

Appendix II

The Christ Church account of the trial on Penenden Heath

Two documents exist which tell us something about a meeting of the county court of Kent at which archbishop Lanfranc came into collision with the king's brother Odo, earl of Kent as well as bishop of Bayeux. The first is a factual record of the court's proceedings, neutral in tone, surviving as a contemporary copy written by a scribe who is known to have worked for Lanfranc (above, pp. 214–16). The second is a piece of narrative, frankly partisan, composed at Christ Church long after the event, not demonstrably in existence before about 1120. Which of these documents sounds more likely to be reliable?

For anyone coming to the subject for the first time, it will seem amazing that this question has to be asked. Is the answer not utterly obvious? It *is* obvious; and anyone who wishes to look into the matter more closely should be sure to remember that, despite an edifice of historical scholarship built up over four hundred years which might almost have been designed to hide the fact. Until almost the last moment, I had been intending to ignore the second document. But the reader is entitled to know what all the noise is about; so I print the text below.

In rather the same way that the search for so-called 'satellites' distracted attention from the primary records of the survey – giving historians the illusion that they were making progress when in fact they were just wandering further and further from the point – much effort has been wasted on derivative versions of this text, all of which are manifestly worthless. There is only one version which has even the shadow of a claim to possess some evidential value; and there is only one copy of this version which has any textual value. The rest is just confusion.

The manuscript in question is a glossed copy of the Epistles of Saint Paul (Manchester, John Rylands University Library, Latin 109) which certainly did once belong to the cathedral priory in Rochester and was probably written there. In 1735 it was owned by the Lincolnshire antiquary Maurice Johnson (1688–1755); after that its next recorded home is at Haigh Hall in Lancashire, in the library of the Earl of Crawford and Balcarres. In 1901 the manuscripts from Haigh Hall were bought for the John Rylands Library, and that is how this book arrived in Manchester. Together with the other Latin manuscripts, it was catalogued by James (1921, vol. 1, pp. 193–4).¹

¹ I am indebted to Anne Marie Clarkson of the John Rylands University Library for information about the manuscript, and for letting me have excellent scans of the first five pages.

Before it left Rochester, at some uncertain date (apparently not till after an 'ex libris' inscription had been added at the foot of fo. 3r), two stray leaves were tucked in at the front of the book (fos. 1–2),² presumably to keep them safe.

These leaves have 27 lines to the page. Two scribes are represented.³ The first scribe (1r1–2v15), using an early form of Christ Church script, wrote the copy of the text printed below, which begins at the top of the first page and ends halfway down the fourth. The second scribe (2v16–27), using a larger and more developed form of Christ Church script, wrote a copy of a charter of Henric I for archbishop Radulf and the monks of Christ Church (Johnson and Cronne 1956, no. 1055), which begins on the next line and is broken off at the foot of the page (with the words *exquirere deberent*).⁴ It seems fairly certain that these two leaves are a fragment of a Christ Church manuscript; it seems probable that they were sent to Rochester in the 1120s, so that the first article – which was of interest to the monks there too – could be copied into the cartulary which was being compiled at that time (R1, fos. 168r–70v). Perhaps the two leaves ought to have been returned to Christ Church, once they had been transcribed; in the event they stayed in Rochester.

The manuscript is in good condition, the script is easy to read, and the text is in satisfactory shape. (It was printed, almost impeccably, by Le Patourel (1948, pp. 21–4); it was printed again, a little less accurately, by Bates (1998, pp. 319–21).) There is only one significant scribal error. In a sentence towards the end, where the context requires the single word *dimidiam*, this copy has the phrase *aut totam aut dimidiam* repeated from the previous sentence. I should have said that this was an obvious error, except that (to my knowledge) it has not been noted before.⁵

Another obvious fact (at least I should have thought it so) is that the text as we have it shows signