun; nor to his spiritual relations † ; nor to one that is divorced. Nor let him who desires to observe God's law aright, and to guard himself against hell-fire, have more wives than one; but continue with her only so long as she lives.

† I think it evident, that VI. here was written by mistake for IV. The old Latin mentions no particular degree.

\* That is his godmother or godfather's daughter, or to the daughter of the priest, or other person, who baptized him.

9. Let every church be in the protection of God, and of [13. T.] the king, and of all Christian people.

And let the protection of the church within its own walls, [14. T.] and the protection of the king's hand, be equally inviolable.

And let no man from henceforth bring a church into ser- [15. T.] vitude, nor unrighteously make merchandize of a church, nor turn out a church-thane ‡ without the bishop's consent.

‡ I take *þen* here to be the same with *þegen*, or *þegn*. So c. 2. But if only some inferior officer of the church be here meant, yet still we may safely conclude, that, if no man could without the bishop's consent turn out an inferior minister of the church, much less a superior, and that therefore patrons before the Conquest had not power to deprive priests of their benefices.

10. Let God's rights be paid every year duly and carefully, [16. T.] that is plough alms fifteen nights after Easter at <sup>1</sup>farthest.

<sup>1</sup> Sax. *hupu*: Somner, *saltem*.

Tithe of young by Pentecost, and of all fruits of the earth [17. T.] by <sup>1</sup>Allhallow's mass.

<sup>1</sup> Therefore the tithe-payer did in these days imbarn and thrash the tithe corn, and pay tithe of the grain.

11. And the Rome-fee by Peter's mass, and the Church- [18. T.] scot at Martin's mass.

12. And the light-scot thrice a year §. [19. T.]

\* [in vi. *manna yib-ræce*, on *hij sgenum cýnne*, þ *is binnan þam feop-þan cneope*, within the relationship of vi. persons, in his own kin, that is within the fourth degree, T.]

† [ne on *hij geþæbeþan*, nor with his godmother, T.]

‡ [*cruc-þen*, a church minister, T.]

§ [See above, A.D. 878, c. 6, f. 33<sup>v</sup>, note §.]

- [20. T.] 13. And it is most just that men pay the soul-scot at the open grave.
- [21. T.] 14. And if a corpse be buried elsewhere out of the proper district, let the soul-scot then be paid notwithstanding to that minster to which it belonged, and let all God's rights be advanced with diligence, as is requisite.
- <sup>1</sup> Saxon, reipe, shire.
- [22. T.] 15. Let feasts and fasts be duly observed. Let Sunday be strictly observed, as becomes that festival, and let men carefully desist from trafficking and county courts, and hunting-bouts and worldly works on that holy-day. Let the high St. Mary's tides be celebrated, first with fasting, then with festivity. And before the high tides of every apostle let men strictly fast. But before the feast of Philip and Jacob, we command not men to fast, by reason of the paschal feast, except one choose [so to do]. Let other feasts and fasts be diligently kept by all, in that manner that they do who keep them best.
- [23. T.] 16. Also the <sup>m</sup>ember-days, and [other] fasts, as St. Gregory himself commanded the English nation\*.
- <sup>m</sup> See Dial. of Egb. Answer the last, article 1, 2, 734.
- [24. T.] 17. And let men fast every Friday, except it be a feast<sup>1</sup>.
- [25. T.] 18. And let ordeal and oaths and marriage be always forbidden on high festival days, and on the solemn ember-days, and from Advent to the octaves of Epiphany, and from Septuagesima till the fifteenth night after Easter. And it is

\* [*Hæc sunt jejunia, quæ S. Gregorius genti Anglorum prædicari præcepit. Sunt quatuor jejunia quatuor temporum anni; id est veris, æstatis, autumnii, et hyemis. Jejunium primum in prima hebdomada quadragesimæ. Jejunium secundum in hebdomada post Pentecosten. Jejunium tertium in plena hebdomada ante autumnale æquinoctium. Jejunium quartum in plena hebdomada ante natale Domini. Jejunium in feria sexta per totum annum, nisi a Pascha usque ad Pentecosten, aut si major festivitas fuerit. Ex additamentis ad cod. Burchardi in M.S. cod. Luc. Concil., tom. x. p. 446 D. et annot. p. 449. Mansi supposes that this canon as-*

*cribed to Gregory the Great ought to be referred to Greg. P. VII. A.D. 1085, upon the ground that Muratori (Anecdota, tom. ii. p. 262, in dissert. de jej. quat. temp. cap. vii.) proves that no fixed and general rule for the ember fasts prevailed before that time. Muratori makes no mention of the foregoing canon, or of the Dialogue of Eegbriht, which together prove that the present rule for the ember fasts, though not general till the time of Pope Gregory the Seventh, had been, as stated by Micrologus c. 24, given to the English by Gregory the Great, A.D. 600. See above, p. 175-6 note, and p. 180, note\*.]*

also fit that there be common peace and concord to all Christian men on these holy tides, 'and that all <sup>n</sup>law-suits be put far away\*. If a man be indebted to another upon security given, or by way of satisfaction [for wrong done] in any worldly thing, let him duly pay it either before or after.

<sup>n</sup> racn <sup>s</sup> I take to be the same with rac, and the following clause, I conceive, determines us to this sense. And this I take to be the foundation of our Lent vacation, &c. Mr. Somner reads racn, deceit or dissimulation.

19. And let every widow that duly contains herself be [26. T.] under God's protection and the king's; and let her continue a whole twelvemonth without a husband, [and] afterwards marry whom she will.

20. And let every Christian man act as it concerns him, [27. T.] let him diligently mind his Christianity, and often resort to his shrift, and confess his sins without shamefacedness, and diligently perform his satisfaction, as he is taught. And let him prepare himself to go to housel thrice a year at least, when he is willing to know his duty, as it concerns him [to do †].

21. And let every one of our friends frame his words and [28. T.] works according to right, and carefully observe his oaths and contracts, and banish all that is contrary to right out of the land, so far as man can do it. Let treasonable practices and all detestable breach of law be avoided, that is false weights, wrong measures, false testimonies, obscene <sup>o</sup>daneings‡, filthy copulations, horrible perjuries; and devilish practices, in privy murders, and man-slaying, and stealing and <sup>p</sup>rapine, 'and covetousness, and gluttony, and insolence, and intemperance, witchcraft § and various breaches of the law in relation to marriage and violation of orders, feasts and fasts, and church-breaking, 'and <sup>q</sup>public mischiefs¶. And know, O [29. T.] man, that all such like is 'to be avoided ||, and never to be

\* [†] ælc <sup>s</sup>racu tocræmed, and let every strife be appeased, T.]

† [‡] gearpige hine eac to hurelgange, hupu þrifa on gearpe, gebpa hine fylrne þe hy agene þearfe wille unþerfandan, swa swa him þearf is. And let every one who will understand his own need also prepare himself to go to housel, at least thrice in the year, so as it is requisite for him. T.]

‡ [‡] racodlice swunga, shameful fightings, T.]

§ [§] on gytungan 7 on gyreþneffan, on ofersmettan 7 in ofersyllan, on rpic-cwærtan, in cravings and in rapaciousness, in gluttony and in drunkenness, in arts of fraud. T.]

¶ [¶] [‡] on mænigeþ cýnæþ mifþaðan, and in misdeeds of many kinds. T.]

|| [‡] to leanne, to be censured, T.]

[30. T.] loved, but let men earnestly henceforth love God's right, in word and work; then would God soon be propitious to this nation.

\* I read *ƿƿicunga*, not *ƿic*—

† *ƿƿubungau* is here overlooked both by Sir H. Spelman, and Mr. Somner.

‡ *Plurimis generibus malefactorum*, Sax. *maniger cýnner mǽrbædan*.

[31. T.] 22. Come on! let us likewise all diligently provide for re-

[32. T.] paration of peace, and of the coin\*: let us so provide for the reparation of protection, as may be best for the housekeeper, and most dreadful to the thief; and so for reparation of the coin, that the same money may go over all the nation, without any counterfeit. And let men rectify their measures and weights, and henceforth desist from every thing contrary to right. And let the reparation of castles and bridges be begun in earnest, on all sides; as also the recruiting of the army, and also of the fleet, when need is, as it is commanded for the public necessity.

[33. T.] 23. And it is agreeable to a state of war†, that the fleet be

[34. T.] ready every year soon after Easter. 'And if any one damnify a ship belonging to the public‡ fleet, let him diligently make satisfaction for it, and to the king for [violation of his] protection: and if it be destroyed so that it be good for nothing, let him pay the full worth of it, and violation of protection to the king.

‡ When I had this passage under my consideration, I could not but reflect on the known story of Wulfnoth, father to earl Goodwin, who was this year accused for his design of corrupting, or destroying the fleet, which the Saxon Chronicle represents as the greatest that the English nation had ever yet equipt: it is sad to remember, how that great traitor went off with twenty of the ships, and afterwards burned eighty more, and by this means reduced the king and nation to the lowest ebb. It is scarce to be believed, that Wulfnoth had accomplished his design so early in the year as Whitsuntide, therefore it is probable, that this provision was made upon Brihtric's information against him, as a person that had wicked designs against the fleet; nay it is possible that this law might be made

\* [XXXI. *Wutan eac ealle ýmbe ƿƿiðer-b. re ƿ ýmbe feor-bote ƿmeagan ƿƿiðe geopne*, L: it us also all very earnestly deliberate concerning 'frithes-bót,' and concerning 'feos-bót.' T.]

† [And *ƿæplic brōð*, and it will be prudent, T.]

‡ [XXXIV. *And gif bpa folcer ƿƿýðgicp aƿýpbe*, and if any one of the people injure a ship of war, T.]

the foregoing year, when the king determined with himself to prepare this great fleet, and before there were any suspicions of Wulfnoth.

24. And if any one desert the army without leave, when [35. T.] the king is there in person, let it be at the peril of his honour.

25. And if privy murderers, or perjurers, or notorious [36. T.] murderers be so audacious as to remain in the king's presence before they have begun their satisfaction toward God and the world, 'let it be at the peril of their honour, and all their estate unless they be 'supplicants\*.

\* For *plhton*, Somner, whom I follow, reads *phhton*.

† That is unless they come to implore the king's pardon, or to take sanctuary in his palace, in which cases the king was supposed to take care, that satisfaction was made to the Church, and to all parties concerned. Mr. Somner here turns *ꝥꝥ*-*benan* *causa refugii*.

26. If any one conspire against the king's life, let him [37. T.] incur the loss of his own life, and of all that he hath: if this be proved against him. If he will, and can make his purgation, let him do it by the deepest oath; or by the threefold ordeal by the English law, and by the Danish law, according as their law is.

27. If any man commit robbery against the law of Christ, [38. T.] and the king †, let him pay a were, or a mulct in proportion to the fact; and if he resist, and be the cause of men's killing of him, let him lie, without any payment [made] for him.

‡ I turn *ꝥꝥ*, robbery. Sir H. Spelman renders it *oppositio*, with less probability, as I humbly conceive. The Latin had indeed, *manifeste resistit*, but this may be instead of the Saxon *geonbȳnbe* in the last clause.

28. And if one defile a nun, or force a widow, let deep [39. T.] satisfaction be made toward God and toward the world.

29. Let a man always study every method whereby he [40. T.]

\* [bonne *plhte* hi heopa *ape* ȝ eallon heopa *shhton*, butan hit *ꝥꝥ*-*benan* *ꝥꝥ*ban, then let them peril their estate and all their possessions; unless they are 'frith'-supplicants. T.]

† [XXXVIII. *And* *gȳ* *bpa* *ꝥꝥ*ȳteal ongean lah-*ꝥht* *lꝥ*ȳȳe *ophe* *cȳn*-*geȳ* *ahpaȳ* *geȳȳn*ce, and if any one against the law of Christ or of the king, commit 'forsteal' any where, T.]

FORESTEAL. *Assultus* *superaliquem* in *via regia factus*; accurately defined in H. LXXX. 2, 4; from 'fore,' *ante*, *before*, and 'stellan' to leap, spring; therefore signifying, at least originally, an assault, consisting in one man springing or placing himself before another, so as to obstruct his progress. Thorpe, Glossary.]

may best consult for the necessities of the nation, and most effectually advance right Christianity and abolish every thing contrary to law. For by this means reformation shall be made in the land to some [purpose], when what is contrary to right is depressed, and righteousness is loved both in regard to God and the world.

- [41. T.] 30. But now we will charge the <sup>2</sup>servants of God, that they in an especial manner would with caution bethink themselves, and with God's help love chastity, and zealously follow their books and their prayers; and by day and by night full oft call to Christ, and earnestly intercede for all Christian
- [42. T.] people. We will also remind every friend, as we have great need also to do, that he earnestly bethink himself, and turn from his sins, and dissuade other men from what is contrary to right; and that he full oft have in his mind what it concerns men most frequently to remember, that is, that they have a right uniform belief in the true God, who is the governor and maker of all creatures, and that they rightly hold right Christianity, and attentively hearken to divine teachers, and earnestly follow the doctrine and laws of God; and that they do every where promote the peace and protection of God's churches, and often visit them with light and offering, and there often pray to Christ in their own persons\* : that they duly pay God's rights every year, and solemnly observe feasts and fasts, and desist from marketings
- [43. T.] and county courts † on Sundays; and that they defend and respect the servants of God; and comfort and feed God's poor;
- [44. T.] and not too often molest the widow and step-child; but to
- [45. T.] make them rejoice; not to provoke nor injure strangers, and
- [46. T.] far-comers; not wish too vehemently to others what is contrary to right; but that every man wish that right to others,
- [47. T.] which he desires himself. And this is in earnest right law ‡.
- [48. T.]
- [49. T.]

\* [ ] hiȝ ȝylfe þær georne to Lyrice gebiddan, and that they there earnestly pray to Christ. T. See above p. 465, note †.]

† [folcȝepa gemota, popular meetings. T.]

‡ [XLIX. And þ hi oþrum mannum unriht ne beoðan calleȝ to ȝriðe, ac manna gehwile oþrum beoðe þ riht þ he wille þ man him beoðe, be þam be hit<sup>1</sup> mæð ȝ<sup>2</sup>, ȝ þ iȝ ȝȝðe riht

lagu. And that they do not altogether too much command injustice to other men; but that every man enjoin to others that justice which he desires shall be enjoined to him, according as it is reasonable: and that is very just law. T. <sup>1</sup> Here probably as at p. 143, c. 29, we should read be þam be hiȝ mæð ȝ, according as his condition may be. T. <sup>2</sup> Here MS. D closes. T.]



\* Bishop Kennet supposes that the abbey of Ensham having lately been erected, these provisions were made with a particular regard to the monks now settled there. Paroch. Antiq. in an. 1009.

31. He who henceforth is in contempt of the right law [50. T.] either of God or men, let him diligently make satisfaction, ⁊ wheresoever it is due\*, as well with divine discipline, as with worldly correction : and if any money arise on account [51. T.] of divine satisfaction †, according as the wise men of the world have fixed the rule, that is to be applied, at the command of the bishops, to the purchasing of prayers, to the relief of the poor, to the reparation of churches, to the instructing, clothing, and feeding, of them that serve God, 'and [to the purchasing] of bells, books, and church vestments, and never to any worldly idle pomps. But as to what concerns worldly corrections\*,—for religious wants: sometimes by mulct, sometimes by wergild, sometimes by the heals-fang, sometimes by the Danish fine, sometimes by [loss of] honour, sometimes of estate; sometimes by a greater [punishment], sometimes by a less †.

\* *Ad utrumcunq; spectant.* Somner.

† Some words seem wanting in this place.

32. And as men are more potent in regard to the world, [52. T.] or \*by means of the dignity of their order §, so shall they make the deeper satisfaction, and pay the dearer for their crimes. For the potent and the impotent are not all alike, nor can they bear the like burden; nor is the healthy more like the sickly: and therefore estimates ¶ and distinctions are discreetly to be made between the old and young, the wealthy and indigent, the firm and the infirm, and every rank

\* [ƿpa hƿæðor ƿpa hit Ʒebýrge, in whatever manner is fitting. T.]

† [Ll. And Ʒy Ʒor Ʒod-bocan Ʒeoh-loc aƿyfeð, and if for a 'god-bôt' a pecuniary 'bôt' shall arise, T.]

‡ [Ʒ to bocan, Ʒ to bellan, Ʒ to cƿic-ƿæban, Ʒ næpƿe to ƿopolbican abelan Ʒlengan, ac Ʒor ƿopolb-ƿeopan to Ʒod-cundan neoban, hƿilum be ƿite, hƿilum be ƿep-Ʒilbe, hƿilum be halƿ-ƿange, hƿilum be lah-ƿlihte, hƿilum be aƿe, hƿilum be sæhte, Ʒ hƿilum be man, hƿilum be læƷƿan. And for books,

and for bells, and for church-garments; and never for worldly idle pomp; but as a secular correction for divine purposes, sometimes as 'wise,' sometimes as a 'wergild,' sometimes as 'hals-fang,' sometimes as 'lah-slit'; sometimes in estate, sometimes in goods; and sometimes in more, sometimes in less. T.]

§ [oþþon þuþ Ʒeþingða heappa on haðe, or through dignities, higher in degree, T.]

¶ [Ʒ þý man ƿceal medmian, moderation is therefore to be used, T.]

both in religious shrift and in worldly correction. And if it so happen, that a man doth any misdeed unwillingly and undesignedly, this is not at all like that misdeed which a man does through self-will and design. And he also that acts out of necessity in what he does amiss, he deserves favour, and always a better doom, when he acted through necessity in what he did amiss.

<sup>a</sup> Somner, *hæreo . . . estimationem, dignitatem, promotionem.*

[53. T.] Let every deed be cautiously distinguished; and let the doom be formed with judgment according to the fact, and moderation [be shewed] according to the quality [of the offender] both in regard to God, and the world. And let mercy be used for the fear of God, and lenity, and favour in part to them that have occasion for it\*; because we all have need, that our Lord full oft thus indulge His mercy to us. Amen.

*In the Latin there is this further addition.*

[Sir H. Spelman, vol. i. p. 528-9. Wilkins, vol. i. p. 294.]

In these, and in all points let all things contrary to equity and justice, which King <sup>b</sup>N., together with his great men, decreed to exterminate, be always and every where cast off, banished and wholly excluded; and let justice and truth be ever observed; so perfect peace, plenty of fruit, and of all good things shall abound in the country, the Lord guarding us, who liveth, &c.

<sup>b</sup> It seems evident that he who made these additions was not Wulfstan the archbishop of York, who was present in this assembly: for he would no doubt have given us the first letter of his own name, as well as of King Ethelred's, in whose reign the council was holden, rather than have put the letter N for both; if he had not further given us such name at large. The hasty transcriber, having forgotten the name of the king and archbishop before he had finished the transcript, rather chose to make a balk, than to turn two or three leaves backward to the preface, where both their names are written at full length, and by reviewing whereof he might have refreshed his memory.

\* [7] h̅ige man geopne, 7 beopne    ness be willingly shewn, and those be  
be bæle, þam þe þearf 7f, and kind-    somewhat protected who need it. T.]

All the great men that then were faithfully promised that they would observe these legal statutes and decrees authoritatively published by King N. in our synodal convention, therefore I, N. (the grace of God thus ordering) archbishop of the people of York, being touched with the love of God and man, have recorded the same for the memory of posterity, and for the [souls'] health of them that are, and are to be.

A.D. MXIV.

KING ETHELRED'S LAWS ECCLESIASTICAL.

PREFACE.

THERE are four collections of laws, made at four several places, in the reign of King Ethelred, beside those of Ænham; the three first of these contain nothing relating to the Church: this last contains none but religious laws: they were made at a place called Habam; though Mr. Somner says it is written Badam in a manuscript of old belonging to the monastery of St. Augustine at Canterbury; afterwards in the hands of Sir Simon d'Ewes\*. They are the last of his laws, and therefore probably made toward the latter end of his reign, when the Danes had overpowered him, and had the main of the whole nation subject to them. I place them in the year 1014, when he was invited home to his people, from Normandy, whither he and his queen had gone for shelter: then he promised to rectify all that mal-administration with which he was charged: and the addition to the seven following laws concerning the office of a judge, seems to be a correction of former miscarriages. They are published in Latin only.

\* [In Ancient Laws, &c., Mr. Thorpe gives nine collections of laws made in the reign of King Ethelred (A.D. 978—1016) of which those made at Æn-

ham are the sixth collection, and those at Habam the eighth; the fifth, seventh and ninth are also ecclesiastical.]

A.D. MXIV.

1. THAT in the first place the one God be loved and honoured above all things, and that all men <sup>a</sup>obey their king, as their ancestors [did, when] they did it best, and together with him defend his kingdom. And it was ordained in the first place, that God's mercy and assistance be invoked with fasting, alms, confession <sup>'</sup>and abstinence from all misdoings, and from injustice †; and that one penny be given out of every <sup>b</sup>plough land, or what is worth a penny; and let every one that has a <sup>c</sup>plough land make every <sup>d</sup>hirman pay one penny. And if he have it not, let his lord pay it for him. And let every thane <sup>e</sup>pay tithe of all that he hath.

LATIN.  
Sir H.  
Spelman,  
vol. i.  
p. 530.  
[Bromton,  
p. 901.  
Wilkins,  
vol. i.  
p. 295.  
Thorpe,  
p. 144\*.]

<sup>a</sup> This looks like a recognition of King Ethelred's authority upon his restoration.

<sup>b</sup> Lat. *caruca* for *carucata*. N.B. These two first laws, as to substance, but in a different method, are extant in the Saxon, in a MS. of CCCC, marked S. 18, and printed by Mr. Wanley in the third volume [second.] of the Thesaurus, p. 138 †.

<sup>c</sup> Lat. *familia*, which is commonly taken to signify in these writers the same quantity of land that a hyde or carucata does; and Bede uses the word in this sense; but it is to be observed, that the quantity is not certain, but sometimes it implies but sixty acres, sometimes above double that quantity. Some land is more easily ploughed than others; some servants and horses can plough as much again as others; what was commonly ploughed in the whole year by one plough and team was called a plough land. Mr. Somner supposes that this penny is the sulh-alms elsewhere mentioned; but to me it rather seems to have been an extraordinary charity on this sad occasion of the nation being overrun with the Danes.

[Compare the note here with note a on answer 1, DOCKXXIV., where I suppose a plough land to have been under thirty acres in Bede's time.]

\* [Eth. viii., from Bromton (in X. script.) collated with the Macro and Holkham MSS.]

† [et abstinencia, et malefactis et injustitia abstinere. S. W. T.]

‡ [This document entitled Þjǫr man geymbe þa re mucele hepe com to lanbe, 'This was appointed when the

great army came to land,' is also given by Dr. Hickes in his *Dissertatio Epistolariis*, together with other Anglo-Saxon fragments clearly connected with K. Ethelred's Laws at Habam: see Hickes's *Thea. Diss. Ep.*, p. 107-8, also *Sermo Lupi*, A.D. 1014; *ibid.*, p. 99—106.]

When I say it is sometimes sixty acres, sometimes double that quantity, I fear this ought not to be applied to the age of King Æthelred, but rather to that of Richard I., and the following times.]

\* The priest's hirman, or hyreman, was what we call a parishioner. It is in Saxon *hipeb-man*, one that belongs to a convent, and then the Lord [Addenda.] is the head of the convent, [or one belonging to any family at large, then the master of the family is the lord.]

\* Here I follow Mr. Somner's conjecture, who supposes that it ought to be *decimet* instead of *detenet* \*. The MS. aforesaid confirms Mr. Somner's conjecture. There it is *heafob-m. teopian*, which is meant of an occasional tithing in devotion to God, not of the yearly tithes.

2. And we ordain, that every Christian who is of age, 'fast' three days in bread and water and raw herbs† before the feast of St. Michael, and let every man go to confession and to church barefoot; and let every man renounce his sins by making satisfaction, and ceasing from them. And let every priest with his people go in procession three days barefoot; and besides this let every priest sing thirty masses, and every deacon and clerk thirty psalms; and let every one's commons for three days be prepared, without any thing of flesh, as they themselves were to eat it, both in meat and drink, and let all this be distributed to the poor. And let every servant be excused from labour these three days, that he may the better perform his fast; [or] let him work what he will for himself. These are the three days, Monday, Tuesday, and Wednesday next before the feast of St. Michael. If any servant break his fast, let him make satisfaction with his hide; let the poor freeman pay thirty pence; the king's thane a hundred and twenty shillings; and let the money be divided to the poor. And let every priest, town-reeve, and tithingman be informed, that this alms and fasting is accomplished, so as they may be able to give their oaths of it upon the holy s things.

' While Apulia was infested by northern invaders, the Christians there obtained a signal victory, and were made believe that this was done by the assistance of St. Michael, whose help they had invoked by three days' fasting and humiliation: there can be no doubt, but the fast here enjoined

\* [decimet, T.]

† [Jejunet tribus diebus in pane et aqua et bis crudis, T. Spelman's emendation of 'herbis' for 'bis,' fol-

lowed by Johnson and Wilkins, agrees with the Anglo-Saxon documents in Hicke's *Disa. Ep.*, p. 107-8, already mentioned.]

was in imitation of that in Italy. But it is observable that there were in this age two Michaelmas days in the year. For a church was erected to this angel in Mount Garganus, where he was believed to have appeared and to have obtained a victory for the Christians; the foundations of this church were laid on the 8th of May, and it was consecrated on the 29th of September, by which means both these days became stated festivals. Durandus mentions but one of these, and that immediately after the *Inventio Crucis*\*, which must therefore have been the first; and there is reason to think, that this is the feast mentioned in the law now before us: for May, not September, is the time for military expeditions; but the latter is called Michaelmas in the Saxon Chronicle, A. D. MXI. They are both set down in the Saxon menology published by Mr. Wanly, in Ling. Aquil. Thes., l. ii. p. 107†, &c. This menology seems to have been made after the year 828, because it places All Saints' day on November first. But this was kept on the day of St. John Portlatin, in May, till Gregory the Fourth, who was advanced to the popedom in the year 828, translated it to November first, yet it was drawn probably before the end of that century: for St. Swithun and St. Edmund are not there mentioned. The menology published by Dr. Hicks in Saxon Grammar, p. 203, &c., mentions but one Michaelmas, and that on September 29; this therefore is recent in comparison of the other. Michael is said to have made another appearance in Monte Tumba. The feast kept for this is on November 16.

\* In Latin *sanctis*, without any substantive. It may be translated 'holy things,' 'relics' or 'books,' for oaths were made in this age on crosses, relics, mass-books, &c., as well as on the Gospels.

3. And we charge that one mass be sung every day in the morning in every congregation for the king, and all his people, [we mean] that mass which is entitled <sup>b</sup>against the pagans‡. And let the convent sing at every [canonical] hour, with their limbs extended on the earth, the psalm, "Lord [Pa. iii. 1.] how are they increased that trouble me," &c., and the collect against the pagans, and let this be done as long as we are under this necessity; and in every college, or convent of monks, let every single priest celebrate thirty masses for the

\* [Durandi Rationale, lib. vii. c. 12. n. 3. There can be no doubt that the feast meant in the above law of K. Ethelred is the dedication of St. Michael's church, Sept. 29, first celebrated at mount Garganus in Italy, A. D. 493. The feast on the eighth of May was called 'Apparitio Sancti Michaelis.' Compare Butler's Lives of Saints, May 8th and Sept. 29th; Smith's Bede, p. 427; Homilies of Ælfric, 'III. Kal.

Octobr. Dedicatio Æcclesie Sci Michaelis Archangeli,' vol. i. p. 502, ed. Thorpe; Anglo-Saxon version of Holy Gospels, ed. Thorpe, rubric, Matt. xviii. 1.]

† [Hickes, Thes., vol. ii. p. 107-8.]

‡ [III. Et præcipimus ut in omni congregatione cantetur cotidie communiter pro rege et omni populo suo una missa ad matutinalem missam, quæ inscripta est contra paganos. T.]

king and all the people, and let every monk sing thirty psalters.

<sup>b</sup> There is still a service in the Roman missal styled *contra Paganos*.

4. And we charge that every man for the love of God and His saints, pay the Church-scot, and his lawful tithe, as he did in the days of our ancestors, when he did it best; that is the tenth acre, as the plough goes; and let every custom be paid for the love of God, to the mother church, to which it belongs: and let no man take from God what belongs to Him, and what our ancestors have granted.

5. And we forbid any one to be sold out of his native country: if any presume to do this, let him be far from the benediction of God, and all the saints, and from every thing that belongs to Christians; unless he repent, and make satisfaction as the bishop shall direct.

6. And we forbid all robbery to every man: and let every man be deemed worthy of common right, whether rich or poor. And if any man have committed robbery, let restitution be made, and satisfaction<sup>†</sup>, according as he did it before or after\*. And if any reeve have committed it, let his satisfaction be double to what should have been adjudged to another man.

<sup>†</sup> I conceive the meaning to be, that he who committed robbery after the making of this law should be liable to a more severe sentence, than he who had done it before. Else I must confess that I do not understand it.

7. And let the alms-money be paid here at the feast of St. Michael: if any where else there be an arrear, [let it be satisfied] by a full mulct†. And let <sup>b</sup>God's rights be paid for the future every year, as to all particulars aforesaid, for the love of God and His saints; that so Almighty God may shew us mercy, and grant us victory over our enemies, and peace; 'for which let prayers be diligently made, that we obtain God's mercy here‡, and hereafter rest without end. Amen.

\* [sicut prius et postea stetit, T. The last word is 'fecit' in Spelman and in Bromton, ed. Twysden.]

† [VII. Et reddatur pecunia elemosinæ hinc ad festum Sancti Michaelis, si alicubi retro sit, per plenam

witam. T. Spelman and Bromton read 'hic.')

‡ [quem sedulo deprecemur, ut misericordiam ejus consequamur hic et gratiam, T.]



\* The reader cannot but see, that one principal design of this assembly was to secure the payment of ecclesiastical rights. And it is probable, that the misunderstandings between the king and his clergy were one chief occasion of his leaving England; and that the amendment of his administration, which he promised before his return, was meant principally in relation to ecclesiastical rights.

*Of the office of a judge.*

8. A judge ought to acquit himself in all respects, both as to mercy and judgment, so as in the first place to decree satisfaction in proportion to the crime, according to right knowledge; and yet to do it in measure, for mercy's sake. Some crimes are deemed by good judges to be satisfied for according to [strict] right: others to be pardoned for the mercy of God. Judgment ought to be without <sup>m</sup>'haderung,' that they may not spare to pronounce common right against rich <sup>a</sup>and poor, against friend and enemy. And nothing is more unjust than taking bribes for subverting of judgment; because gifts <sup>o</sup>blind the eyes of the wise, and pervert the words of the just, the Lord Jesus hath said, "with what judgment ye have judged, ye shall be judged." Let every judge fear and love his [sovereign] Judge, who sees all things, lest at doomsday he be dumb in His presence\*. He who oppresses the innocent and acquits the guilty for money, love, or hatred, or out of any faction, shall be oppressed by the Almighty Judge. Let no lord depute any imprudent or wicked judges†, lest the one through ignorance, the other out of covetousness, decline from the truth, which he hath been taught. For the poor are more grievously worried by wicked judges, than by the [most] violent enemies: no enemy more bitter, no plague more effectual, than a domestic adversary. One may by flight or defence escape wicked <sup>p</sup>enemies; but not judges when they are ill affected to the subjects. Good judges often have evil deputies, or ministers, whose principals become guilty if they do not restrain them, and put a stop to their rapacity. For the <sup>q</sup>Lord and minister of the world

LATIN.  
[Sir H. Spelman,  
vol. i.  
p. 532.  
Bromton,  
p. 903.]

[Deut. xvi.  
19.]  
[Mat. vii.  
2.]

\* [Timeat omnis judex et diligit Deum judicem suum, ne in die iudicii mutus fiat, et humiliatus ante oculos iudicis cuncta videntia. Br.]

† [Et nullus dominus, nulla potestas stultos aut improbos iudices constituant, Br.]

[Rom. i. 32.] says, "not only they who do, but consent to evil are worthy of eternal death." Wicked judges do often pervert judgment, and not finish a cause till their own desires are satisfied; and when they judge not deeds, but study for bribes, they

[Zeph. iii. 3.] are according to the word of wise men, "like greedy wolves in the evening, which leave nothing till the morning;" that is, they consider only the present life, and not at all that which is to come. Wicked reeves are wont to take away all they can, and not to leave so much as necessary subsistence. An angry judge cannot attend to the just satisfaction of the doom [book], for through the blindness of his fury he cannot discern the right, though never so clear. Judgment is just, when there is no consideration of persons, for it is written,

[Deut. i. 17.] "regard not the person of man in judgment." Taking of a bribe is an abandoning of the truth.

<sup>1</sup> For *tum* read *tamen*. Somner \*.

<sup>2</sup> This word seems to signify, 'respecting of persons,' *quasi Dabe-spung*.

<sup>3</sup> For *dimitti*, read *diviti*. Somner. For *rectori*, read *recitari*. Somner.

Sir H. Spelman does also own these two last readings in his glossary in the word 'haderung,' however he came to overlook them here. I must also observe, that I read *ut* for *quod*, immediately after 'haderung.' The whole was certainly originally in the Saxon tongue: the translation probably was never exact, but the transcribers have made it worse.

\* For *excitunt* read *excocant*. Somner.

† For *judices* read *inimicos*. Somner †.

‡ The Lord Christ, by His minister St. Paul.

§ *Attendere*, not *accedere*. Somner.

\* [so Bromton.]

† [All Somner's readings here quoted by Johnson agree with Bromton, ex-

cept this, which nevertheless seems a necessary emendation.]

A.D. MXVII.

KING CNUTE'S LAWS ECCLESIASTICAL.

PREFACE.

THIS year Cnute king of Denmark became king of England, and reigned till A. D. 1036; within this space of time the following laws were made, but in what particular year is not known.

This is the provision which Cnute, king of all England, and of the Danes and Norwegians, made with consent of his wise men to the praise of God and his own royal dignity, and the benefit of the people, at the holy midwinter-tide at Winchester.

1. The principal point is, that the one God be ever loved beyond every thing, and one Christianity uniformly observed, and King Cnute be duly and truly loved and honoured.

2. And that God's churches have peace and protection, and be duly frequented, to the health of our souls, and for our own benefit. Every church is of right in Christ's own protection; and every one that belongs to Christ hath great occasion to understand the great value of this protection. For God's protection is most to be desired, and regarded of all others; the king's in the next place. It is most just, that the protection of the church within its own walls, and that given by the hand of a Christian king, be ever inviolate: and let him who greatly breaks either of them, suffer the loss of lands and life, unless the king will pardon him. If any man ever from henceforth do so break the protection of the church, as to slay a man within its walls; then no satisfaction is to be accepted; and let all that are friends of God

SAXON.  
Sir H.  
Spelman,  
vol. i.  
p. 539.  
[Wilkins,  
vol. i.  
p. 299.  
Thorpe,  
p. 153\*.  
V. A.,  
p. 532.]

\* [Mr. Thorpe's Saxon text of these laws is from MS. (Cott. Nero A. 1.) G.]

pursue him ; unless it happen, that he make his escape and betake himself to so <sup>a</sup>powerful a sanctuary, that the king on that account grant him his life ; upon his making full satisfaction both to God and man ; that is, first that he pay the price set on his own blood to Christ, and the king, and purchase to himself the protection of the law, so as to be capable of making satisfaction. And if, with the king's consent, it come to a composition, then let him pay the satisfaction for breach of the church's protection, to the church, according to the payment made for the great breach of the king's protection ; and let him procure a reconciliation of the church, as is necessary on this occasion\* ; and let him pay full satisfaction to the kindred, and to the lord, and especially let him compound it with God, with all diligence.

\* Some sanctuaries had larger privileges than others, and could protect men for treasons, and other most enormous crimes, as others could not. St. Peter's at Westminster had as great privileges as any in this province, and the church of St. John of Beverley in the other province.

3. If the protection of the church be violated by any other means, let satisfaction diligently be made in proportion to the fact, whether it be fighting, rapine, or whatever else ; first let satisfaction be paid to the church for the violation of its protection, and that according to the dignity of the church. Nor are all churches of equal dignity in respect to the world, though they are equally hallowed †. The breach of protection in a head church is, in the case of satisfaction, equal to the breach of royal protection, that is <sup>b</sup>five pounds, according to the law of the English ‡ ; and in a middling church, a hundred and twenty shillings, which is the same with the mulct to the king ; and in a lesser church, that hath a bury-

\* [ ] þa mýnster-clænunge begite ꝛpa þær-to gebýrge, and the purification of the minster be gotten, as is thereto besitting. T.]

† [Bete man æreft þone gnrð-býrce into þære crícan, he þam þe je . d . b . rý, 7 he þam þe þære crícan m eð rý. Ne gnrð ealle cýrcean na gelicpe inæðe þeowu bli e purð . reifer þýrðe, beah lag g . drund ice halgunge habban gelicce. First, let 'bót' be made for the 'grith-bryce' to the church, according as the deed may be, and as

the rank of the church may be. All churches are not secularly entitled to a like degree of reverence, although divinely they have like consecration. T.]

‡ [Johnson omits 7 in Lent-lande æt þam mundbryce v. pund þam eugce 7 þreo þam spcebyrcope, and in Kent for the 'mund-bryce,' v. pounds to the king, and three to the archbishop. T. In omitting this clause Johnson follows Spelman, but Wilkins gives it as Thorpe.]

ing place, but where little service is done sixty shillings; and in a country church, where there is no burying place, thirty shillings.

\* Five pounds seems to be double to a hundred and twenty shillings, that is, it was two hundred and forty shillings; but this is upon supposition that the pound was forty-eight shillings, as most antiquarians have laid it, it will not be so by any other computation: and by this means the diminution of the payment bears a proportion to the dignity of the church. Two hundred and forty shillings for a first-rate church, one hundred and twenty for a second-rate church, sixty for a third-rate church, and thirty for a fourth-rate church.

4. It rightly concerns all Christian men to observe the peace and protection which belongs to every holy thing and person, and God's hallowed house; and that they honour every order according to its dignity: therefore\* let him that will, or can, understand, that great and remarkable is that which the priest hath to do for the benefit of the people, if he aright propitiate the Lord; 'great is the exorcism, remarkable is the consecration, [by] which he expels the devil†, and puts him to flight, as oft as he baptizeth a man, or consecrates the housel, for angels glide about the place, and guard those holy actions, and assist the priest with a divine power, as oft as he duly ministers to Christ; and this they always do, when with inward earnestness of heart they call upon Christ, and intercede for the wants of the people. And a diligent man ought distinctly to know the dignity of orders in the fear of God ‡.

5. If it happen that a priest who lives regularly be impleaded for crimes, and want of skill§, and he knows himself to be clear, let him say mass, if he dare, 'and make his purgation by himself alone, if it be a 'single accusation¶; if the accusation be triple, let him purge himself on the housel if

\* [ƿopðam, because, T.]

† [Gicel is ƿeo halgung ƿ mæpe is ƿeo halgung þe beofla arƿƿrað, much is the supplication, and great is the hallowing which sendeth away devils. T.]

‡ [ƿ þa man ƿceal ƿop Lober ege mæðe on hæbe gecnapan mið ƿerceabe, and therefore, for fear of God, rank is discreetly to be acknowledged in holy

orders. T. Spelman's text has ƿ higman ƿceal, which Johnson translates 'And a diligent man' &c.; there can be no doubt that Thorpe's text and translation is right.]

§ [uncƿærcum, evil practices, T.]

¶ [ƿ labige on þam huple, ƿýlf hine ƿýlne, æt anfealþre ƿƿæce, and himself clear himself on the housel, in a simple suit, T.]

he dare, together with two of the same order with himself\*. If a deacon that lives regularly be impleaded by a single accusation, grant him two of the same order, and let them make purgation with him. And if he be impleaded by a triple accusation, let him take six of the same order, and make his purgation, himself being the seventh. If a vulgar mass-priest that has not lived regularly be impleaded, let him purge himself as the deacon that has lived regularly. If a minister of the altar that hath no friends be impleaded, and has none to support him in his oath, let him go to <sup>d</sup> 'corsned,' and be the event as God will; unless he be allowed to make his purgation on the housel. If a man in orders be impleaded for a mortal feud, and that he has been principal, or adviser in a murder, let him make purgation with his kindred, who must support the feud together with him, or else make satisfaction for it. If he is without kindred, let him make purgation with his equals, or betake himself to fasting, if he be forced to it, and go to the 'corsned,' and be the event as God hath decreed. There is no occasion by right for any monk either to demand, or to pay, any satisfaction for a feud in any place: he deserted all rights of cognation, when he submitted to the monastic law. And if a mass-priest do ever any where stand by a false testimony, or a false oath, or be a complice or principal in any theft, then let him be expelled from clerical communion, and lose the privilege of <sup>e</sup> brothership and friendship, and all '[worldly] worship, unless he make deep satisfaction with God and man, as the bishop directs, and find surety to abstain from such like from thenceforth for ever. And if he will purge himself, let him do it according to the quality of the fact, either by triple or <sup>z</sup> single purgation.

\* That is, an accusation by three men; a triple accusation is when there are six accusers.

<sup>d</sup> This was an inferior sort of ordeal; it is commonly supposed to have been eating of dry bread, and praying that it might choke them if they were guilty. It is more probable, that it was eating barley bread with cheese, after several prayers and ceremonies used over it by the priest, to discover whether he that was to eat it were guilty or not. See the 'Exorcismus Panis hordeacei, et casei,' transcribed from the Textus Roffensis, in

• [See King Wihfred's Dooms, A.D. 696, c. 18—24, pp. 149 sqq.]

the *Fasciculus Rerum*, vol. ii. p. 910\*. N.B. There is in the decretals of Greg. IX., t. xxxiv. c. 8 †, a story of a priest who being suspected of murder, pretended to have purged himself by cold-water ordeal.

\* Brotherhood signifies that privilege which they had by being members of one of those fraternities mentioned in the 9th canon of King Edgar, 960.

[In the *Textus Roffensis*, p. 222, we have an account of what devotions [Addenda] and alms the convent there was to perform for their mates in other monasteries when they died, with this inscription, *Quid pro defunctis sociis facere debemus*. Then it begins by setting down what must be done, "For the monks of Christ-Church, Canterbury, viz., seven entire offices, *Verba mea* (the fifth Psalm) for thirty days, every priest seven masses, others [fifty] psalms. For the monks of St. Austin, the apostle of the English, three offices in the convent. For the nuns of Mellings (Malling) as much as for the monks of Christ-Church, Canterbury. For the monks of St. Martin of Battel, three offices in the convent, without *Verba mea*. Every priest seven masses, others [fifty] psalms, and let three poor men be entertained one day." Most of the great monasteries in England, many of those beyond sea, have a certain tale of masses, psalms, or other devotions there assigned, to be performed at the death of any of the religious of those houses. By this we may perceive in some measure, how the monks (I mean the best of them) spent their time. The priest that broke this fifth law of Cnute's, forfeited his right to these devotions, which his mates would otherwise have performed for him at his death; and all assistance likewise, which they might give him, while living.]

† See the next law.

‡ Here I follow the old Latin translation. The Saxon instead of this says, what it had said in other words before, that the purgation must be in proportion to the law.

6. Our will is, that all ecclesiastics carefully obey their proper rule; and that the servants of God, bishops, abbots, monks and mynechens, canons and nuns, do this in an especial manner, and live regularly; and day and night full oft call upon Christ, and earnestly intercede for all Christian

\* [The same extracts are given in Hearne's *Textus Roffensis*, p. 33-7, beginning with these words,

"Incipit exorcismus panis ordeacii et casei, quorum appensio unius uncie."

"CORNEAD, panis conjuratus, offa consecrata: a species of ordeal, in which the accused had to place in his mouth a slice of bread or (rather and) cheese; if he ate it freely and without hurt, he was considered innocent; but guilty if it stuck in his throat, and had to be

extracted. In Christian times the host was used for this purpose. From 'cor,' 'kur,' trial, proof. Grimm. D. R. A., p. 932. See also D. M. p. 642, note." Thorpe, Glossary. The latter part of the word is *rnæb*, a slice, connected with *rnān*, to cut, as in German, schneiden. See Bosw. Dict. *rnæb* and *rnān*.]

† [Decret. Greg. IX., tom. v. tit. 34. c. 8. ap. Corp. Jur. Can., tom. ii.]

people: and we command and charge all the servants of God, and especially priests, that they obey God, and love chastity, and secure themselves against the wrath of God, and the furious flames that rage in hell. Let them know full well, that they cannot of right converse with women in a carnal manner. And let him that will desist from this and preserve chastity, find mercy with God, and for his worldly worship be worthy of the right of a <sup>1</sup>thane. And let every Christian man for fear of his Lord diligently avoid all unlawful copulation and duly observe the divine law.

<sup>b</sup> Monks, mynechens, canons, and nuns. By this it appears, that the more regular veiled women were not in this age called nuns, but they who were less strict in their discipline. The mynechens of the female sex were on the same foot with the monks of the male; and these were certainly, as to their profession, the most exact and severe. The nuns of the female sex answered to the canons of the male, and their profession was not so rigid as the former. But this distinction is not every where to be met with <sup>c</sup>.

<sup>1</sup> The thane was a minor nobleman, or a principal gentleman, as we now speak. See *Athelstan*, 926, No. 2, 3, 4.

7. We enjoin, and charge, and command, in God's name, that no Christian man do ever take a wife of his own kin within the sixth degree of relation, nor the widow of a kinsman so nearly related to him, nor of the kindred of a wife whom he formerly had, nor of his sureties at baptism, nor a consecrated nun, nor a divorced woman; nor practise any unlawful copulation. Let no man have more than one wife, and let her be a wedded wife, and let him remain with her only, so long as she lives, if he will rightly observe God's will, and secure his soul against hell flames.

8. Let God's rights be duly paid with diligence every year, viz., plough-alsms fifteen days after Easter, and tithes of young by Pentecost, and of the fruits of the earth by <sup>k</sup>All-hallows-mass: and if any one then will not pay, &c. † *As in the third law of King Edgar.*

\* [See above, p. 482, note §.]

† [And if then any one will not pay the tithes as we have decreed; that is the tenth acre, so as the plough traverses it; then let the king's reeve go, and the bishop's and the 'land-rica's,' and the mass-priest of the minster, and take forcibly the tenth part for the

minster to which it is due, and assign to him the ninth part; and let the eight parts be divided into two, and let the land-lord take possession of half, half the bishop, be it a king's man, be it a thane's. T. Compare above p. 341, note †.]



\* By the equinox, says King Edgar's law 3, 958. Probably then they were paid in the field, now in the barn, after they had been thrashed.

9. The Rome-fee is to be paid by Peter-mass: he that detains it over that day, let him pay the bishop that penny, and thirty pence more; and to the king <sup>1</sup> one hundred and twenty shillings.

<sup>1</sup> The Latin has one hundred and twenty instead of two hundred and twenty in this and the next law.

10. And the Church-scot at Martin-mass, and let him that detains it beyond that day pay <sup>m</sup> eleven times as much to the bishop, and two hundred and twenty shillings to the king \*.

<sup>m</sup> The Latin has XL., perhaps by mistake for XI.

11. *This is the same with the second ecclesiastical law of King Edgar, concerning the thane that hath a church on his own land †.*

12. And the light-scot thrice a year, first a half-penny worth of wax on Easter-eve for every plough-land, and as much again at All-hallow-mass, and again also at St. Mary's Purification.

13. And it is most just that the <sup>n</sup> soul-scot be paid while the grave is open. And if any corpse be buried in any other than its proper district; yet let the soul-scot be paid to that minster ' to which [the deceased person] had been a retainer †.

\* This was an oblation to the priest for performing funeral rites, masses, and other devotions in behalf of the deceased ‡.

14. And let every man very diligently preserve God's rights, as there is occasion. Let feasts and fasts be observed, every Sunday feast from Saturday ° noon till Monday-morning light; and every other festival, as is enjoined.

° See 958, 5.

15. We strictly forbid Sunday's market, and county court

\* [ægýre hine þam byrceope, 7 for-gýlbe hine xi. 7 riðan, 7 þam cniſce cxx. 2 7 all, let him pay it to the bishop, and indemnify him xi. fold, and to the king cxx. shillings, T. eum reddat episcopo, et undecies persolvat, et regi cxx. sol. V. A. Lambard has 'enbripan, (eleven) and 'ccxx.]

† [See above, A. D. 958, c. 2.]

‡ [þe hit to-hýpbe, to which it belonged, T.]

§ [" See Sir H. Spelman de Sepultura, ad finem. The same law in Can. Eanham, M IX. 14." MS. note, Wrangham.]

also, unless in case of great necessity. And let huntings and all worldly works be diligently forborne on the holydays \*.

16. And let solemn fasts be observed (whether ember fast, or Lent fast, or any other fast) with all diligence; the fast before all <sup>p</sup> St. Mary's masses, and before all the apostles' masses, (excepting that we do not command a fast before St. Philip and Jacob's, <sup>q</sup> on the account of the feast of Easter,) and every Friday's fast, (unless it be a feast,) and no man need fast from Easter to Pentecost, (unless one be under penance, or that he choose to fast,) or from mid-winter till the octaves of Epiphany †.

<sup>p</sup> Viz., Purification, Annunciation, Assumption, Nativity, &c.

<sup>q</sup> All the fifty days between Easter and Whitsuntide were looked upon as festival in a lesser degree.

17. And we forbid ordeal and oaths on festivals, and ember, and Lent, and solemn fasting days; and from Advent till eight days are past after twelfth-tide; and from Septuagesima till fifteen nights after Easter. And wise men have chosen <sup>r</sup> St. Edward's mass-day to be kept as a festival all over England, on the fifteenth of the kalends of April, and St. Dunstan's mass-day on the fourteenth of the kalends of June: and let there be common peace and unity on these holy tides to all Christian men, as right is, ' and let all hypocrisy be far away †. And if one have given security, or owe a man satisfaction upon any temporal account, let him pay it before or after.

<sup>r</sup> Edward, king of the West-Saxons, and of all England, was barbarously murdered about the year 978, and was afterwards canonized for a saint.

18. We charge all Christians, for God's love, that they earnestly consider their own benefit. For we should all be in expectation of the time when we should rather have wrought the will of God while we might, than [enjoy] all that is on the earth. Then we shall all have one single re-

\* [on þam halgan bæge, S. W. T., on that holy day, T.]

† [þ 17 feoren niht ofen twelftan mæsse-bæge, W. T., that is seven days after the twelfth mass-day. T. not in

MSS. A. B. or Spelman.]

† [7 ælc facu tocræmed, and let every dispute be settled, T. Spelman read 7 ælc facu to cræmed.]

compence, even that we have before wrought [for ourselves] in our lifetime. Woe be to them that have deserved hell punishment. But come on, let us most earnestly turn from sin, and confess every one our misdeeds to our shrifts, and for ever desist from and make diligent satisfaction for them, and do the same to others, that we would have done to ourselves, (this is righteous doom,) and effectually propitiate God. And he is perfectly happy, who hath held fast this doom. For God Almighty made us all, and again bought us all at a dear rate, that is with His own life, which He gave for us.

19. And let every Christian act for his own benefit, and have an earnest concern for his Christianity, and prepare himself to go to house three times a year at least. And he that will know his own interest, let him industriously reform every friend by word and work in that which is right \*; and carefully observe oath and covenant; and let all injustice be driven out of this land so far as it is in the power of man. And let God's right be earnestly loved henceforth, both in word and deed; then would God's mercy be nearer to us all.

20. Come on, let us do as we desire to teach, let us be faithful and true to our lord, and ever defend his honour, with all our might †, for whatever loyalty we perform to our right lord we do it all to our own benefit, for God will be faithful to such. Every lord also has to a great degree his advantage in this, viz., that he duly keep faith with his men.

\* His tenants and vassals.

21. Let every Christian carefully learn ever to love God inwardly with the heart, and earnestly to maintain true Christianity, and diligently to attend to the divine doctors, and full oft to contemplate and study the instructions and laws of God to his own benefit.

22. And e charge that every Christian learn to know at

\* [7 geþrife hine eac to hufel-  
gange hupu þrifa on geape, gehpa hine  
fýlne, be his agene þearfe þýle un-  
þerftan, swa swa him þearf sig.  
And þonb 7 þeopc fpeonda gehþýlc  
fabiþe mid þihre, and also prepare  
himself to go to house at least thrice  
in the year; every one himself, who

will understand his own need, so as is  
needful to him. And let every friend  
guide his words and works aright, T.]

† [Johnson omits 7 his willan gefþýp-  
can, and execute his will, T. These  
words are also in Lambard, Spelman,  
and Wilkins.]

the least the right faith, and be expert at *Pater Noster et Credo*. For with one of them the Christian should pray to God, and with the other declare his right faith. Christ Himself first sang *Pater Noster*, and taught that prayer to His disciples; and in this divine prayer are seven petitions. He that inwardly sings this he does his own message to God for every necessary want, either in relation to this or the future life. But how can a man ever pray inwardly to God, 'unless he have an inward faith in Him? Therefore he hath no Christian communion in the consecrated places of rest, after death; nor is he capable of the housel in this life\*, nor is he a good Christian who will not learn it; nor can he be surety for another at baptism, much more at the 'bishop's hands, till he have first learned well to rehearse it.

\* Confirmation.

23. And we charge a man to shield himself diligently at all times against deadly sins and diabolical deeds, and let him carefully make satisfaction (with the advice of his shrift) who hath fallen into sin by the instigation of the devil.

24. And we admonish all men that they always guard themselves against uncleanness, unlawful copulation, and breach of wedlock.

25. And we strictly charge every one to have always the fear of God in his mind, and that he be afraid of sin by night and by day, and be in dread of doomsday, and to have a horror of hell and an apprehension of his last day as always at hand.

26. 'Let the bishops be preachers and doctors of God's laws†; and they ought diligently to give in charge, and exemplify men's duty toward God. Let him that will, take warning. For that shepherd will be found useless to his flock, that will not at least give them a caution by lifting up his voice, if any public invader make an attempt; over and

\* [butan he on lōb hæbbe inweaplice ȝoðe lufe ȝ juhtne gelesan, ȝorþam he nah wæter ȝorð-ȝiðe mið cwiŕtenpa manna gemanan, ne on gehalgeban lic-tune to weŕtene, oþþe heŕ on lufe huþer beon ȝȝoðe, unless he have inward true love for, and right belief in God; for after his departure

hence, he may not, in community with Christian men, rest in a hallowed burial-place, or here in life be worthy of housel. T.]

† [Byrceopas ȝynban býbelas ȝ lōber lage lapeopas, Bishops are heralds, and teachers of God's laws. T.]

above other means that he may use. And there is no invader so mischievous as the devil. This is his only [aim] how he may do most hurt to the souls of men. Then should the shepherds be very wakeful and earnestly call out, who are to protect the people against invaders; that is, bishops and mass-priests ought to caution and defend the flock of God with their wise instructions, that the furious wolf may not tear in pieces, or bite too many of them, and he that neglects to hear God's ambassadors, let him contend with God Himself\*. Let God's Name ever be blest. To Him be praise, glory, and honour, for ever and ever. Amen.

\* [hæbbe hine gemæne þæt wif Lob rýlne, let that be between him and God Himself, T.]

A.D. MXVIII.

MR. LAMBARD has also published eighty laws of this King Cnute: out of which these following are selected as relating to the Church and religion, with a short preface in these words.

SAXON.  
[Lamb.,  
p. 107.  
Sir H.  
Spelman,  
vol. i.  
p. 552.  
Wilkins,  
vol. i.  
p. 305.  
Thorpe,  
p. 161.  
V. A.,  
p. 536.]

This is the secular provision, which I command, with the advice of my wise men, to be observed over all England.

1. This is the principal point that I command, that right law be advanced, and every thing contrary to it be demolished; and that whatever is unrighteous be cut down and rooted up out of this land with all diligence, so far as possible, and that God's rights be upheld. And henceforth let every man, whether rich or poor, be esteemed worthy of right \*, and let him be judged with a just doom.

2. We charge, that though a man commit such a crime, as to have forfeited himself to the last degree, yet let judicature be so regulated, that it be moderate<sup>†</sup> in respect to God, tolerable <sup>b</sup>in respect to the world. And let him that presides in judicature consider very seriously what he desires [of God] when he thus says, "Forgive us our trespasses, as we forgive them that trespass against us:" and that they do not rashly condemn Christian men, especially to death, for matters of very little moment; and in other cases<sup>‡</sup>, that the judicature be tempered with gentleness, for the public benefit. But let not God's handy-work, and His purchase which He dearly bought, be destroyed for things of small value.

\* That is, to the penance to be enjoined by the bishop.

<sup>b</sup> As to the bodily, or pecuniary punishment to be inflicted by the secular judge.

\* [folc-rihter, of folk-right, T. FOLC-RIGHT, the original, unwritten understood compact, by which every freeman enjoys his rights as a freeman. The common or customary law of the

land. Thorpe, Glossary.]

† [gebeophlic, becoming, T., clementius, V. A.]

‡ [ac eller, but rather, T.]

3. And we forbid any Christian to be sold wholly out of the land, or into a heathen country, lest the soul which Christ bought with His own life should perish.

4. We command that a purgation of the land be undertaken from one end to the other; and that there be a cessation from all heinous crimes. And that if witches, or conjurers, or privy murderers, or harlots are discovered any where in the land, they be with all diligence driven out of it, or that they wholly depart of themselves\*. And we command, that 'apostates† and such as are outlawed by God and man, be gone off the land; unless they will submit and make deep satisfaction: and that thieves and public robbers be forthwith put to death, unless they desist.

\* Probably such as had for many years continued obstinate under the sentence of excommunication, or had forsaken religious assemblies, and lived in neglect of all sacraments.

5. We strictly forbid all heathenism, or that men worship idols, or heathen gods, the sun, the moon, the fire, or the rivers, fountains, or stones, or any kind of trees; or to practise witchcraft, or to contrive any private murder either by 'lots, or firebrands, or to do any thing by such like jugglings †.

\* This was what was properly called *soecry*, in Latin *sortilegium*.

6. Let murderers, and forswearers, and violators of holy orders, and adulterers, either submit and make satisfaction, or be gone out of the country with their sins.

7. Let 'flatterers and liars, and rapparees, and free-booters § incur the severest wrath of God, unless they desist and make

\* [opbe on eapbe forpape hi mib ealle, buton hi geyppican 7 be deoppog gebetan, or let them totally perish in the country, except they desist and the more thoroughly amend. T. Compare Laws of K. Edw. and Guthrum, c. xi. p. 335. Canons of Enham A.D. 1009, c. 4. [7. T.], p. 484.]

† [wiðerpacan, adversaries, T.; wiðerpacan, i. e. apostate, V. A.]

‡ [opbe on blotæ opbe on fyphre opbe on fyllca gedrimena ænig þing ðneoge, or by 'blot,' or by 'fyrht;' or perform any thing pertaining to such

illusions. T.

"The variation 'on hlætæ' is only found in the least accurate of our MSS., though it appears to have occurred in the text used by the author of the old Latin version, 'aut in sorte.' There is no other record of its existence, and 'on blotæ' is supported by the reading of the N. P. L." Ancient Laws, &c. p. 162, note a. Compare above, A.D. 950, c. 47.]

§ [VII. Licetepa 7 leogepa, fýpepa 7 pearepa, Let cheats and liars, robbers and reavers, T.]

deep satisfaction; and he ought to correct such like, and to avoid such like, who will duly purge the land, and depress wrong and practise righteousness.

• Or gluttons.

[18. T.]17. 8. *The same with the seventh law of King Edgar, that the bishop should sit upon the bench with the alderman\**.

[38. T.]  
[35. L.]

9. What is contrary to right is allowed at no time; 'yet a man ought to guard himself especially at holy times and places †, and the greater his authority is, or the higher order he is of, the deeper satisfaction shall he make for the wrong, both in regard to God and to the world. And let satisfaction be always diligently sought for toward God by the canon book ‡, and toward man by the secular law.

[39. T.]36. 10. If one murder an 'altar-thane, let him be <sup>o</sup>outlawed with God and man, unless he make deep satisfaction (by pilgrimage) as well as with his kindred, or else <sup>b</sup>let him purge himself, as in cases of blood. And within thirty nights let him begin to make satisfaction to God and man, with all that he hath §.

\* That is a priest, against whom no objection lies. See *Athelst.* II. ¶

† To be outlawed with God is to be excommunicated.

‡ Lat. *Werelada se inleyiet*, let him recover the protection of the law, by paying a satisfaction as for blood; and this better coheres with the rest of the law, but I conceive the Saxon will not bear this construction.

\* [18. And thrice a year let there be a 'burh-gemōt,' and twice, a shire-'gemōt,' under penalty of the 'wite,' as is right; unless there be need oftener. And let there be present the bishop of the shire and the 'ealdorman;' and there let both expound as well the law of God as the secular law. T. Compare A.D. 958, c. 7.]

† [‡ beah man ꝥceal ꝥpeoły-ṭaban ꝥ ꝥæcen-ṭaban ꝥ on ꝥpeoły-ṭropan geornlicorṭ beoṭgan, and yet at festival-tides, and fast-tides, and in festival-places, one ought most earnestly to take care. T. et tamen est festis diebus et sanctificatis locis propensius interdicta (sc. injusticia), V. A. Lye's interpretation of ꝥpeoły-ṭrope seems preferable, 'Locus in quo festivitas consecratæ diei celebrari solebat.' See *Ancient Laws*, &c., p. 171, note a.]

‡ [be boc-tale, according as the books prescribe, T.]

§ [XXXIX. De ministrum altaris

occidente. Lij hpa peofoṭ-ṭen aꝥlle ꝥy he uclah ꝥiṭ Lob ꝥ ꝥiṭ men, butan he ṭuṭh ꝥꝥec-ṥiṭ be beoṭṭon gebeṭe ꝥ eac ꝥiṭ ṭa mæṭṭe, oṭṭe zelabige hine miṭ ꝥeṭ-lade ꝥ binnan ṭuṭṭum nihta aṭinne boṭe, wṭṭeṭ ꝥe ꝥiṭ Lob ꝥe ꝥiṭ men, be callum ṭam be he aṭe.

39. If any one kill a servant of the altar, (peofoṭ-ṭen,) let him be an outlaw to God and to men, unless he the more thoroughly make 'bōt' through exile, and also to the kindred, or clear himself by a 'werlād;' and within thirty days let him set about the 'bōt,' both to God and to men, on peril of all he possesses. T. A 'lād' equivalent to the wergild of the party. *Ancient Laws*, &c. p. 171, note b.

"In the compounds 'mæṭṭe-ṭeṭn' and 'peofoṭ-ṭeṭn' the word 'ṭeṭn' is not a title of honour, but is used in its primitive sense of servant, minister." *Thorpe*, Glossary, art. *ṭeṭn*.]

¶ A.D. 926, c. 2. [5.] p. 352.



11. If a man in orders, or a stranger be seduced to any 37.[40. T.] thing that touches his goods or life, then shall the king be instead of kindred, and advocate to him, if he have none else\*. But let him make such satisfaction to the king, as is customary, or else let the crime be severely revenged. For it becometh a Christian king deeply to revenge offences against God, with rigid justice, in proportion to the fact.

12. If an altar-thane be a manslayer, or commit any 38.[41. T.] grievous crime, let him suffer the loss of his orders, and of his country, and go as far away in pilgrimage as the pope enjoins, and diligently make satisfaction for it. And if he will purge himself, let it be with a triple purgation. And unless he begin his satisfaction within thirty nights †, let him be outlawed.

13. If one bind or beat or grievously reproach an eccle- 39.[42. T.] siastic person, let him make satisfaction as right is; and let the bishop [have] the satisfaction due to the altar, according to the dignity of [the injured person's] order; and [let satisfaction be paid] to the lord or the king, 'as for a notable breach of his protection ‡, or else let him purge himself with a full purgation.

14. If an ecclesiastic have forfeited himself by committing 40.[40. T.] a capital crime, let men overpower him, and reserve him to the bishop's doom [which is to be passed] according as the crime is.

15. If a man guilty of death desire confession, let no man 41.[44. T.] ever refuse it him: if he do, let him make satisfaction to the king with a hundred and twenty shillings, 'or bring him to a purgation §, let him take five men, and be himself the sixth.

\* [XL. Líf man gehabodne man oppe wæþeobigne þuþ ænig þing forpæbe, æt seo oppe æt feoþe, þonne sceal him cýningc beon for mæg ⁊ for mundbopan, buzon he elles oþerne hlaford hæbbe, and if any one wrong a man in holy orders, or a foreigner, through any means, as to money or as to life, then shall the king be unto him in the place of a kinsman, and of a protector, unless he have another lord besides. T.]

In the words 'be seduced' and 'advocate,' Johnson follows the old Latin version, which in the former instance,

seems to give the true interpretation of forpæbe, 'miscounsel:' the wrong of personal injury seems rather to be the subject of law 13, below. Compare Laws of Edward and Guthrum, c. 12, above, p. 335. Thorpe, p. 74, and Eth. IX. c. 33. Thorpe, p. 148.]

† [wið Lob and wið men, to God and to men, T. These words, omitted by Johnson, are also in Lambard and Spelman.]

‡ [be fullan mundbþýce, according to the full 'mund-bryce,' T.]

§ [oppe gelabige hine, or clear himself, T.]

[45.T.]42. 16. If man may govern\*, let no one that has forfeited himself ever be put to death on the Sunday's feast, except he fly or fight; but let men overpower him, and keep him in hold till the feast-day be past. If a freeman work on a festival day, let him make satisfaction by the pillory, and especially let him diligently make satisfaction with God, as he is enjoined. If the slave work, let him forfeit his hide, or a compensation for it in money, in proportion to the fact. If the lord force the slave to work on the festival, let him forfeit the slave, and let [the slave] be free. And let the lord pay a fine among the Danes, a mulct among the English, in proportion to the fact; or else let him make his purgation.

[Addenda.] [For 'the pillory' read the *healfranz*. See 696. 12, 13.]

[47. T.]43. 17. If a free man break a solemn fast, let him pay a fine with the Danes, and a mulct with the English, in proportion to the fact. It is wicked for a man to eat his first meal on a fast day†; yet it is worse for a man to defile himself with flesh. If a slave do it let him forfeit his 'hide‡, in proportion to the fact.

† That is, let him be whipped.

[48. T.]44. 18. If any one do openly break Lent by fighting, \*uncleanness with women, rapine§, or any mortal crime, let the satisfaction be double (as likewise on high festivals) in proportion to the fact: and if he deny it, let him purge himself with a triple purgation.

\* *Wylac* does commonly signify marriage, so does *nuptiæ* among the Latins, yet with old divines and canonists it hath a foul sense, and *nubo* often signifies to commit uncleanness: and this meaning of the word best comports with the notion of a high or deadly sin, and with the double mulct here inflicted on it. For to marry, or lie with a wife, at other times was no sin, and had no mulct annexed to it; but the fact here meant

\* [Lif man pealban mæge, If it can be helped, T.]

† [Yfel bið þ man niht færcen-  
tibe sarp, mæle etc. It is sinful that any  
one at a lawful fast-tide, eat before the  
time, T. Malum est, ut tempore jeju-  
niorum ante horam comedat, V. A.]

‡ [oppe hýb-gilber, or 'hide-gild,'  
T. This addition is omitted in MS. A,  
as well as in Lambard and Spelman.]

§ [þurh feoht-lac, oppe þurh sý-  
lac, oppe þurh pear-lac, through fight-  
ing, or through fornication, or through  
robbery, T.]

must be such a one as was punishable at other times ; otherwise it could not be doubly punished in Lent.

19. If a man do with violence oppose the payment of <sup>45.</sup>[49. T.] God's rights, let him pay a fine among the Danes, a full mulct among the English ; or else let him purge himself with eleven [men], himself being the twelfth. If he wound any man, let him make satisfaction, and pay a full mulct to the lord : and let him redeem his hands of the bishop, or let them be cut off. If he kill a man, let him be outlawed ; and let all that would have right done pursue him with hue and cry. If he by opposing right cause men to kill him, and this be averred, let him lie without any satisfaction.

20. If a man violates holy orders, let him make satisfaction <sup>46.</sup>[50. T.] according to the dignity of the order, by weregild, by mulct, by fine, by the loss of all his estate.

21. If a man commit breach of matrimony, let him make <sup>47.</sup>[51. T.] satisfaction in proportion to the fact. It is a wicked breach of it for a 'religious' man to lie with any, more so to lie with another man's wife, or with a religious woman\*.

<sup>1</sup> That is, a monk or canon.

22. If one commit incest, let him make satisfaction ac- <sup>48.</sup>[52. T.] cording to the degree of relation [that is between the parties] by weregild, by mulct, by fine, and by all his estate. For a man to commit incest with his sister, and with one remotely related are not the same thing.

23. If one commit a rape on a widow or maid, let satis- <sup>49.</sup>[53. T.] faction be made with a weregild.

24. If a wife in her husband's lifetime lie with another <sup>[54. T.]</sup> man, and it be notorious, let her be a perpetual shame† to herself for the future, let her lawful husband have all her estate ; and let her suffer both the loss of her nose and her ears. 'If it be only a vehement suspicion ‡, and she be cast

\* [Yfel æp-brýce bið þ æp-ræst man mid emtice forlicge 7 mýcele pýpne wið oðþer æpe oðþe wið gehaðode, It is a wicked adultery when a married man lies with a single woman, and much worse, with another's wife or with one in holy orders. T. Malum adulterium est, si sponsus cum vacua

fornicetur, et multo pejus, cum sponsa alterius, vel cum ordinata, V. A. Compare Excerptions of Ecgbriht [134-6] A.D. 740.]

† [populb-rcæame, a worldly shame, T.]

‡ [7 33; hit tihle 7], and if it be a prosecution, T.]

at her purgation, 'let the bishop act at discretion\*, and let him pass a severe sentence on her.

\* This seems to be a demonstration, that a wife by the common law among the Saxons and Danes had, or might have a peculiar estate distinct from her husband. Stiernhook is cited by Dr. Hicks in his preface to his Thesaurus, (p. 42,) for asserting that wives among the old northern people had an absolute right, not only in the goods, but the lands, with which her husband endowed her, so as to alienate or dispose of them at discretion.

[55. T.]50. 25. If a married man lie with his own slave, let him suffer the loss of her, and make satisfaction for himself with God and men: and he who hath a lawful wife, and also a concubine, let the priest perform none of those rites to him, that ought to be performed to Christian men, till he desist and make deep satisfaction as the bishop enjoins, and let him ever forbear the like.

[56. T.]51. 26. If foreigners refuse to reform their uncleanness, let them be gone off the land with their estates and their sins †.

[57. T.]53. 27. If one have been killed by notorious murder, let [the murderer] be delivered to the kindred; if it be only a vehement suspicion ‡, and he miscarry at purgation, let the bishop be judge.

[59. T.]55. 28. If one break suretyship with the king, let him make satisfaction with five pounds; if with the archbishop, or °one of the blood royal, with three pounds; if with the bishop of the people, with two pounds §.

° This is the most proper signification of *æþehng*, though it may denote any grandee or superior nobleman.

[66. T.]63. 29. ° All people ought of right to assist in repairing the church ¶.

\* [byreop þonne pealbe, let the bishop use his power, T.]

† [Compare K. Wihtrid's Dooms, A. D. 696, c. 4. p. 144.]

‡ [7 51 hit tætle 7ý, and if there be a prosecution, T.]

§ [Lý hpa leob-byreoper ofþe eolþomanner boph abpce gebete 7 mid tþam punþan, If any one break a suffragan bishop's or an 'ealdorman's' 'borh,' let him make 'bôt' for it with two pounds. T.]

¶ [BURÞ-BOTE.—DE VIIIS PUBLICIS REFIGIENDIS. LXVI Lý hpa

buph-bote ofþe byrcg-bote ofþe 7ýþþ-þape forþatze gebete mid hund-tþelf-tigum feill þam cýningce on Engla-ge, 7 on Dena-ge 7pa hit æp 7eod, ofþe gelabige hine, namige man him xiiii. 7 begýte xi. To cipic-bote 7real eall folc 7ýlþan mid þibte.

'Burh-Bôt.'

66. If any one neglect 'burh-bôt,' or 'bricg-bôt,' or 'fyrd-fare;' let him make 'bôt' with one hundred and twenty shillings to the king by English law, and by Danish law as it formerly stood; or let him clear himself: let

° This law, which is omitted by Sir H. Spelman, shews that the reparation of churches was devolved on the people sooner than is commonly thought.

30. If any man contrary to right retain one that is <sup>p</sup> banished 64. [67.T.] by God, let him yield him up to the law, and pay a recompense to him to whom it belongs, and to the king according to his weregild. If one retain and withhold [obstinately] an excommunicate, or an outlawed person, let him do it at the peril of himself and all his estate.

<sup>p</sup> The same probably with the apostates, (law fourth,) and who are commanded out of the kingdom.

Now I strictly charge and in God's name command every [85. T.] man, that he with inward heart bow to his Lord, and full oft, and earnestly consider what he has to do, and what to forbear. And we are all under great obligation to love God, and follow His law, and diligently to attend to divine instructions \*: for they shall lead us forth at that doom, when God shall judge every man by his former works. And happy is that shepherd that can lead his flock into God's kingdom, and into heavenly joy †, and happy is that flock that followeth the shepherd, 'so as to deliver themselves from the devil, and to gain God. Come on then! let us all earnestly and unanimously propitiate God ‡ with that which is right, and henceforth always guard ourselves against those flames that rage in hell. Do ye doctors and divine preachers, as ye ought, often preach man's duty toward God §, and let all

xiv be named to him, and let him choose xi. To church-<sup>b</sup> 'böt' all men must lawfully give assistance. T. The last sentence is in Lambard another law, with the rubric 'De fano reficiendo:' in the old Latin version it is translated, 'Ad refecionem ecclesie debet omnis populus, secundum rectum subvenire.' See Lambard, Archæonomia, p. 121, and Thorpe, V. A., p. 542.]

• [gobcunban lapeopan, divine teachers, T.]

† [The following words are omitted by Johnson: for æppan gepýphtan, for their former deeds, T. MS. B. Lambard and Spelman have for hij æppan gepýphtan.]

‡ [þe hig beoplum ætpeueð 7 Lobe

hi gertpýneð. Uran þonne ealle anmobpe heoptan geopne upum Drihtne epeman, who weaneth them from devils and gaineth them to God. Let us all then, with unity of heart, diligently please our Lord, T. The words 'Come on' of Johnson's translation are here as elsewhere superfluous. See the use of uran, Raak Gr. 415.]

§ [And þon nu eac lapeopar 7 gobcunbe býbelar 7pa 7pa hit jult 7 7 calpa manna þearf 7, bobian zelome gobcunbe þearfe, And let our instructors and divine preachers now also do as it is right and needful for all men, by announcing frequently the divine benefits, T.]

that are discreet diligently attend them; and let every one retain the divine doctrine firmly fixed in his mind, for his own benefit. And let every man do all possibly he can for the honour of his Lord, both in word and deed, always with cheerfulness; then is God's mercy the nearer to us all. Let God's Name be ever blest. To Him be praise and glory and honour for ever and ever. God Almighty have mercy on us all\*.

\* [In Thorpe's text follow the words, *ƿpa hƿ ƿilla ƿý, 7 gehealbe ƿƿ sƿƿe* will may be, and preserve us ever to aB  
*eu ecneƿƿe, ƿi hit ƿƿa, Amen, as His* eternity. So be it. Amen. T.]

## A.D. MLXIV.

### SUPPOSED LAWS ECCLESIASTICAL OF KING EDWARD THE CONFESSOR.

#### PREFACE.

THIS was the last year save one of the reign of King Edward the third, before the Conquest, commonly called Edward the Confessor: the following laws are, by many, attributed to him, though drawn after William Rufus's time. It is agreed that the Confessor made no laws himself; yet our ancestors did with great zeal contend for the restoring the laws of King Edward the Confessor during the reigns of several princes after the Conquest: they meant the laws of the old English-Saxon and Danish kings, as they were administered or executed with some prudential variations by King Edward. A very famous divine asserts these laws to be what their title and preface imports, which here presently follows; though he allows, as every one must do, that they are very much interpolated\*; and as they stand in Lambard and Wheloc's edition they are institutes or commentaries, rather than laws, as the most famous Dr. Hickes observes†. They who drew them had but a very imperfect knowledge of the Saxon tongue; and are guilty of very great mistakes in their glosses. I have translated only sixteen of them, which were certainly the Conqueror's laws, if not King Edward's, and have more or less a relation to the Church; and the most ancient historians and copies mention no more. Hoveden attributes this collection to Ranulf Glanville, who was justiciary to King Henry the Second, and the first writer of the common law‡. But this may be understood of the glosses, or commentaries. N.B. I translate none of the later additions in Lambard and Wheloc, but follow Sir H. Spelman's copy, which agrees with that of Hoveden.

\* [See Original and Right of Tithes  
by Humphrey Prideaux, D.D., c. 5.]

† [Hoveden, Annal. part. poster., fol.  
342. b.]

‡ [Dissert. Epist., p. 95.]

A.D. MLXIV.

LATIN.  
[Sir H.  
Spelman,  
vol. i.  
p. 619.  
Wilkins,  
vol. i.  
p. 310.  
Thorpe,  
p. 190\*.]

1. KING WILLIAM in the fourth year of his reign, after the conquest of England, by the advice of his barons, caused the English noblemen that were men of knowledge, and learned in their own law, to be summoned together through all the provinces of England, that he might from themselves hear their laws, rights, and customs; therefore twelve men chosen out of every county of the whole nation, did make oath before the king that they would make known the sanctions of their own laws and customs, proceeding in a direct way, without swerving to the right hand or to the left, without making omissions, additions, or prevaricating variations; therefore beginning with the laws of the holy mother the Church, because by her the king and kingdom stand upon a solid foundation, they declared her laws, liberties, and protection, saying,

[1. T.]

2. Let every clerk, and scholar, and all their estates and possessions, wherever they are, have the protection of God, and the holy Church.

[2. T.]

3. Let the protection of God and the holy Church be throughout the whole kingdom from the Lord's advent to the octaves of Epiphany, and from Septuagesima till the octaves of Easter, and from the Lord's ascension till the octaves of Pentecost, and in all the days of the ember-weeks; and every sabbath from the ninth hour, and through the whole following [Sun] day, till Monday; also on the vigils of SS. Mary, Michael, John Baptist, all the apostles and saints, whose festivals are bid by priests on the Lord's-days; and All Saints on the kalends of November, perpetually from the ninth hour of the vigils, and during the following festival; also in parishes, where the dedication-day, or the day

\* [Textus est ex MS. S. (Harl. 746):—T. Johnson's translation has been compared with Thorpe's text as

well as with that of Spelman, but only the more important variations of Thorpe's text are noted.]



of their proper saint is celebrated; and if any one devoutly go to celebrate a saint, let him have protection in going, staying, and returning, and let all Christians have protection, when they go to church, to pray both in going forth and returning. Let them have absolute protection who are going to dedication [of churches], to synods, to chapters, whether they are summoned, or go of their own accord upon business. If any one being excommunicate betake himself to the bishop for absolution, let him enjoy the protection of God and holy Church in going and returning. Let the bishop in his own court prosecute any man that has incurred a forfeiture to him. Yet if any one out of arrogance will not be brought to satisfaction in the <sup>a</sup>bishop's court, let the bishop notify him to the king; and let the king constrain the malefactor to make satisfaction where the forfeiture is due; that is, first to the bishop, then to himself: so there shall be two swords, and one sword shall help the other.

<sup>a</sup> *Justitia episcopi* may signify the judge deputed by the bishop, or the bishop's spiritual law; as *justitia regis* may signify the king's court, or law, as well as his justiciary. I take liberty to render it as best fits the place. The reader will observe, that the bishop, when these laws were made, did not commonly sit with the alderman, or civil judge. If they were certainly the laws of the Confessor, this would prove that the two jurisdictions acted separately before the Conquest. It is well known that Edward very much affected the Norman modes, so did Robert his archbishop, being himself a Norman; and we certainly had this from Normandy.

[When I speak of the two jurisdictions being separated, I desire to be understood as meaning that the bishops holding a court distinct from that of the king, alderman, or sheriff, did there hear and determine temporal causes, as well as spiritual. For so he certainly did (as appears by law 5.) in case the defendant, or both parties were ecclesiastics. See 1018, 14; 960, 7.]

4. Wherever pleas are held in the court of the king, or of any other person, if the bishop's messenger come thither, and open a cause that concerns holy Church, let that be first determined. For it is fit that God be every where honoured before others. [3. T.]

5. Whoever holds any thing of the church, or hath his mansion upon church-ground, shall not be forced to plead in any court but the ecclesiastical, although he have incurred a forfeiture, unless justice there fail, which God forbid. [4. T.]

[5. T.] 6. Whenever a guilty or noxious person flies to the church for safety, let him be seized by no pursuer after he is in the <sup>b</sup>church-yard, except by the bishop or his ministers. And if he flies into the house or <sup>c</sup>court of the priest he shall have the same security or protection as in the church; so that the house or court stand on church-ground. If [the refugee] be a robber, or thief, let him restore what he hath taken away, if he have it in his keeping; if he have wholly destroyed it, let him make full restitution to the injured person out of his own goods, if he has wherewithal. If the robber has made it his practice, and has often escaped to the church, or the house of some priest, let him, when he has restored what he had stole, forswear the <sup>d</sup>province, and not return into it: and let no one dare to entertain him if he do return, without the king's licence.

<sup>b</sup> *Atrium* signifies either the porch or yard\*.

\* This is meant of an abbot, or prior's house, called here *curia*.

<sup>d</sup> That is, the nation.

[6. T.] 7. If any one violently infringe the church's protection, it concerns the bishops' courts. If the guilty person decline, or arrogantly despise their sentence, let complaint of it be brought to the king after forty days: and the king's court shall put him under security and pledges (if he can find them) to make satisfaction first to God, and then to the king and Church: and if he cannot be found within thirty-one days, either by his friends and neighbours, or by the king's court, the king shall outlaw him by the word of his own mouth. But if afterwards he be found and can be taken, let him be surrendered to the king alive; or if he defend himself, [till he be killed] let his head [be yielded to the king], for from the day of his outlawry his head is a wolf's head. And this is the general law, as to all that are outlawed.

[7. T.] 8. <sup>e</sup>The tenth sheaf is due to God of all corn, and therefore to be paid. If any one keep a family of mares, let him pay the tenth colt. Let him that has one or two only pay a penny for every colt: so let him that has many cows pay the tenth calf; he that has but one cow, a half-penny for every calf. Let him that makes cheeses pay to God the tenth

\* [See above, Excerptions of Ecgbriht, A.D. 740, c. 25.]

cheese; let him that does not, pay the milk every tenth day; likewise the tenth lamb, the tenth fleece, the tenth cheese, the tenth butter, the tenth pig.

\* It was out of an honest zeal for this and the following law, which are both but one in Mr. Lambard's copy, that a worthy divine has taken such pains to prove all these laws to be genuine. I shall not pretend to determine whether he hath succeeded in the attempt; but I am not willing to lay too great stress upon his arguments, how probable soever. It is sufficient, that no time can be assigned, since the first reception of Christianity in this nation, when tithes were not paid: we are sure they were reckoned of right due by the constitutions of Eggbriht in the middle of the eighth century, that they are said to be paid to the bishops, in the letter of Boniface to Archbishop Cuthbert. No beginning of it can be shewed later than the time of Augustine, who first placed Christianity here in the latter end of the sixth century; and we have no cause to doubt, but he introduced it at the same time with Christianity itself, as the next law intimates: for Boniface was not much above sixty years after Augustine. If the bishops and clergy had found an occasion for a civil sanction for the payment of tithes, during the first hundred and fifty years after the establishment of the English Church, there is no cause to believe, but the English kings, who were for the most part very favourable to them, would have readily granted it. Offa, Alfred, Edgar, and Cnute did actually give the Church a civil right to tithes, when they found that the first fervours of the people toward the Church abated. And this I think sufficient, without relying too much on these laws of an uncertain authority, and on the donation of King Ethelwulf, so perplexed and dark, and so variously delivered and understood, that I could not consent to afford it a place among these monuments of the English Church. See how it is expressed by two historians next that time, Ethelward, l. iii. c. 3, "This year King Athulf gave the tenth of all his possessions as the Lord's portion, and went to Rome with great dignity and stayed there twelve months." Asserius de rebus gestis Ælfred, *circa initium*\*, "The same year the venerable King Ethelwulf freed the tenth part of his whole kingdom from all royal service and tribute, and by a most durable instrument with the cross of Christ offered it to the triune God for the redemption of his own and his ancestors' souls. And the same year with great honour went to Rome." Yet this last is thought spurious.

[To me the anonymous monk of Winchester seems to give the most [Addenda.] natural account of this matter, especially because he plainly took it from some written evidences then extant in his own church. "Edulf, son of Egbert, A.D. 837, became king of England; he had been sub-deacon in the church of Winchester, and because King Egbert had no other heir, he was forced to accept of the kingdom: he tithed all the land of his own demesne, and gave the tenth hide to the conventual church in each county.

\* [p. 8. ed. Wise, Oxon. A.D. 1722. On tithes, see above, p. 332, note †.]

He made a restitution of the whole entire land of Chiltcumb to the church of Winton, under the name of a tenth, in lieu of one single hide, which the Kings Kinegils and Kinewalch had formerly given, but which had been alienated from the church between their time and his." *Anglia Sacra*, vol. i. p. 289.]

9. Likewise of bees the tenth of the profit; likewise the tenth is to be given to God, who gives the nine parts, as well as the tenth of wood, meadow, waters, mills, parks, warrens, fisheries, osiers, gardens, and negotiations: let him that detains it be constrained to pay it by the bishop's court, and by the king's, if that be necessary. For the blessed Austin preached and taught this; and it was granted by the king, and barons, and people. But afterwards many detained them by instinct of the devil, and priests being rich and negligent did not care to be at the pains to get them, because they had sufficient maintenance: for there are now three or four churches in many places, where then there was but one. And thus [tithes] began to be diminished.

[9. T.] 10. On the day that there is to be an 'ordeal, let the bishop's  $\varepsilon$  minister, with his clerks, come thither, and likewise the king's  $^b$  justice, with lawful men of the  $^l$  province: to see and hear that all be done with equity; and let those whom the Lord is willing to save by mercy not by merits, be acquitted and depart in peace; and let [the king's] justice deal with them, according to justice, whom their own guilt, and not the Lord condemns. Let those barons who have a court of their own, deal with their own men in such a manner as not to sin against God, nor to offend the king. And if a plea between men that belong to other barons happen in their courts, let the king's justice be present at it; for otherwise the plea can have no final issue. If any barons have no judicatures, it must be determined at the next  $^k$  church where the king's judicature shall be, in the hundred where the plea was held; with a saving to the right of those barons.

$^l$  Lat. *judicium*, Dr. Hicks hath shewed that ordeal, or *urdel*, is equivalent to this Latin word  $^o$ .

$^s$  Perhaps his archdeacon, or whatever officer he thought fit to send.

$^b$  Lat. *justitia*, the same with *justitarius*.

\* [See above, p. 347, note †.]

<sup>1</sup> That is, county, for so it often signifies.

<sup>k</sup> Now it seems plain that courts of pleas were held in churches.

11. Every one that hath thirty pennyworth of living stock [10. T.] in his <sup>1</sup> house of his own by the law of the English, and half a mark by the law of the Danes, shall pay St. Peter's penny. Now that penny ought to be demanded at the <sup>m</sup> feast of the apostles Peter and Paul, and to be levied at the feast called *ad* <sup>n</sup> *Vincula*, so as not to be detained beyond that day. If any do detain it, let complaint be made to the king's justice, because this penny is the king's alms; let the justice cause the penny to be paid, and the <sup>o</sup> forfeiture to the bishop, and the king. If any one have more houses than one let the penny be paid from that house where he was resident at the feast of the apostles, Peter and Paul <sup>p</sup>.

<sup>1</sup> The third of those laws, which follow after these, says, in 'field-stock.' Perhaps what was field-stock by day, was house-stock by night, for fear of robbers, in this perilous age. Yet King Offa's life has, 'Extra domos, in pascuis \*.'

<sup>m</sup> June 29th, our reformers appropriated this day to St. Peter.

<sup>n</sup> Lammas-day. King Offa chose this time of payment, because on this day the relics of St. Alban the martyr, to whom he erected a monastery, were first discovered to him.

<sup>o</sup> See law of King Edgar iv. 960.

<sup>p</sup> Here I omit the twelfth law, as it is called in Lambard, Spelman, &c., because it certainly never could be intended as a law; for it neither commands nor forbids any thing; yet I put it here in the margin, because it seems to me good history written by Glanvil, whose evidence is very good in such points especially; "The payment of Dane-gelt was first ordained [11. T.] against the pirates, for they laid waste the country with all their might; to suppress their insolence it was ordained that Dane-gelt should be annually paid, that is, twelve pence from every hide of land in the whole country, to hire men who might put a stop to their invasion. Every church was free, and acquitted from this Dane-gelt, and all the land wherever it lay, that was the property of the church; because they trusted more in the prayers of the Church, than in the protection of their arms." [Here ends this law or assument in the Cotton MS., but the rest thus go on.] "The Church of the English preserved this liberty till the times of King William, junior, called Rufus, who, in order to keep Normandy, while his brother Robert, called Curtois, was in his expedition to Jerusalem, required an aid of the barons of England: then it was allowed to him, in this case of necessity, but not ordained or confirmed by law, that four shillings should be paid him out of every hide, the Church not

\* [Matth. Paris, ed. Wats, p. 985.]

excepted. But while this levy was made, holy Church with a loud voice demanded her liberty, but to no purpose \*." Yet my reader will observe that only hides or plough-lands were taxed by him, not manse, or tithes.

- [12. T.]12. 12. The king's <sup>¶</sup> protection is manifold : for there is what the English call peace given with the king's hand ; another upon his coronation, which lasts eight days, eight days at Christmas, eight at Easter, eight at Pentecost : another is granted by the king's writ ; there is another which belongs to the four highways, Watling-street, Foss, Ikenild-street, Erming-street, two of which are extended the length of the kingdom, two the breadth ; † there is another which belongs to the waters of the famous rivers. Manbote is the satisfaction to be paid to the lord for the murder of his man ; that is, † three marks to the king and archbishop for one of their men, by the law of the English, but twenty shillings to the bishop of the shire, and to the king's earl, and the steward of his household, ten shillings to other barons.

\* I suppose by this is meant an immunity from arrests and citations.

† It is clear, when this law was made the mark was thirteen shillings and four pence, and so the king's and archbishop's was double to the bishop's, and the bishop's double to the other barons.

- [14. V.]14. 13. Treasures [dug] out of the earth belong to the king, unless they be found in a church, or a church-yard ; and though they be, yet the gold, and half the silver belongs to the king, and half to the church where it is found, whatever the church be, rich or poor \*.

\* The 15th law in Spelman, the 17th in Lambard, is of so odd a nature,

\* [The same passage is in Thorpe, p. 192, c. xi. De Denegeldo.]

† [The remainder is differently given in Thorpe's edition, and the law is there continued to a much greater length, but without special reference to ecclesiastical matters : "Alia quam habent aque quarum navigio de diversis partibus deferuntur victualia civitatibus et burgis. Illa autem pax manus sue, dierum coronationis sue, et brevis, sub iudicio unius forisfacture est. Similiter iiiii. chiminorum, et majorum aquarum de assaltu. De opere vero si fiat opus destruetur, et medietas emendationis dabitur. Qui scienter fregerit eam x. et viiii. hundreda in Denelaga, et corpus suum

in misericordia regis ; lege Anglorum, suum were, i. precium suum, et manbote de occisi erga dominos quorum homines interfecti erant. Manbote in Denelaga, de vilano et de socheman, xii. oras ; de liberis hominibus iii. marcas. Manbote in lege Anglorum, regi et archiepiscopo, iii. marc de hominibus suis ; episcopo comitatus, comiti comitatus, et dapifero regis, xx. sol ; baronibus ceteris, x. solid. Emendacionem faciat parentibus, aut guerram paciatur, unde Angli proverbium habebant : Biege rpepe or rbe oþer bepe, quod est dicere, lanceam eme de latere aut fer eam. Pax autem," &c. Ancient Laws and Institutes, p. 193, c. 12.]

that, as it certainly deserves not a place in my text, so I scarce knew whether it were fit to be mentioned in my margin ; but let them who like it take it, as it here follows : “ The king, who is vicar of the sovereign in chief, is constituted to this purpose, that he may govern, and defend from such as are injurious, his earthly kingdom, and the people of the Lord, and above all things venerate His Holy Church, and pluck out, destroy, and wholly abolish all evil-doers from off her ; which, if he do not, the name of a king shall not belong to him, but he forfeits the royal title by the testimony of Pope John ; to whom Pipin and Charles his son, while they were princes only, and not kings, wrote in the reign of [Chilperic] the foolish king of the Franks, to enquire whether the kings of the Franks ought to continue thus, contenting themselves with the royal title only : who answered, ‘ They ought to be called kings who vigilantly defend and govern the Church of God, and His people, in imitation of the royal Psalmist,’ who says, ‘ He that behaves himself proudly shall not tarry in my house.’ ” Psalm ci. 10, according to the LXX, and Vulg. Lat. Let any judicious man consider, whether it can be thought probable, that William the Conqueror would ever ratify such a law as this, or whether it be credible, that his subjects should presume to offer such a law to him for his royal confirmation ; especially when there is a condition scarce possible in the nature of things to be performed, I mean destroying, and utterly abolishing all evil-doers. The story of the pope’s determining the point must be fabulous : for there was no pope named John within thirty years before, or after Pipin’s assuming the crown of France. Some English monk provoked by the oppression of the Normans, was the legislator, to whom we owe this assument. Yet a late chief-justice is said to have pronounced it from the bench to be good law. If it be a law, it is one of the pope’s making ; and a violent usurpation of temporal authority.

[17. T.]

14. Let archbishops, bishops, earls, barons, and all that have ‘ sac, and soc, toll, team, and infangthef, have their knights and proper servants, viz., stewards of their household, chamberlains, butlers, cooks, and bakers under their own friburgh. And [let] these also [have] their esquires, and other servants under their friburgh. And if they incur any forfeiture, and a complaint of the neighbourhood rise against them, they should oblige them to what is right in their own court ; they, I say, who have sac, soc, toll, team, and infangthef.

16. [21. T.]

‘ The five laws (so miscalled) that follow in Lambard and Sir H. Spelman are only explanations of the five terms here used. The reader may find the meaning of them elsewhere, but I am apt to believe, that Glanvil’s is the truest, if I can give the true sense of it, viz., “ Sac is a right to that forfeiture [which is incurred] when one challenges another concerning any

[22. T.]

matter, and [the one fails in his] proof, or [the other in his] denial of it, as it happens. *Soc* is the power of making search for any thing in one's own land, and for stolen goods, whether they are found or not. *Toll*, we call tribute, for the having liberty to buy and sell on a man's land. *Team* is a right to the forfeiture incurred, when challenged goods are put into a third hand, and the impeached party cannot produce his warrant, (that is, prove his right,) or the other make good his challenge. *Infangthef* is the right of trying a thief, being one's own man, apprehended on one's own land. But let them who have not these customs sue before the king's justice in the hundreds, wapentakes, or shires\*."

I found it impracticable to give a literal rendition of Glanvil's explanation.

- [25. T.] 22. 15. It is to be known, that all "Jews, wheresoever they are within the kingdom, are under the king's patronage and protection, as his liege-men; nor can any of them subject themselves to a great man, without his license; and if any one take them, or their stock, into his custody, the king may, if he will, seize them as his own.

\* The Jews fled in great numbers from the cruelty of the Mahometans in the East, into Spain, France, and England, about the time of the Conquest, or somewhat sooner.

- [37. T.] 22. 16. King Edward also forbade usurers to dwell any where in his kingdom; and if any were convicted of exacting usury, he was to be deprived of his estate, and to be deemed an outlaw. That king affirmed, that he learned, while he was in the court of the king of the Franks, that usury is the principal root of all vices.

[Addenda.] [Though I have not here inserted the thirty-first of these laws, as published in Wheloc; yet I think it just to inform my reader, that the bishop's priest is thereby entitled to ten shillings, as his share of the forfeiture incurred by breaking of the king's protection †. It is generally

\* [QUID SIT SOCHE, ET SACHE, ET TOL, ET TEAM, ET INFANGENTHEF.

XXII. Soche est, quod si aliquis querit aliquid in terra sua, etiam furtum, sua est justitia si inventum fuerit an non. Sacha, quod si aliquis aliquem nominatim de aliquo calumpniatus fuerit, et ipse negaverit, forisfactura probacionis vel negacionis, si evenerit, sua erit. Tol, quod nos vocamus thelo-neum, scilicet libertatem emendi et vendendi in terra sua. Team, quod si aliquis aliquid interciebatur super aliquem, et ipse non poterat warantum

suum habere, erit forisfactura, et justitia similiter de calumpniatore, si deficiebat, sua erit. De infangenthef — Justitia cognoscentis latronis sua est de homine suo, si captus fuerit super terram suam. Et illi qui non habent consuetudines quas supradiximus, ante justiciam regis faciant rectum etiam in hundredo, vel in wapentagii, vel in schiris. T. For further explanation of the above terms see Thorpe's Glossary to Ancient Laws, &c.]

† [De istis veto libris rex habebat centum solidos et consul comitatus



agreed, that by bishop's priest is meant the rural dean: and perhaps by chapter in the third of the foregoing laws, we may justly understand the clergy of the deanery assembled under him as their president. Very egregious mistakes have been committed by a famous antiquarian, in relation to these officers called rural deans\*. He supposes them to have been the same with the archpresbyters of the seventh and eighth century, which may be confuted by looking into the Decretal, lib. i. tit. 24, 25 †. He will have them to be the *Decani Christianitatis*, for which he produces no manner of proof; he affirms their antiquity to be much greater, and their office more honourable than that of archdeacons; whereas I take it to be certain in fact, that there was no such office as that of rural dean, at least not in England, till this eleventh century, whereas archdeacons had long before some sort of jurisdiction. See 960, 6, among the laws of the priests of Northumberland. Mr. Somner gives us seven archdeacons of Canterbury in the ninth century, Antiqu. of Canterbury, p. 300. Granting there were rural deans before the Conquest, yet there is no proof of it but from these laws, which are not of the greatest authority, especially as to times before the real making them, which appears not to be certain. This writer produces no argument for rural deans being more honourable than the archdeacon, and I take it for certain that he had none; even the archpresbyter was inferior to the archdeacon by the Decretals above cited, much more the rural deans. And even the seventh canon of the council of Tours ‡ cited on this occasion by our great antiquarian, forbids the bishops and archdeacons to farm their jurisdictions to deans for an annual rent, which at once shews the office of the deans there mentioned, and their inferiority to and dependence upon the archdeacons. Our antiquarian calls this the abolishing the privilege of rural deans. This was in the year 1164, without proving that rural deans ever had the probate of wills and cognizance of matrimonial causes legally or canonically committed to them; he complains that the archdeacons deprived them of the first privilege, and Archbishop Langton of

quinquaginta qui tertium habebat denarium de forisfacturis: Decanus autem Episcopi in cuius decanatu pax fracta fuerat reliquos decem præter pacem regis, scilicet de pace data manu regis, et de primo coronatu, et de supra dictis festis, Natalis, Paschæ, Pentecoste. Leges Edwardi Regis c. 13, Lambard, ed. Wheloc, p. 146.

De istis habet rex centum solid., et comes comitatus, L., qui tertium denarium habet de forisfacturis. Decanus autem reliquos X., præter pacem regis, scilicet de pace data manu regis, et de primo coronatu, et de supra dictis festis: Natali, Pascha, Pentecoste. T. Leges R. Edw. Conf., c. 27; Ancient Laws and Institutes, p. 196.]

\* [The antiquary whose statements are opposed in the remainder of the

postscript is Bishop Kennett; see Parochial Antiquities, p. 337—70.]

† [The passage to which Johnson refers declares the archpresbyter to be subordinate to the archdeacon, but the 'archpresbyter ruralis,' mentioned Tit. 24. c. 4, seems certainly to be the same with the 'decanus ruralis' in Tit. 23. c. 7, and they are identified in the Margarita Decretalium which has these words, 'Archpresbyteri qui et decani rurales dicuntur archidiacono subiciuntur.']

‡ [Quoniam in quibusdam episcopatibus decani quidam vel archpresbyteri, ad agendas vices episcoporum seu archidiaconorum, et terminandas causas ecclesiasticas, constituuntur sub annuo pretio. Conc. Turonensis (A.D. 1163.) can. vii. tom. xxi. p. 1173.]

the other, whereas in truth they only checked them as usurpers of these privileges. In one point indeed he degrades these rural deans, for he makes them to be the *Testes Synodales*; when it is evident the *Testes Synodales* were laymen assigned by the bishop to swear that they would present all scandals. See *Causa 35, Quæst. vi. c. 7.* It is true Lyndwood cites Joannes Andreas, an Italian canonist, for saying that these deans were *Testes Synodales*\*, as he cites other doctors sometimes for saying very absurd things. They had no rural deans in Italy; Andreas had heard we had them here in England, and that they were used to delate offenders. Because this was the part of *Testes Synodales* in Italy, therefore he calls them by that name. This led Mr. Somner into the mistake, and this great antiquarian after him. I shall mention no more of this great man's mistakes on this head; but there are some remaining grosser than those here specified. He is himself more able to correct them than I am. And I wish he would for the love of truth.]

\* [Lyndwood, *Provinciale*, lib. i. tit. 2. de const. c. 1. not. ad verb. *Decanus rurales*, p. 14, not. c. ed. Oxon. 1679.]

A.D. MLXV.

SUPPOSED LAWS ECCLESIASTICAL OF KING EDWARD  
THE CONFESSOR.

PREFACE.

INGULF, abbot of Crowland, who had been a courtier to Duke William in Normandy, before he invaded England, though he was an Englishman born, has left us a large system of laws, which the Conqueror took (if you can believe it) from the laws of Edward the Confessor. They were not collected till the latter end of the Conqueror's life and reign, as Dr. Prideaux has shewed. Mr. Selden first published them as an appendix to Eadmer's history. Wheloc added them to his edition of the Saxon laws, though they were originally written in the Norman tongue. Sir H. Spelman published five of them, as laws properly ecclesiastical, and more correctly than Mr. Selden, as he tells us. I have added three more, as giving considerable light to ecclesiastical matters, as I conceive: but let us hear Ingulf, from whose copy these laws are taken, kept under three keys in Crowland abbey, till its dissolution.

A.D. MLXV.

LATIN.  
[Sir H.  
Spelman,  
vol. i. p.  
623.]

At this time I brought with me, to my monastery from London, the laws of the most equitable King Edward, which my noble lord King William had published as authentic, and perpetual, and inviolably to be kept, under the severest punishments, and given them in charge to his subjects: they are in the same language in which they were published; lest through ignorance, we, or ours, should happen to offend the king's majesty, by a rash presumption, to our great danger, and by this means unadvisedly incur the punishments contained in them.

NORMAN.  
[Sir H.  
Spelman,  
vol. i.  
p. 624.  
Wilkins,  
vol. i.  
p. 313.  
Thorpe,  
p. 201\*.]

These are the laws and customs which William the king hath granted to all the people of England, they being the very same which King Edward his kinsman kept before him; that is to say,

1. The protection of the holy church. Whatever forfeiture a man hath incurred, and he can come to the holy church, he hath protection of life and member. And \*if any man lay hands on him who goes to a mother-church, (whether it belong to a bishop or abbot, or be a church of religion,) let him restore what he hath taken away, and one hundred shillings as a forfeiture; and to the mother-church of the parish twenty shillings, and to a chapel ten shillings. And let him that breaks the king's protection make satisfaction with a hundred shillings, according to the law of the Mercians. But let it be otherwise in case of a runaway servant, or of prepense lying in wait†.

[2. T.]

\* ['THE LAWS OF KING WILLIAM THE CONQUEROR,' (A.D. 1066-87.) 'the French text is from Hk.: the Latin and the rubrics are from S.: the deficiencies of Hk. within brackets are supplied from Ingulph, and the other printed copies.'—T.]

† [Autresi de hemfare et de agwait purpense.—Similis de hamfare et in-

siidiis precogitatis pena delinquentem manet. T.]

With the exception of this sentence, which should rather be translated, "So likewise in case of forcible entry or of prepense lying in wait," Johnson's translation of the first and second law gives the sense of the Norman original, and agrees with the Latin interpreta-

\* This is a very dark passage, and so it is like to remain, till the Norman language of this age be better understood, or till some further light appear by some other means.

2. If any one be impeached for breaking of a monastery, <sup>Wheloc.</sup> or of any private room [in it], and was never defamed in <sup>17. [16. T.]</sup> times past, let him make his purgation 'with twelve lawful men (as they are called) his own hand being the twelfth\*. If he have been defamed before, let him make his purgation with a triple number; 'that is to say, thirty <sup>b</sup>six lawful men, as they call them, his own hand being the thirty-sixth. If he cannot have so many, let him go to the triple [<sup>c</sup>fire-ordeal] as he ought to go to the triple oath †: and if he have in times past made satisfaction for theft, let him go to the water-ordeal. The archbishop shall have forty shillings as a forfeiture, according to the law of the Mercians; the bishop <sup>[16. T.]</sup> twenty shillings, 'the earl twenty hillings, the common man forty pence. ‡

<sup>b</sup> It is XLVIII. in the original, but this is supposed to be a mistake.

\* In the Norman *ivise*. I pretend to no more than a conjecture, in my translation here: but it is not altogether groundless; for that it was some sort of ordeal, there can, I suppose, be no doubt, because it was for want of compurgators upon oath. And I conceive the fire-ordeal was more reputable than that by water: he therefore that had been only defamed before, and had no compurgators on oath, might go to fire-ordeal; but if he had actually been convict before, and brought to satisfaction, upon a second offence, if he professed his innocence, but wanted compurgators, he must be tried by water. See Sir H. Spelman, Gloss., p. 435. *ad calcem* §. Yet *ye*, or *ise* signifies water in French.

It is indeed strange to me, that the Conqueror, with his new bishops,

tion, but the second law in Thorpe's edition is continued to a much greater length on secular matters.

'HAM- { 'DOMUS INVASIO.' A breach  
soch' of the peace by forcible entry  
'HAM- into a man's house. For  
FARE' { ample illustration, see H.  
LXXX. 10, 11, (Thorpe, p. 256,) see  
also 'Haraidum.' 'Ham-soch' was  
one of the rights of the crown. Thorpe,  
Glossary.]

\* [par XIII. humes leals numez, sei duzime main—per XIII. legales homines nominatos manu duodecima. T.]

† [ceo est a saneir par XLII. leals humes numez, sei trente siste main. E sil auer nes pot, aut a la iuise a

treis duple, si cum il deust a treis duple serment.—id est per XLVIII. legales homines nominatos, manu XXXVI.\* Si eos habere non potest, eat ad iudicium triplex, si juramentum debuit exhiberi triplex. T. The number XLVIII. in the Latin seems to be a mistake not for XXXVI. as Johnson suggests, but for XLII.]

† [e li quens, xx. sol.; e li barun, x. sol.; e li socheman, xl. den.—comes, xx. sol.; baro, x. sol.; villanus, xl. denar. T.]

§ [Liber per ferrum candens, rusticus per aquam. Glanv., lib. 14. cap. 1. p. 114. ap. Spelmanni Glossarium p. 345, art. Ordalium.]

should not have wholly extirpated this savage superstitious practice. It had been long ago forbidden by several princes upon the Continent. It does not appear that the Church of Rome ever gave countenance to it: and is a very singular instance of a gross corruption, that had not the pope, or his creatures, for its author. If it was ever directly authorized by any council in a foreign Church, it was only by some new converts in Germany in the ninth century. The council of Mentz, 847, c. 24. \* enjoins the ordeal of plough-share to suspected servants. But to give the pope, I mean Stephen V., his due, he presently condemned it in an epistle to the bishop of Mentz, in whose diocese it chiefly prevailed †. (See Caus. ii. q. 5. c. 20.) Nay, Alexander II., the Conqueror's own ghostly father, absolutely forbade it in a decree of his extant ‡, *Causa secunda, Quæst. v. c. 7.* The story of Ildefonsus concerning Montanus, and of Gregory of Tours concerning Bricius, both of whom were bishops, and are yet said to have carried coals in the flap of their garments, to prove their innocence, when their chastity was called in question, are reported as miracles, and therefore are not instances of common ordeal. Besides, they only preserved their clothes unburnt, not their flesh. And indeed bishops and great men used not to undergo the trial of ordeal in their own persons, but by their servants: so Remigius, bishop of Lincoln, toward the end of the Conqueror's reign, was purged from the treason of which he was suspected, by his servant's undergoing this trial. Which makes it the more strange, that the story of Queen Emma's being tried by going over nine plough-shares should be believed. Princes were not wont personally to submit to any such ordeal, and very rarely, if at all, did they do it by proxy. The first prohibition of ordeal mentioned by Sir H. Spelman here in England, is in a letter from King Henry III. to his justices itinerant in the North, in the third year of his reign: yet this learned knight observes, that eight years after this he granted the religious of Sempringham power to administer it. Great lawyers have said, that it was suppressed by act of parliament in the third year of his reign. But the record mentions only the king's letter; and the king's letter says it was done by the advice of his council, and gives this only reason, that it was forbidden by the Church of Rome †.

\* [XXIV. Qui presbyterum occidit, 12 annorum ei poenitentia secundum statuta priorum imponatur aut si negaverit, si liber est, cum 12. juret: si autem servus, per 12. vomeres ferventes se purget.—Concil., tom. xiv. p. 910 B.]

† [Ferri candentis, vel aquæ ferventis examinatione confessionem extorqueri a quolibet sacri non censent canones: et quod sanctorum Patrum documento sancitum non est, superstitione adinventione non est præsumendum. *Stephanus quintus Humberto episcopo Moguntino.*—Grat. Decret. Causa II. Q. v. c. 20.]

‡ [Vulgarem ac nulla canonica sanctione fultam legem, ferventis scilicet,

sive frigida aquæ, igiturque ferri contactum, aut cujuslibet popularis inventionis (quia fabricante hæc sunt omnino ficta invidia) nec ipsum exhibere, nec aliquo modo te volumus postulare, immo Apostolica auctoritate prohibemus firmissime. *Alexas. II. Raynaldo episcopo,* ibid. Causa II. Q. v. c. 7.]

§ ["To the same purpose Selden. Not. ad Eadm. fol. 1673. Op., vol. ii. Duravit usus usque in H. III. tempora, cum non tam lege lata quam desuetudine, idque ob reverentiam juris pontifici quo diu antea prohibitus erat, prorsus evauit, &c. In the same place he gives a copy of the King's Letter." MS. note, Wrangham.]

She that was the mother of most corruptions was the maul of this. It is to be observed further, that trial by duel was introduced into practice here by the Conqueror, and remained long after the reign of Henry III. Yet this, as well as ordeal, was forbidden by the popes. This shews, that the Conqueror was far from being a slave to Rome.

3. The freeman that hath to the value of thirty pence in <sup>18.</sup>[17. T.] field-stock ought to pay St. Peter's penny. The lord by paying four pence shall acquit his <sup>d</sup>bordars, boners\*, and servants. The burgess that has the value of half a mark is bound to pay St. Peter's penny. He that is a freeman by the law of the Danes, and has to the value of half a mark in field-stock is bound to pay St. Peter's penny. And for the penny which the lord pays, all that live on his demesne shall be acquitted.

<sup>d</sup> Bordars were little tenants, who held a few acres of land of the lord, on condition of their hedging, diking, thrashing, grinding for their lord's family. Boners were probably tenants of the like sort, who lived in cottages, on the lord's waste: for 'bonarey' signifies *waste*, says Sir H. Spelman †. They are both new terms introduced by the Normans.

4. Let him that denies St. Peter's penny [be obliged to] <sup>21.</sup>[17. T.] pay it by the ecclesiastical court, and thirty pence as a mulct: if he be sued for it in the king's court, let him pay thirty pence to the bishop, and forty shillings to the king.

5. If a man die intestate, let his children equally divide <sup>36.</sup>[34. T.] the inheritance.

6. If a father catch his daughter in adultery in his own <sup>37.</sup>[36. T.] house, or in his son-in-law's house, he may lawfully kill the adulterer.

7. † If a Norman be cast in a duel, let him pay the king <sup>70.</sup>[2. T.] sixty shillings: and if the Englishman refuses to <sup>e</sup> defend <sup>[Thorpe, p. 210, 211. Wheloc, p. 172-3.]</sup>

\* [e ses bovera.—et bubulcos, T.]

† [Spelmanni Glossarium, p. 86. art. Bonery. The reading of Thorpe's edition, given in the preceding note, renders unnecessary any further explanation of the latter of the two words in question:

BORDARIUS—BORDIER. One occupying a tenement denominated a bord. 'Qui bordam aut domum sub bordagii, vel bordelagii onere possidet.' DuCange. Borde is thus defined by Roquefort: 'Loge, petite maison, cabane bâtie à l'extrémité de la ville, dans la ville,

dans le faubourg.—Gloss. Rom. sub voce. See also Introd. to Domesday, vol. i. p. 82. Thorpe, Glossary.]

‡ [The two following laws are taken from a document of King William the Conqueror, given in Ancient Laws and Institutes, in Latin and Anglo-Saxon, with the following titles,

CARTA EJUSDEM R. W. DE APPELLATIS PRO ALIQUO MALEFICIO, FRANCO VEL ANGLICO. Willelmer Lýningeꝛ Aꝛetnýꝛe.]

"The Latin text is from Sc., collated with Hk. The Saxon is from H."—T.]

himself by duel, or by evidence, let him preserve himself from outlawry by ordeal.

\* It is evident by these two laws, that the king trusted in the length of his Normans' swords, and by these bore down the poor English, and sent them for redress to the most ignoble trial of ordeal. King Edward the Confessor, though too much addicted to the Normans, yet would never have thus treated his English subjects.

- [S. T.] 71. 8. The king ordains, that in all cases of outlawry the Englishman purge himself by ordeal. And if an Englishman impeach a Norman, in [a matter of] outlawry, and be willing to prove it upon him, let the Norman defend himself by duel. And if the Englishman dare not try him by duel, let the Norman defend himself by a full oath, without a verbal scrupulosity\*.

[Addenda.] [Mr. Somner, in his MS. notes on cap. 64, of King Henry First's laws, proves that *juramentum observatum*, or *cum verborum observantiis*, was with the Normans an oath taken in a precise form of words, *juramentum planum* the contrary.]

' It is strange that the oaths of Englishmen would not pass, in cases where the Normans did : for the Englishman in the same circumstances was put to ordeal. By a full oath I understand, an oath made by such a number of men as the law required. Let whoso will imagine these to be the laws of King Edward, I cannot but say they smell strong of the Norman, and the Conqueror. And you may take a cast of his tender cruelties in that law of his, Wheloc, p. 137 ; Lamb. 126, viz., " I forbid any one to be killed, or hanged for any crime, but let his eyes be put out, his testicles, hands, or feet cut off, that he may remain a living trunk, as a monument of treachery, or wickedness."

\* [defendat se Francigena pleno juramento, non in verborum observantiis. Weþige hine þe Fræncisca mid wuþpeþan aþe. T. The word 'pleno'

of the Latin seems here to be meant for 'plano.' See *Leges R. H. I. c. LXIV.*; Thorpe, p. 246, and note c.]



## APPENDIX.

A.D. 692-4.

COD. DIPL. No. 996. vol. v. p. 36.

\* UUIHTRAED OF KENT, 694.

✠ ANNO ab incarnatione domini DCCXIII. Whytredus gloriosus rex Kanciae cum reuerentissimo archiepiscopo Brightwaldo praecipit congregari concilium in loco qui nominatur Bachancild, praesidente eodem concilio iam nominato clementissimo rege Cantuariorum Whytredo, et eodem uenerando patre primate totius Britanniae, simulque Tobia episcopo Rofensis ecclesiae, cum abbatibus, abbatissis, presbyteris, diaconibus, ducibus, satrapis, pariter tractantes de statu ecclesiarum dei in Anglia, et de hiis quae a fidelibus regibus praedecessoribus eius, et propinquis, Ælberto uidelicet posterisque eius, deo omnipotenti in propriam haereditatem, data fuerunt qualiter secundum ueram iusticiam stare et permanere ualeant, uel quomodo ea seruare oporteat amodo et usque in finem saeculi constituentes. Ego, inquit, Whytredus, rex terrenus, a rege regum compunctus, zelo rectitudinis accensus, ex antiqua traditione sanctorum patrum didici, [non]<sup>1</sup> esse licitum alicui homini in laico habitu constituto usurpare sibi quasi propriam possessionem quod fuerat ante domino concessum et cruce Christi firmatum. Scimus enim et ueraciter constat quia quod semel acceperit homo donatione alterius in propriam potestatem, nullatenus sine iniuria illud iterum dimittet. Horrendum est itaque hominibus deum uiuum exspoliare, tunicamque eius et haereditatem scindere. Cum ergo deo oblatum aliquid fuerit de terrenis substantiis, ad hoc ut facilius promereri ualeant offerentes aeternam retributionem percipere in coelis manifeste declaratur, quod quanto incautius homo saecularis applicuit se in haereditatem regis aeterni tanto districtius a deo punietur. Pro qua re firmiter decernimus, [et in nomine]<sup>1</sup> omnipotentis dei omniumque sanctorum praecipimus,

<sup>1</sup> Omitted in Cant. Reg.

omnibus successoribus nostris regibus, principibus et omnibus in laico habitu constitutis, ut nulli unquam liceat alicuius aeccliesiae uel monasterii dominium habere quae a me uel antecessoribus meis priscis temporibus tradita sunt deo in perpetuam haereditatem et sanctis eius: magis autem sicut in canonibus praecipitur seruandum est, ut quando aliquis de praelatis defungitur episcopus, abbas uel abbatisa, intimetur archiepiscopo propriae parochiae et cum eius consilio et consensu uita ac munditia eius examinata qui dignus inuenitur eligatur, et nullo modo sine consensu et consultu archiepiscopi promoueatur. Neque enim de hac re aliquid pertinet ad decretum uel imperium regis. Illius autem est comites, duces, optimates, principes, praefectos, iudices saeculares, statuere; metropolitani uero est archiepiscopi aeccliesias dei replere, gubernare, episcopos, abbates, abbatissas, caeterosque praelatos eligere, statuere, firmare, admonere, ne quis de ouibus Christi, scilicet aeterni pastoris, aberret. Haec lex per aeuum in regno nostro in perpetuum permaneat, omnibus aeccliesiis dei nostri pro salute animae meae meorumque praedecessorum, proque spe coelestis regni. Igitur ex hac die et deinceps concedimus et donamus aeccliesiis regni nostri liberas esse perpetua libertate ab omnibus difficultatibus saecularis seruitutis, ab omni debito uel pulsione regalium tributorum, ut possint pro nobis deo omnipotenti hostias dignas offerre nostraque peccata ablueri immaculatis muneribus. Si quis autem rex post nos leuatus in regnum, aut episcopus, aut abbas, seu aliqua alia persona contradixerit huic concilio uel scripto iudicio concilii facto, sciat se a corpore et sanguine domini sequestratum et sic excommunicatum, sicut ille qui non habebit remissionem [neque]<sup>1</sup> in hoc saeculo neque in futuro, nisi ante mortem secundum iudicium archiepiscopi emendauerit. Hoc scriptum irrefragabile sua firmitate muniatur, seruetur, et semper habeatur in aeccliesia saluatoris, quae sita est in ciuitate Dorobernia ubi primas habetur, ad exemplum omnium aeccliesiarum atque defensionem quae in Anglia habentur.

✠ Ego Wihfredus auxilio Christi rex hiis legibus constitutis pro me et Werburga regina itemque filio nostro Ælrico subscripsi.

✠ Ego Brihtuualdus gratia dei archiepiscopus hiis legibus constitutis subscripsi.<sup>2</sup>

<sup>1</sup> Omitted in Cant. Reg.

<sup>2</sup> Compare the Saxon Chronicle, A.D. 694, ed. Ingram, p. 58—60, and Dr. Ingram's note a. The above is clearly the charter from which the passage in the Chronicle is abridged.

For the other charter of K. Wihfred mentioned by Johnson, (Spelman, vol. i. p. 198; Wilkins, vol. i. p. 63,) see Cod. Dipl., No. 44. Both are however given with an asterisk by Mr. Kemble as a mark of doubt.

A.D. 742.<sup>b</sup>

Cod. Dipl. No. 87. vol. i. p. 105.

## ÆTHILBALD OF MERCIA, 742.

✠ Anno dominicæ incarnationis DCCXLII. Indict. X. regni uero æthilbaldi regis merciorum XXVII. congregatum est magnum concilium apud clouesho præside eadem concilio æthilbaldo rege merciorum cum cuthberto archiepiscopo doroberniæ caeterisque episcopis simul assidentibus diligenter examinantes circa necessaria totius religionis et de symbolo ex antiquis sanctorum patrum institutionibus tradito studioseque perquirenter qualiter in primordio nascentis ecclesiæ hic in anglia iubebatur haberi aut ubi honor coenobiorum secundum normam æquitatis seruaretur hæc et hiis similia anxie inquirentes antiquaque priuilegia recitantes tandem peruenit ad manus libertas ecclesiarum et institutio uel præceptum uithraedi gloriosi regis de electione et auctoritate coenobiorum in regno cantiae quomodo et qualiter secundum imperium et electionem cantuariensis metropolitani fieri [et] stare præcipitur, et præcepto itaque regis æthelbaldi lectum est coram omnibus priuilegium præfati uithraedi gloriosi regis et placuit cunctis hoc audientibus pariterque dixerunt nullum aliud tam nobile tamque prudenter constitutum decretum inueniri potuisse secundum ecclesiasticam disciplinam et ideo hoc ab omnibus firmari sanxerunt. igitur ego æthelbaldus rex merciorum pro salute animæ meæ et stabilitate regni mei proque uenerantia uenerabilis archiepiscopi cuthberti propria manu munifica subscribens confirmo. ut per omnia libertas honor auctoritas et securitas christi ecclesiæ a nulla persona denegetur sed sit libera ab omnibus saecularibus seruitiis et omnes terræ ad illam pertinentes exceptis expeditione pontis et arcis constructione et sicut sæpe præfatus rex uithraedus pro se suisque constituit seruandum ita per omnia irrefragabiliter et immutabiliter perdurare præcipimus. Si quis autem regum successorum nostrorum seu episcoporum seu principum hoc salubre decretum infringere temptauerit reddat rationem deo omnipotenti in die tremendo. si autem comes presbyter diaconus clericus uel monachus huic constitutioni restiterit sit suo gradu priuatus et a participatione corporis et sanguinis domini separatus et alienus a regno dei nisi ante placita satisfactione emandauerit quod malo superbiæ inique gessit scriptum est enim quaecunque ligaueris super terram erunt ligata et in coelo et quaecunque solueris super terram erunt soluta et in coelo.

<sup>b</sup> Comp. Sax. Chron., ed. Ingram, A.D. 742.

- ✠ ego ethelbald rex diuino suffragio fultus gentis merciorum regens imperium signum sanctae crucis subscribo.
- ✠ ego cuthbertus archiepiscopus propria manu subscripsi.
- ✠ ego uuita episcopus consensi et subscripsi.
- ✠ ego torthelm episcopus consensai et subscripsi.
- ✠ ego wilfredi episc. cons. et subs.
- ✠ ego cuthberht episc. cons. et subs.
- ✠ ego huetlac episc. cons. et subs.
- ✠ ego eanfrith episc. cons. et subs.
- ✠ ego egclaf episc. cons. et subs.
- ✠ ego aluuig episc. cons. et subs.
- ✠ ego hunwald episc. cons. et subs.
- ✠ ego daniel episc. cons. et subs.
- ✠ ego aldwuulf episc. cons. et subs.
- ✠ ego aethelfrith episc. cons. et subs.
- ✠ ego herewald episc. cons. et subs.
- ✠ ego sigcga episc. cons. et subs.
- ✠ ego redwulf episc. cons. et subs.
- ✠ ego ofa patricius cons. et subs.
- ✠ ego aldwuulf dux cons. et subs.
- ✠ ego aethelmod indolis Merc. cons. et subs.
- ✠ ego heardberht dux cons. et subs.
- ✠ ego eadbald dux cons. et subs.
- ✠ ego bereul dux cons. et subs.
- ✠ ego cyneberht cons. et sub.
- ✠ ego freothoric cons. et subs.
- ✠ ego wermund abbas cons. et subs.
- ✠ ego cuthræd abbas cons. et subs.
- ✠ ego buna abbas cons. et subs.

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COD. DIPL. No. 99. vol. i. p. 119.

**ÆTHILBALD, 749.**

✠ Plerunque contigere solet pro incerta futurorum temporum uicissitudine, ut ea, quae multarum et fidelium personarum testimonio consilioque roborata fuerunt, ut fraudulenter per contumaciam plurimorum, et machinamenta simulationis, sine ulla consideratione rationis periculose dissipentur, nisi auctoritate literarum, et testamento chirographorum aeternae memoriae inserta sint. Quapropter ego Aethibaldus rex Merciorum, pro amore coelestis patriae et pro remedio animae meae, hoc maxime agendum esse praesuidi, ut eam bonis operibus liberam efficerem ab

omnibus uinculis piaculorum. Dum enim mihi omnipotens deus per misericordiam clementiae, absque ullo antecedente merito, scepra regiminis honorifice largitus est, ideo ei libenter et uoluntarie ex eo quod accepi iterum retribuo. Huius rei gratia hanc donationem, deo teste, me uiuente concedo, ut monasteria et aeclesiae a publicis uectigalibus et ab omnibus operibus oneribusque, auctore deo, seruientes absoluti maneant; nisi sola quae communiter fruenda sunt, omnique populo, edicto regis, facienda iubentur, id est instructionibus pontium, uel necessariis defensionibus arcium contra hostes, non sunt renuenda. Sed nec hoc praetermittendum est, cum necessarium constat aecclésiis dei, quia Aethelbaldus rex, pro expiatione delictorum suorum et retributione mercedis aeternae, famulis dei propriam libertatem in fructibus siluarum agrorumque, siue in caeteris utilitatibus fluminum uel raptura piscium, habere donauit; et ut munuscula ab aecclésiis in saeculare conuiuium regis uel principum a subditis minime exigantur, nisi amore et uoluntate praebentur: sed cunctas tribulationes quae nocere uel impedire possunt in domo dei, omnibus principibus sub eius potestate degentibus demittere et auferre praecipit; quatenus sublimitas regni eius prosperis successibus polleat in terris, et meritorum manipuli multipliciter maturescunt in coelis. Qui uero haec benigna mentis intentione atque inlaesa cogitatione custodierit, aeterna claritate coronetur, ornetur, glorificetur. Si quis hoc, quod absit, cuiuslibet personae, tyrannica cupiditate instinctus, contra hanc donationis cartulam, saeculari potentia fretus, uenire nititur, sit sub anathemate Judae, proditoris domini nostri Ihesu Christi. Ad confirmandum uero hoc nostrae beneficentiae manus, hii testes adfuerunt, et nostri magistratus optimates et duces fidelissimique amici consenserunt et scripserunt ✠ Ego Aethelbald diuinis fultus suffragiis, hiiis statutis consentiens confirmandoque signum crucis arauit ✠ Ego Huita Mercensis aecclésiae humilis episcopus subscripsi. ✠ Ego Torhthelm gratia dei episcopus signum crucis infixi ✠ Ego Headberht primatum tenens subscripsi. ✠ Ego Eada his statutis consentiens subscripsi. ✠ Ego Cyneberht his gestis consentiens subscripsi. ✠ Ego Bercul patricius his donis consentiens subscripsi. ✠ Ego Friothuric consentiens subscripsi ✠ Ego Eopa his statutis consentiens subscripsi ✠ Ego Eadbald subscripsi. ✠ Ego Byrnhelm subscripsi. ✠ Ego Mocca subscripsi. ✠ Ego Aldceorl subscripsi. ✠ Ego Alhmund subscripsi.

Huius scedulae scriptio dominicae incarnationis anno DCCXLVIII. indictione secunda in loco celebre cuius uocabulum est Godmundeslacch. XXXIII. anno Aethelbaldi regis peracta est.

COD. DIPL. No. 1018. vol. v. p. 56.

• ARCHBISHOP ÆDELHEARD, 798.

✠ ANNO dominicæ incarnationis, DCC.XCVIII. Congregatum est magnum concilium in loco ubi dicitur Bachanchilde, præside eadem concilio Ceneulfo rege necnon reuerentissimo archiepiscopo Æðelardo, cum episcopis, abbatibus, et multis aliis idoneis personis. Tunc idem uenerabilis pater et primas totius Britannicæ Æðelardus sic exorsus est: Ego Æðelardus gratia dei humilis sanctæ Dorobernensis aeccliesiæ archiepiscopus unanimo concilio totius sanctæ synodi in nomine dei omnipotentis et per eius tremendum iudicium præcipio, sicut ego mandatum a domino apostolico Leone papa percepi ut [ex] hoc tempore nunquam temerario ausu super hæreditatem domini, id est, aeccliesias, laici<sup>1</sup> præsumant dominium suscipere. Sed sicut in privilegiis ab apostolica sede datis habetur, seu etiam ab apostolicis uiris in initio nascentis aeccliesiæ traditum est per sanctos canones, uel etiam a propriis possessoribus monasteriorum constitutum est, ea regula et obseruantia disciplinæ suæ [monastica] iura studeant obseruare. Si ergo, quod abait, ipsi hoc nostrum mandatum et domini apostolici præceptum spreuerint et pro nichilo ducunt, sciant se a præsentis aeccliesiæ iustorum segregatos, et in die iudicii ante tribunal Christi, nisi ante emendauerint, rationem reddituros. Hæc sunt nomina sanctorum episcoporum et abbatum qui cum totius synodi consensu pro confirmatione prædictæ rei signum sanctæ crucis subscripserunt.

✠ Ego Æðelardus archiepiscopus Dorobernensis ciuitatis signum sanctæ crucis subscripsi. ✠ Ego Hedde episcopus subscripsi. ✠ Ergo Warr episcopus subscripsi ✠ Ego Eguuinus episcopus subscripsi. ✠ Ego Fortærus Episcopus subscripsi. ✠ Ego Daniel episcopus subscripsi. ✠ Ego Eadbriht episcopus subscripsi ✠ Ego Acca episcopus subscripsi ✠ Ego Inguualdus episcopus subscripsi. ✠ Ego Heardrid episcopus subscripsi ✠ Ego Noðbertus episcopus subscripsi. ✠ Ego Wulfredus archidiaconus subscripsi. ✠ Signum Aldulfi episcopi Licifeldensis ✠ Ego Eadulf Siddensis episcopus subscripsi. ✠ Ego Osmundus Lundoniensis episcopus subscripsi. ✠ Ego Tiidfridus Dammoce episcopus subscripsi ✠ Ego Fortredus abbas subscripsi ✠ Ergo Wernbrihtus Legorensis subscripsi ✠ Ego Ealhmundus episcopus Uintoniensis subscripsi. ✠ Ego Wermundus Hrofensis episcopus subscripsi. ✠ Ego Felogyldus abbas subscripsi. ✠ Ego Wlfredus archidiaconus subscripsi.

<sup>1</sup> laici sæculares, Reg. Cant.

<sup>2</sup> Here the Reg. Cant. breaks off abruptly.

## A. D. 803.

Cod. Dipl. No. 185. vol. i. p. 224.

## ÆTHELHEARD, 803.

GLORIA in excelsis deo et in terra pax hominibus bonae uoluntatis.

✠ Scimus autem quod multis in deum fideliter confidentibus notum et manifestum est. et nihil tamen illis placabile in eo uisum est, qui in gentibus anglorum commorantur quod offa rex merciorum in diebus isenberhti archiepiscopi cum maxima fraude honorem et unitatem sedis sancti agustini patris nostri in dorouernensi ciuitate diuidere et discindere praesumpsit, et quo modo post obitum praedicti pontificis aedelheardus archiepiscopi dei gratia donanti illius successor post curricula annorum erga plurima dei ecclesiarum iura limina apostolorum et apostolicae sedis beatissimum papam leonem uisitare contigit. inter alias necessarias legationes etiam discissionem iniuste factam archiepiscopalis sedis narrauit, et ipse apostolicus papa ut audiuit et intellexit quod iniuste fuisset factum statim sui priuilegii auctoritatis praecipuum posuit et in brittanniam misit et praecipit ut honor sancti agustini sedis cum omnibus suis parrochialis integerrime redintegraretur iuxta quod sanctus gregorius nostrae gentis apostolus et magister composuit et honorabili archiepiscopo aedelheardo in patriam peruenienti per omnia redderetur et coenuulfus rex pius merciorum ita compleuit cum senatoribus suis. Anno uero dominice incarnationis. DCCC. III. indictione. XI. die. IIII. idus Octobris. Ego aedelheardus archiepiscopus cum omnibus. XII. episcopo. sancto sede beati agustini subiectis per apostolica praecepta domni papae leonis in synodo qua factus est in loco celebri qui uocatur clofeshoas unanimo consilio totius sancti synodo. in nomine dei omnipotentis praecipientes et omnium sanctorum illius et per eius tremendum iudicium. ut numquam reges neque episcopi neque principes neque ullius tyrannicae potestatis homines honorem sancti agustini et suae sanctae sedis diminuere uel in aliquantula particula diuidere praesumerint. sed in eo per omnia dignitatis honore plenissime semper permaneat quo utique in constitutione beati gregorii et in priuilegiis apostolicorum suorum successorum habeatur nec non etiam et in sanctorum canonum rectum haberi sanctionibus uideatur. Nunc etiam deo cooperanti et domno apostolico papae leoni ego Aedelheardus archiepiscopus et alii coepiscopi nostri et nobiscum omnes dignitates nostri synodi cum uexillis crucis Christi unanimiter primatum sanctae sedis firmantes, hoc quoque praecipientes et signo sanctae crucis scri-

bentes ut aŕcepiscopalis sedes in liccidfeldensi monasterio numquam habeatur ex hoc tempore neque in alio loco aliquo nisi tantum modo in drobernensi ciuitate ubi Xpi ecclesia est et ubi primus in hac insula catholica fides renituit et a s̄co agustino sacrum baptismum celebretur. insuper etiam cartam a romana sede missam per hadrianum papam de pallio et de archiepiscopatus sede in liccidfeldensi monasterio cum concensu et licentia domni apostolici leonis papae praescribimus aliquid ualere. quia per subreptionem et male blandam suggestionem adipiscebatur. et idcirco manifestissimis signis caelestis regis primatum monarchiae archiprincipatus permanere canonicis et apostolicis munitioibus statuimus ubi s̄m euangelium Xpi per beatum patrem agustinum in prouincia anglorum primū praedicatur. et deinde per gratiam s̄ci sp̄s late diffusum est. Si quis uero contra apostolicis praeceptis et nostrorū omnium ausus sit tunicā Xpi scindere et unitatē s̄cē dī ecclesiae diuidere. sciat sē nisi digne emendauerit quod inique contra sacras canones fecit aeternaliter esse damnatum.

Hic sunt nomina s̄corū episcoporū et abbatum qui praescriptum cyrographi cartulā in synodo qui factus est s̄t clofeshoum, anno aduentus d̄ni, DCCC.III. cum signo s̄cae crucis Xpi firmaverunt :

- ✠ aedelheardus aŕcep̄is.
- ✠ alduulfus ep̄is.
- ✠ uerenberhtus ep̄is.
- ✠ alcheardus ep̄is.
- ✠ uuigberhtus ep̄is.
- ✠ almundus ep̄is.
- ✠ osmundus ep̄is.
- ✠ eaduulfus ep̄is.
- ✠ deneberhtus ep̄is.
- ✠ uuithunus ep̄is.
- ✠ tidfridus ep̄is.
- ✠ uulfheardus ep̄is.
- ✠ almundus p̄rs ab'.
- ✠ beonna p̄rs ab'.
- ✠ fordr̄ed p̄rs ab'.
- ✠ uuigmundus p̄rs ab'.



Cod. Dipl. No. 1024. vol. v. p. 64.

ARCHBISHOP AÆDELHEARD, Oct. 12, 803.

✠ Ego aæðelheardus gratia dñi humilis sc̄ae dorobernensis aecclesiae ar̄cepisc̄ unanimo concilio totius sc̄e synodi. congregationib. omniū monasteriorūq; olim a fidelib. xp̄o dño ppetuā in libertatē dedita fuerunt. In nomine dñi omnipotentis. et p̄ eius tremendum iudicium p̄cipio. Sicut et ego mandatū a domno apostolico leone papa p̄cepi. Ut ex hoc tempore nunquā temerario ausu super hereditatem dñi laicos et saeculares sibi p̄sumant dominos eligere. Sed sicut in priuilegiis ab apostolica sede datis habetur. Sen etiā ab apostolicis uiris in initio nascentis aecclesiae traditū ÷ p̄ sc̄os canones uel etiā a propriis possessorib. monasteriorū constitutū. ea regula et obseruantia disciplinē sua monastica iura studeant obseruare. Si ergo quod absit ipsi hoc n̄m̄ mandatum. et domini apostolici papae spreuerint et pro nihilo ducunt. Sciant se ante tribunal xp̄i nisi ante emendari uoluerint rationē reddituros. Haec s̄ nomina sc̄orum episcoporū et uenerabilū abbatū et presbyterorū et diaconū qui cū totius sc̄e synodi consensu pro confirmatione p̄dictae rei sig' sc̄ae crucis subscripserunt.

✠ Ego Aæðelheardus gratia dñi ar̄cepisc' dorobernensis ciuitatis, sig' sc̄ae crucis subscripsi.

✠ aepelheah ab' ✠ wernoð p̄r

✠ feologeld p̄r ab' ✠ beornmod p̄r

✠ Uulfheard p̄r ✠ uulfred ar̄t̄ diac

✠ Ego aldulfus liccedfeldensis ecclesiae epis' sig' crucis subscripsi.

✠ hygberht ab' ✠ monn p̄r ✠ eadhere p̄r

✠ lulla p̄r ✠ wigferð p̄r ✠ cuðberht p̄r

✠ Ego werenberht legorensis ciuitatis epis' sig' crucis subscripsi.

✠ alhmund p̄r ab' ✠ berththæð p̄r

✠ beonna p̄r ab' ✠ eadred p̄r

✠ forðred pr ab' ✠ æbelhæh p̄r

✠ uuigmund pr ab' ✠ eanred p̄r

✠ eadberht p̄r ✠ mon p̄r

✠ Ego eadwulf syddensis ciuitatis epis̄ sig' crucis subscripsi.

✠ eadred p̄r ab' ✠ plegberht p̄r ✠ hereberht p̄r

✠ dæghelm p̄r ab' ✠ eadulf p̄r ✠ heaðored p̄r

✠ Ego deneberht wegoranensis ciuitatis epis' sig' crucis subscripsi.

✠ hyseberht ab' ✠ pæga ab' ✠ coenferð p̄r

✠ ðingeferð ab' ✠ freoðomund ab' ✠ seleræd p̄r

- ✠ Ego wulfheard herefordensis ecclesiae epis' sig' crucis subscripsi.  
 ✠ cuðred ab' ✠ dycga þr ✠ heaðobald diaċ  
 ✠ strygel þr ✠ moan þr ✠ werferð  
 ✠ Ego wigberht sciraburnensis ecclesiae epis' sig' crucis subscripsi  
 ✠ muca ab' ✠ berhtmund ab'  
 ✠ eadberht ab'  
 ✠ Ego ealhmund wintanae ciuitatis episċ sig' crucis subscripsi.  
 ✠ cuðberht ab' ✠ marcus ab' ✠ notheard þr  
 ✠ cufa ab' ✠ lulla ab' ✠ wigðegn þr  
 ✠ Ego alheard elmhamis ecclesiae episċ sig' crucis subscripsi.  
 ✠ folcberht þr ✠ eadberht þr ✠ hunfrið diaċ  
 ✠ freoðuberht þr ✠ wulflaf þr ✠ beornhelm diaċ  
 ✠ Ego tidfrið dummucae civitatis episċ sig' crucis subscripsi.  
 ✠ uulfheard ab' ✠ ceolhelm þr ✠ tilberht þr  
 ✠ lull ab' ✠ cynulf þr ✠ eadberht þr  
 ✠ Ego osmund lundonensis ciuitatis episċ sig' crucis subscripsi.  
 ✠ heahstan þr ab' ✠ tidhun þr ✠ aepelhelm  
 ✠ wighard þr ✠ freoðored þr  
 ✠ Ego wermund hrofensis ciuitatis epis' sig' crucis subscripsi.  
 ✠ lullinge þr ✠ beagnoð þr ✠ wigheard þr  
 ✠ tuda þr ✠ heahberht þr ✠ heard diaċ  
 ✠ Ego uuihthun selesegi ecclesiae episċ sig' crucis subscripsi.  
 ✠ ceolmund ab' ✠ eadberht þr ✠ heahferð  
 ✠ dudd þr ✠ beorcol þr ✠ cynebald  
 ✠ Actum ÷ in celebri loco q: uocatur clofeshoas. Anno ab incarnatione dñi. DCCCIII. indictione. XI. die quarta idus octobres.

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WILKINS, CONCILIA, vol. i. p. 200.

A.D. 905<sup>a</sup>.

*Epistola Formosi papæ ad episcopos Angliæ, de ecclesia Anglicana bene ordinanda.* Ex Baronio collat. cum MS. Cantuar. A. fol. 3.

FRATRIBUS et filiis in Christo, omnibus episcopis Angliæ, Formosus. Audito, nefandos ritus paganorum partibus in vestris repululasse, et vos tenuisse silentium, ut canes non valentes latrare; gladio separationis a corpore Dei ecclesia vos ferire deliberavimus. Sed quia, ut nobis dilectus frater noster Pleimundus intimavit, tandem evigilastis, et semina verba Dei olim venerabiliter jacta in terra Anglorum cœpistis renovare; mucronem devorationis retrahentes Dei omnipotentis et B. Petri apostolorum prin-

<sup>a</sup> See above, p. 337.

cipis benedictionem vobis mittimus, orantes, ut in bene cœptis perseverantiam habeatis. Vos enim estis, fratres, de quibus loquens Dominus, inter alia inquit: "Vos estis sal terræ, et si sal evanuerit, in quo salietur?" et iterum: "Vos estis lux mundi;" significare volens per verbi sapientiam condiri mentes hominum a vobis debere; et in moribus et in vita vestra bonæ actionis studium, quasi lumen apparere fidei, per quod gradientes ad vitam, quomodo caute ambulent, videant, ut ad promissionem æternæ beatitudinis sine offensa currentes, valeant pervenire. Nunc accingimini ergo, et vigilate contra leonem, qui circuit, quærens quem devoret; et non patiamini ulterius in regione vestra, penuria pastorum christianam fidem violari, gregem Dei vagari, dispergi, dissipari. Sed cum unus obierit, alter, qui idoneus fuerit, canonicè protinus subrogetur. Nam secundum legem plures facti sunt sacerdotes, eo quod morte prohiberentur permanere. Quod David considerans, ait, "Pro patribus tuis nascentur tibi filii, constitues eos principes super omnem terram." Nulla itaque mora sit subrogandi alium cum quilibet sacerdotum ex hac vita migraverit; sed mox ut illi, qui primæ sedis principatum gerens, inter vos cæteris episcopis præesse dignoscitur, fratris obitus fuerit denunciatur, facta electione canonicâ, alter consecratus succedat. Quis autem inter vos principatum tenere debeat, quæque sedes episcopalis cæteris præpolleat, habeatque primatum, abolitanis temporibus notissimum est. Nam, ut ex scriptis B. Gregorii, ejusque successorum tenemus, in Doroberniæ civitatem metropolim, sedemque primam episcopalem constat esse regni Anglorum, cui venerabilis frater noster Fleimundus nunc præesse dignoscitur; cujus honorem dignitatis nos nullo pacto imminui permittimus, sed ei vices apostolicas per omnia gerere mandamus. Et sicut B. Gregorius papa primo vestræ gentis episcopo Augustino omnes Anglorum episcopos esse subjectos constituit; sic nos prænominato fratri Doroberniæ sive Canterberiæ archiepiscopo, ejusque successoribus legitimis eandem dignitatem confirmamus; mandantes et auctoritate Dei, et beati Petri apostolorum principis præcipientes, ut ejus canonicis dispositionibus omnes obediant, et nullus eorum, quæ ei, suisque successoribus apostolica auctoritate concessa sunt, violator existat. Si autem quis hominum contra hæc aliquando niti, ac imminuere ista tentaverit; sciat se proculdubio mulctandum fore gravi anathemate, et a corpore S. ecclesiæ quam inquietare molitur, perpetuo, nisi resipuerit, separandum.



# I N D E X

TO

## T H E F I R S T V O L U M E .

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### ADVERTISEMENT TO THE READER.

IN this Index the greater number every where denotes the sets or system of answers, laws or canons, bearing date the year signified by that number.

The lesser number shews the particular answer, law or canon, referred to. If there be no lesser number, it is because the memorial referred to has no division, or is very short.

If there be a third number not exceeding 6, after DCI. 8. DCCXXXIV. 16, it refers to a subdivision in those places only: in others it denotes another answer, law or canon, in the same set.

Pf. denotes the translator's Preface, Pa. his Postscript to any set. If Lat. or Sax. be added, it signifies the Preface or Postscript translated from the original Latin or Saxon.

The same figures refer to a law, canon, &c., and to the notes on that law, canon, &c.

[MS. refers to the Excerptions of Ecgbriht, A.D. 740, as in CCCC. K. 2.]

[The references to the Addenda and the notes of this edition are put within brackets, the pages being added when necessary.]

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 had right to half the treasure found in them, or in churchyards,  
 1064, 13.  
 their lands, when they first paid tax of danegeld, 1064, 11.
- Church* tenants to be sued no where but in the ecclesiastical court,  
 1064, 5.

- Church-scot*, when and how to be paid, 693, 4, 13; 944, 2; 958, 2; 960, 54; 1009, 12; 1014, 4; 1017, 10.
- Church-thane*. See Priest.
- Churchyards*, the rise of them considered as burial places, 740, 25.
- Clergy*, or those of the inferior orders, (at least it rarely includes the priests.)
- their share in the oblations, 601, 1.
  - their behaviour, 601, 2.
  - some supposed to be married, 601, 2. [1]
- Clerk*, penalty of robbing him, 602, 1.
- not to leave his diocese, 673, 5.
  - if he does, not to be received without his bishop's letters, 673, 5.
  - his purgation from any impeachment, 696, 19.
  - how not to read canons, 740, Pf. Lat.
  - to be obedient to bishop, and not conspire against him, 740, 58, 59.
  - not to violate sepulchres, 740, 74.
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  - not to eat till he hath said an hymn, 740, 108.
  - how to be tried, 740, 140.
  - laymen not to testify against, 740, 144.
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  - not to go to church without the colobium, 740, 153.
  - not to bear arms, 740, 159, 160.
  - not to sit judge on life and death, 740, 155, 156.
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  - the affectation of secular apparel forbidden them, 747, 28.
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  - in capital cases to be tried by bishops, 878, 3.
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  - to be true to their worldly lords, 960, 1.
  - how to go to synod, 960, 3.
  - to sing thirty psalms on an extraordinary humiliation, 1014, 2.
  - they were under protection of God and Church, 1064, 2.
- [*Cliffe*, see *Cloves-hoo*.]
- Coin*. See Money.
- Cloves-hoo*, a place assigned for synods, 673, 7.
- not Cliff in Kent, 803, Pf.
  - [supposed to be Abingdon, 803, Pf. *Addenda*.]
- Colobium*, 740, 153.
- Communicants*, their oaths of great weight, 693, 9, 10; 696, 23.
- Communion*. See Housel, Mass, Eucharist.
- Concubine*, he that dismisseth her and takes a wife, blamed, 740, 125.
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  - to have a wife and concubine, or two wives, how penal, 963, 27, 28.
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- the manner of doing it to the priest, 963, 1—10.
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- Confession*, the benefit of confessing to priest, and to God alone, 994, 30.  
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- [*Con sacramentals*, 696, 21.]
- Consecration* of a church, when to be renewed, when not, 740, 139.  
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- Contumacy*, or contempt of authority, requires deep satisfaction, 740, 60, 62.
- Conversion*, taking a coul, and becoming a monk, 673, 4 ; 747, 24.
- Cornwall*, a bishop's see there, 908.
- Corporal*, or Corporas, a fine linen cloth for the sacrament, 960, 33.
- Corneal*, a sort of ordeal, 1017, 5.
- Council*. See Synod.
- County Court*. See Sunday.  
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- Cross* used in swearing, 734, 3 ; 785, Ps. Lat.  
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- Crown* of a clergyman, or monk. See Tonsure.
- [*Cushbert*, St., his day, 877, 20, p. 329, note\*.]

## D.

- Danes* invade England, 816, 7 ; 877, Pf.
- Danegeld*, a tax laid for repelling Danes, 1064, 11.
- Dancings*, obscene, forbid, 1009, 21.
- Deacon*, the penalty of robbing him, 602, 1.  
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- Dead corpses*, how to be treated, 957, 36.
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- Decrees* not valid without consent of most, 740, 47.  
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- Dedication*, the day on which the church was consecrated, and of the saint to whom it was dedicated were to be kept as principal feasts, and they who kept them under protection of Church and king; 1064, 3.
- Defendant* carries his cause, if plaintiff appear not at third call, 816, 6.
- Deposition* for violation of sepulchres, 740, 74.  
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- Devil-worship.* See offering to devils.
- Dice* forbid to priests, 960, 64.
- Dioceses. See Bishoprics.
- Divination.* See Sorcery.
- Divorce*, when allowed, 673, 10.  
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- [*Drink-lean*, 950, 56, note †.]
- Dummoc*, that is, Dunwich in Suffolk, an old episcopal see, [785. Pa. p. 283, note †;] 803, Pa.
- Dunstan*, archbishop of Canterbury, an enemy to the married clergy, 957, Pf.  
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- [*Dunwich.* See Dummoc.]



## E.

- Eadhed* made first bishop of Lincoln, and removed, 679, Pf. and 4.
- Eadriðfrid*, king of Northumberland, opposes the pope and Wilfrid, 680, Pa.
- Eanham, Enham, Ensham*, a place of council in Oxfordshire, 1009.
- Earls*, counts, chief noblemen among the Saxons, superior to aldermen, 692, 3.  
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- Easter-week*, to be kept as the Lord's day, 740, 104.  
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- Easterns*. See *Orientalis*.
- Ecclesiastics*, that is, bishops, clergy, monks, canons, and nuns.  
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- [*Egþrikt*, Excerptions, Bodl. MS. of, 740, 162, p. 323, note \*.]
- Egþforth*, anointed king in his father Offa's life-time, and taught his duty, 785, 11.
- Egþfrid*, king of Northumberland, thrusts Wilfrid from his diocese, 679, Pf.  
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- Edgar*, king of England, an enemy to married clergy, 957, Pf.  
 yet his zeal inflamed by Dunstan, 958, Pf.  
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- Edward*, king and martyr, his feast observed, 1017, 17.
- Edward*, king and Confessor's laws, how collected by Conqueror, 1064, Pf. ; 1065, Pf.
- Edwin*, king of Northumberland, an encourager of Christianity, 679, Pf.
- Edwy*, king, a countenancer of the married clergy, 957, Pf.
- Election* of bishops and other prelates, 692, 3 ; 742, Pf. and 785, 5.
- Elfric*, archbishop of Canterbury, the Grammarian, 957, Pf.  
 [who the author of the canons, *ibid.*]  
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- Elmam*, or Helmam in Norfolk, an old bishop's see, 803, Pa.

- Ember Weeks*, 734, 15 ; *per tot. et Ps*, 747, 18 ; 1009, 16.  
 Wednesdays, Fridays and Saturdays, in these weeks, allowed to slaves,  
 877, 20.
- [*Ercunwald*, time of his death, 603, Pf. ; p. 136, note\*.]
- Ernes*, the month August, 696, Pf.
- Ethelbald*, a vicious king of Mercia, 747, Pf.  
 [his grant, 742, Pf., p. 237, note\*.]
- Ethelbert*, first Christian king of Kent, 601, Pf. ; 602.
- Ethelred*, king of Mercia, opposes Theodore, 679, 4.  
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- Ethelstan*, king of England's charity in giving, 925, 1.  
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 [enactment of tithes, 925, 1.]
- Ethelwolf*, king of West-Saxons, a clergyman, and great benefactor to the  
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- Eucharist*, given to children at baptism, 740, 41 ; 740, MS. 95.  
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- Excester*, a place of synod, 925, 7 ; 926, Pf.  
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- Excommunication* clerical, or against clergymen or bishops.  
 for leaving their diocese, 673, 5.  
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- Excommunication* against laymen.  
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 for usurping holy orders, or accepting the ministrations of such, 734, 5.  
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 for using the habit of the other sex, 740, 153.  
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 for withholding church rights, 944, 2.  
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- Excommunication*, for forcing a woman, 963, 33.  
 for perjury, or bearing false witness, 994, 26, 27.  
 for selling men to foreigners, 1014, 5.  
 for debauching one's slave, or keeping a concubine, 1018, 25.
- Excommunicates*, how to be treated, 740, 162.  
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## F.

- Familia*, 734, 1; 1009, 1. See Plough-land.
- Fasts*, solemn, 734, 16; 943, 9; 950, 50; 958, 5; 1017, 15, 16.  
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 1064, 3.  
 no flesh then to be eat, 696, 15; 1018, 17.  
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- Fast*, occasional in troublous times, enjoined by king, and great council.  
 on bread, water and herbs, 1014, 2.
- Fasting*, enjoined by way of penance for sin,  
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- Feasts*, solemn, to be strictly observed, 943, 9; 950, 50; 958, 5; 1017,  
 14, 15.  
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- Feasts*, St. Gregory's and St. Augustin's enjoined, 747, 17.  
 two of old to St. Michael, 1014, 2.  
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 St. Edward's and St. Dunstan's enjoined, 1017, 17.  
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- Fighting*, penalties on them that are guilty of it, 693, 6; 877, 9.  
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- Finchall*, a place of council, 816, 7.
- Flatterers* to be gone out of the land, 1018, 7.
- Fleet*, provision for equipping of it, 1009, 22, 23.
- Foreigners*, weregild for them how to be shared, 693, 11.  
 to mend their lewdness, or to get them gone, 696, 4; 1018, 26.
- Foreoath* to be made by thane before the priest be brought to purgation, 926, 4.
- [*Fore-steal*, an assault, 1009, 27, note †.]
- [*Formosus*, Pope, letter of, 908, p. 337, *Addenda*.]
- [*Foster-lean*, a payment to the family of a bride, 946, 2, note §.]
- Fountains* and rivers not to be worshipped, 960, 16; 1018, 5.
- Fraternities*. See Gilds.
- Freebooters*. See Robbers.
- Freeman*, his penalty for working on Sunday, 693, 3; 878, 7; not to be sold over sea, 693, 8.
- Friburg*, 926, 4. See Gebeorscype.
- Frankincense*, 960, 43.
- Friday*. See *Fasts*. Long Friday, 957, 37.
- Frith-year*, [rather Frith-yard] 950, 48.
- Frumtale* and *Fulloc*, 950, 56, [note †.]

## G.

- Gaol*, or imprisonment.
- for priest that refuse baptism or penance, 740, 40.
  - for strolling monks, 740, 62.
  - for apostatizing Sodomite monks, 740, 62, 67.
  - for sacrilege, 740, 73.
  - for clerks not submitting to law, 878, 3.
  - for the priest that gets another's church, 904, 16.
- Gebeorscype*, a tithing, or society of ten freemen that had a family, 693, 6.
- [*George, St.*, his last prayer and day, 877, 20, *Addenda*, and note §.]
- [*Gesithcundman*, what, 693, 12, p. 137, note \*.]
- Gilds*, voluntary societies combined for mutual benefit of the associates, 725, Ps. Bishops combine in a gild, 940; and priests, 950, 1; 960, 9.  
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 from hence probably the rise of rural deaneries, 957, Pf.; [see *Addenda* at p. 372, to be inserted in p. 386, l. 32.]
- Goal*, (as mis-spelt,) see *Gaol*.

*Godfather.* See Sponsors.

[*God-borh*, what, 877, 14, note †.]

[*Good Friday*, service on, 957, 37.]

*Grathea*, [i.e. Greatley,] a place of council, 925, 7, [see note †.]

[*Greatanlea*, i.e. Greatley, 925, Pf. Sax. note †, 7, note †; 926, Pf. note †.]

*Greeks*, within what degrees they allowed marriage, 601, 5.

*Gudrun*, or Guthrun the Dane, reduced by King Alfred, and baptized, 878, Pf.

*Gregory* the first, pope of Rome, his character, 601, Pf.

enjoined the Romish service, *ibid.* 2.

and the ember weeks, 734, 16, 1, 2; [1009, 16, note \*.]

[his plan for bishoprics in England, 680, Pf., p. 112, note \*.]

[prayer wrongly attributed to him, 877, 20, note ‡.]

## H.

*Habam*, a place of council, 1014, Pf.

*Habit* of priests, 943, 4.

for officiating, 957, 22; 960, [33], 46.

*Hagulstade.* See Hexham.

*Hair*, not to be scandalously shaved, 960, 20. See Priest, Monk, Pagan, Tonsure.

*Hampton*, two minters there, 925, 4.

*Harlots.* See Whores.

*Hastings*, two minters there, 925, 4.

*Hatfield*, a synod there, 673, Pf.; 679, Ps.

a bishop's see, 803, Ps.; the same with Sidnacester; [see Sidnachester and p. 299, note \*.]

*Healsung*, 696, 12, 13; [15, note †;] 1009, 31.

*Heathen* and heathenism. See Pagan.

*Hedda*, sole bishop of Mercians, 679, 4.

*Hedde*, bishop of Winton, Theodore's favourite, *ibid.*

*Hereford* made a bishop's see, 679, 4.

*Heresfride*, a reproving priest, 747, Pf.

*Herudford*, Hartford, a place of synod, 673, Pf.

*Hexham*, Hagulstade or Hagustald, made a bishop's see, 679, 4.

[*Higebriht*, chosen archbishop of Lichfield, 785, Ps. note\*; p. 283, note \*.]

[*ibid.*, *Addenda* p. 285; 796, Pf. note.]

*Hilda*, the notable abbess, 673, 1; 680, Ps. [Lat.]

*Hirman*, 1014, 1.

[*Hloth*, what, 693, 9, note \*.]

*Holy night*, night before the first Sunday in Lent, 994, 38, note \*.]

*Hospitality* of bishops, 601, 1; 673, 6.

of bishops and priests, 740, 26.

of all to all comers, 994, 25.

*Hours*, canonical, and the service then performed by priests, clerks, and monks, 740, 28; 747, 15.

- Hours*, to be observed in every church, 785, 7 ; 950, 38 ; 957, 19 ; 960, 45.  
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 the English names for them, 957, 19.
- House*, that is, the sacrifice, or Eucharist, 925, 5.  
 not to be given to men half dead, 957, 31.  
 the sanctity thereof assigned as reason for priest's celibacy, 957, 7.  
 not to be consecrated on Good Friday, 957, 37.]  
 [dipped in chalice, *ibid.* p. 404, note \*.]  
 not to be kept from Easter over year, *ibid.*  
 nor till it be too stale, *ibid.*  
 to be denied to them who cannot say Creed and Pater Noster, 960, 22.  
 to be taken fasting, 960, 36.  
 to be burnt, if corrupted, 960, 38.  
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- Hunting* forbid to priests, 960, 64.  
 forbid to all on Sundays, 1009, 15.
- Husbands*, when to abstain from their wives, 601, 8, 4 ; 740, 106, 109 ;  
 960, 25 ; 740, MS. 81.  
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 in what case they need never abstain from wives, 601, 8, 6 ; 740, 110.  
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 divorcing a wife may not take another, 740, 120—122.  
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 740, 123.  
 in what case marriage is dissolved by consent, 950, 54.  
 lying with his slave, or keeping concubine, how punished, 1018, 25.  
 might make assault, if he saw a man under one cover with his wife or  
 daughter, 877, 19.

## I.

- Janbyrht*, or Lambert, Archbishop of Canterbury suspected, and ill-treated  
 by King Offa, 785, Ps.
- Idiots* are to have all religious offices ministered to them, 740, 81.
- Jewish* practices are forbid, 740, 146.
- Jews* are under king's protection, 1064, 15.
- Image* worship not introduced in times of Charles the Great, 785, 4.  
 yet prevailed in King Alfred's time, 877, Pf. Sax.
- [*Impotence*, accidental case of, 734, 13, *Addenda.*]

*Imprisonment.* See Gaol.

*Incendiaries*, such as set houses, &c., on fire, how punished, 925, 3.

*Incest* forbid, 601, 4, 5 ; 673, 10 ; 740, 145 ; 1018, 22 ; 943, 7.

the sorts of it particularly specified, *ibid.*, and 740 ; 126—135.

*Incestuous* marriages were not utterly annulled upon conversion, 601, 5.

utterly annulled, and a new marriage allowed, 740, 126.

the separated couple not to dwell in one house, 740, 127.

the persons of the incestuous couple forfeited to king and bishop, 878, 4.

*Ine*, king of West Saxons, grants Peter-pence, 693, Pf.

[date of his laws, 693, Pf.]

*Infants.* See Children.

*Interdict*, a prohibition of administering and receiving sacraments ;

inflicted on this nation, 816, Ps. ; 908.

*John* of Beverley, a saint, took share of Wilfrid's diocese, 680, Ps.

*John*, patriarch of Constantinople, styled himself universal bishop, 601, Pf.

*John*, precentor of St. Peter's, Rome, his business here, 673, Pf. ; 679, 7—9.

[*Jorval*, Chronicle of John Brompton of, 877, 2, note §.]

*Irregular*, that is, bishops or clergymen ordained under some incapacity, or that officiated when under censure, 950, 3.

in what case never to hope for indulgence, 740, MS. 73.

*Judges*, temporal, their duty, 785, 13 ; 1014, 8.

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## K.

*Kenred* king of Mercia opposes Theodore, 679, 4.

*Kent* purchaseth peace of the West-Saxons, 693, Pf.

*King*, penalties for offences against him, 602, 3, 4.

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his power over thieves, 696, 26.

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a curse against them if they violate what hath been ratified by the sign of the cross, 816, 6.

permitted by bishops to take mulcts for sin, 877, Pf. Sax.

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- King*, had power to dismiss a nun from monastery, 877, 6.  
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*King's* thane, 693, 12.  
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*Kirton* in Devonshire, a bishop's see, 908, *Addenda.*

## L.

- Lah-cheap*, 950, 56.  
*Lammas*, or Peter-mass, the feast of St. Peter *ad Vincula*, Aug. 1.  
 day assigned for paying Peter-pence, 958, 4; 960, 54; 1009, 11; 1017,  
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*Land-cheap*, 950, 56.  
*Laymen* forbid to invade churches, 692, 2.  
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 to communicate on the three great feasts, 740, 38.  
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*Lector*, his order and office, 957, 12.  
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*Lent.* See Fasts.  
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- Lenten veil*, 877, 17.
- Lents* kept by the most superstitious, three in the year, and five or seven enjoined in penance, at the discretion of the confessor, 963, 43, 46 ; 740, 162 ; 740, MS. 94.
- Leves*, two minters there, 925, 4.
- Liars* to get them gone out of the land, 1018, 7.
- Light-soot*, 878, 6 ; 1009, 12, 13.  
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- Light* to be always burning at mass, 960, 42.
- Lichfield*, of the division of that diocese, and succession of their first bishop, 673, 9 ; 679, 4. See *Aldulf* and *Canterbury*.
- Lindisfarne* or *Holy Island* made a bishop's see, 679, Pf.  
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- Lindsey*, or *Lincoln*, a bishop's see erected there, 679, Pf. ; [816, p. 300, note †.]
- Litanies* or processions to be observed, 747, 16.  
[*Loccs*, enticements, 963, 34 †.]  
Pope Gregory's and Augustin's name to be inserted into the devotions then used, 747, 17.
- London* intended for the see of the primate of this province, 601, 7 ; 680, Pf.  
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a place of council, 925, 7, and 8.  
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- Lord's* advantage to keep faith with his men, 1017, 20.  
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- Lord's day*. See *Sunday*.  
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- Luidhard*, French bishop at *Canterbury* when Augustin first came there ; 601, Pf., [and 2.]
- Lyblac*, 925, 3 ; 944, 6.

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- Magbote*, the part of the weregild belonging to the relations of him that was murdered, 693, 14.
- Maid*, betrothed and taken captive, might claim her spouse when she returned, 963, 35.  
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- Malefactors* condemned not to be denied shrift, 878, 5.  
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- Manbote*, the lord's share of the weregild for his murdered man, 693, 14 ; 1064, 12.

- Manens*, a ploughland or tenant of it, 734, 1.  
 [*Manworship*, i. e. false worship, 960, 16, note §.]
- Manse*, one ought to belong to every church, and that to pay no secular service to the lord, 740, 25.
- Mass*, bread, wine and water to be prepared for it, 740, 98; 960, 39; 994, 5.  
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- Mass vestments*, 960, 33.
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- Masters of churches*, 673, Pf. Lat.
- Matrimony* with cousin-germans forbid, 601, 5.  
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- [*Maundy-Thursday*, services on, 957, 37.]  
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- Measures*. See Weights.
- Mid-winter*, Christmas so called, 693, 13, &c.
- Mind-day*, 877, 20.
- Minster*, a monastery or great church, 693, 6.  
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- Minster-house*, place of sanctuary near the church, 877, 2.

- Minster-priest*, he who belonged to some religious or collegiate church, 960, 46.
- Minters*, where and how many, 925, 4.
- Missal* or *Mass-book*, the Roman from beginning used here, 601, 2 ; 734, 16, 1, 2.
- Monastery*, not to be molested, 673, 3 ; 816, 8. See Books.  
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- Monks*, not to leave their houses, 673, 4.  
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 to be always prepared for communion, 747, 22.  
 to be tried before they receive tonsure, 747, 24.  
 affectation, secular apparel forbidden them, 747, 28.  
 they that strolled to return to their houses, 747, 29.  
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 they are no proper order, 957, 18.  
 to be true to their worldly lords, 960, 1.  
 strollers, how to reform themselves, 1009, 1.  
 to sing the third psalm with limbs extended on the ground, 1014, 3,  
 and thirty psalters, on an extraordinary humiliation, [during the  
 Danish invasion,] *ibid*.
- Monkery* greatly encouraged by popes, 601, Pf.
- Money*, to be every where the same, 925, 4.  
 places where to be coined, *ibid*.  
 value of ancient denominations uncertain, 926, 2.  
 to be reformed, 1009, 22.
- Murderers* to get them gone out of the land, 1018, 6.

- Murderers* to be delivered to the kindred of him that is murdered, 1018, 27.  
*Musical* concerts forbid to bishops, 679, 5.  
*Mynikens*, strict nuns, 1009, 1, [see note §]; 1017, 6.

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- Necromancy*. See *Sorcery*.  
*Noon*, originally none or nones; three in our afternoon, how it came to vary in its signification, 958, 5. See *Hours*.  
*Northumbrians* converted, and their whole kingdom but one diocese, 679, Pf.  
*Nuns*, their behaviour regulated, 747, 19, 20; 785, 4.  
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- Oaths* of old valued according to the wealth of the deponents, 693, 9; 926, 3; 734, 1.  
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*Oblations* of the people, how divided, 601, 1.  
*Obit* of bishops to be kept, 816, 10.  
*Odo*, the good archbishop of Canterbury, though a Dane by birth, 943, Ps. Lat.  
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- Offa*, king of Mercia, in league with Charles the Great, 785, Pf. and Pa.  
 the synodal edicts sent him by that emperor, 785, 4.  
 he made laws, now lost, 877, Pf. Sax. [p. 317.]  
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- Offering* to devils, how penal, 696, 13, 14.
- Oils* for baptism, and unction of the sick, distinct, 957, 32.  
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 960, 66.
- [*Onating*, what, p. 127 note \*.]
- Ordeal*, that is, trial by fire or water; the manner of it, 925, 5, and 8.  
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- Orders* of clergy, seven particularly specified, 725, 1—7; 957, 10—17.
- Ordination* of bishops always on the Lord's day, 740, 96.  
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- Orientalis*, 785, 4, 19.
- Oswald*, king of Northumberland, no friend to the Church, 747, Pf.
- Ostiary*, his order and function, 957, 11.
- Oswald*, archbishop of York, an enemy to married clergy, 950, Pf.
- Oswald*, a religious king of Northumberland, 679, Pf.
- Out-lawed* by God and man, a sentence passed on apostates, 1018, 2.  
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## P.

- Pagan* superstitions not to be used, 740, 147, 148; 1018, 5.  
 particularly recited, 785, 19.  
 the penalty of practising them, 878, 2; 950, 47, 56.  
 their songs not to be used in Christian feasts, 960, 18.  
 their modes of shaving not to be imitated, 960, 20.
- Pall*, the archiepiscopal robe,  
 sent by Pope Gregory and Augustine of Canterbury, 601, Pf. and 6.  
 sent to Paulinus archbishop of York, 679, Pf.  
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- Parchment* used for writing letters, 734, Pf. Lat.
- Pater Noster* and Creed to be taught to all, 994, 22. See Burial.  
a tale of them said by studs fixed on belts, 816, 10.  
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- Paulinus* archbishop of York with a suffragan, 679, Pf.  
died bishop of Rochester, *ibid.*
- Peace.* See Protection.
- Pedigree* to be kept by all to the seventh generation, 740, 137.
- Penitent* ought to be received, 740, MS. 88.  
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- Penitential*, or penitentiary, the book containing the certain penance, that is, fasting, alms, or austerities to be performed for every crime, 957, 21; 673, Pf.
- Penance*, public or solemn, to be given by the bishop on Ash-Wednesday, 963, 12, 13.  
to be denied to none that want it, 740, 40.  
to be done by an officer of the army for fornication, 696, 5, 6.  
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for doing the conjugal act on Sundays or fasts, 740, 106.  
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- Penance* for a man slave, who being freed, dismisses his slave wife, and takes another, 740, 124.  
for marrying godmother, nun, or near kinswoman, 740, 132.  
for lying with two sisters, 740, 136.  
for priests and clerks committing murder, 740, 161, 162.  
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for contracting second marriage while the first subsists, and for them that were present at the contract, 963, 27.  
for bishop, priest, monk, &c., guilty of murder, 963, 20—37.

- Penance*, for murdering any ecclesiastic, or near kinsman, the penance is reserved to pope, 963, 38.
- for a priest that broke marriage, 963, 39.
  - for a priest or monk that received his discarded wife, 963, 40.
  - for defiling a nun, and for the defiled nun, 963, 41.
  - for desiring a woman unlawfully, 963, 44.
  - for him that steals a maid, and for the maid, 963, 45.
  - for sodomy, 963, 46, 51.
  - for self-defilement, 963, 47.
  - for murder by witchcraft, 963, 48.
  - for staking a man, 963, 49.
  - for procuring love, 963, 50.
  - for overlaying a child, 963, 52.
  - for letting a child die unbaptized, 963, 53.
  - for selling a Christian into a heathen country, 963, 54.
  - for perjury, 994, 27.
  - times for penance to be determined by bishop, 740, MS. 92.
  - not to come into the king's presence after murder, till penance is begun, 944, 3.
  - the manner of the priest's giving penance, 963, 10—14.
  - monkery, or severe pilgrimage, the deepest penance, 963, 64, 71.
  - not to come within a church, yet to affect holy places, 963, 65.
  - to go to them with a light, to be hospitable to all, 963, 69.
  - to use corporal severities, particularly the cold bath, 963, 63, 66, 70.
  - redemption of penance by a penny a day, 963, 71, 72.
  - mock penance, 963, 75—77.
- People* in a civil or state council in Kent, 696, Pf. Sax.
- Perambulation* days, 926, 1. See *Litanies*.
- Perjury* declared to be a capital crime, 994, 26.
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  - they who commit it, to be driven out of the nation, 878, 11 ; 944, 6 ; 1009, 4 ; 1018, 6.
  - their oath for the future null, 925, 7.
- Peter-mass*. See *Lammas*.
- Peter-pence* given by King Ina, 693, Pf. ; by King Offa, 785, Ps. ; how, and where to be paid, 950, 51 ; and by whom collected, *ibid*.
- he who made default to carry it to Rome, 958, 4.
  - when to be paid, 960, 54, &c. ; 1009, 11.
  - an ox to be taken from the tenant that refuses payment, 950, 51.
  - new laws to enforce the payment of it, 1017, 9 ; 1064, 11 ; 1065, 3, 4.
- Pilgrimage* enjoined to such as hurt or murder clerks, 740, 61 ; 963, 38.
- to such as oppose discipline, 740, 61.
  - to such as are sacrilegious, 740, 73.
  - to such as commit murder within verge of the church, 740, 77.
  - or that kill a near kinsman, 963, 38.
- Plays* forbid to bishops, 679, 5.

- Plegemund*, archbishop of Canterbury, consecrates seven bishops at once, 908, Pf.
- Plough-alms*, 878, 6 ; 960, 54 ; 1009, 10.  
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- Plough-land*, how much of old, 734, 1 ; 1014, 1.
- Pope's* growth of authority, 601, Pf.  
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- Poor*, their share in oblations, &c., 601, 1 ; 740, 5.
- Praying* by the spirit, that phrase abused, 747, 27.
- Prayers* for such as cannot say *Pater Noster*, 994, 23.  
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- Presbyteress*, 740, 133.
- Priest* signifies or includes bishop, 673, Pf. Lat. ; 734, 8 ; 740, MS. 43 ;  
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- Priest* of the second order.  
in what case he might or might not say mass, 601, 9.  
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- it is his duty to read and execute canons, 740, Pf. Lat.  
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to observe the hours of prayer, 740, 2.  
to preach on Sundays and holydays, 740, 3.  
to teach people to set out their tithes, 740, 4.  
to receive and share them, 740, 5 ; 957, 24.  
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to pray for the emperor, 740, 7 ; and for his bishop, 740, 8.  
to celebrate in consecrated places only, 740, 9 ; 950, 13.  
to observe rites and times of baptism, 740, 10.  
to baptize the sick at any time, 740, 11.  
not to sell sacraments, 740, 12.  
to live and die in his proper diocese, 740, 13.



- Priest*, to avoid drunkenness, 740, 14 ; 957, 29.  
 to dwell with no woman, 740, 15 ; 994, 12.  
 not to sue in temporal courts, 740, 16.  
 not to bear arms, or raise strife, 740, 17 ; nor frequent taverns, 740, 18.  
 not to be a swearer, 740, 19.  
 to administer penance and eucharist to the sick, 740, 20.  
 to anoint the sick, 740, 21.  
 to have Eucharist in readiness for the sick, 740, 22.  
 to be placed and displaced with bishop's consent, 740, 23, 56.  
 to pay no secular service for his manse, &c., 740, 25.  
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 not to be ordained before thirty, 740, 95.  
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 to mind their proper business, and not secular causes, 747, 8.  
 to be helpful to abbots, *ibid.*  
 to be an example to monks, as well as to laymen, 747, 9.  
 had a district assigned him by the bishop, *ibid.*  
 to learn and teach others Lord's Prayer, Creed, words of baptism, and consecration of the Eucharist, 747, 10.  
 that he practise uniformity, and catechize children and sponsors before baptism, 747, 11.  
 to be exact in pronouncing divine service, and do not intrench on bishop, 747, 12.  
 to invite people to sermons and masses, 747, 14.  
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 to help his mates in repelling wrong, 950, 1.  
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- Priest*, to find security for observing the priests' laws, 950, 2.  
 not to officiate contrary to bishop's injunction, 950, 3.  
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 not to lay an ecclesiastical cause before laymen, 950, 5 ; 960, 7.  
 not to transgress the archdeacon's command, 950, 6.  
 not to officiate contrary to his injunction, 950, 7.  
 not to neglect fetching the chrism, 950, 9.  
 not to be ordained by an improper bishop, 950, 12.  
 not to celebrate without a hallowed altar, 950, 14.  
 nor in a wooden chalice, 950, 15.  
 nor without wine, 950, 16.  
 not to be careless of the reserved housel, 950, 17 ; 960, 38.  
 not to celebrate more than thrice a day, 950, 18.  
 not to be turned out of his church without cause, 950, 22.  
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 not to help another priest in an unjust cause, 950, 31.  
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 to warn another priest against hurt designed him, 950, 33.  
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 to ring and sing the hours, 950, 36 ; 740, 2.  
 not to come armed into the church, 950, 37.  
 to observe the yearly order of service, 950, 38.  
 to administer ordeal regularly, 950, 39.  
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 not to be a drunkard, musician, &c., 950, 41 ; 960, 57.  
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 to give notice of annual church rights, 950, 43.  
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*Shrift*, confession of sins to priest. See Confession.

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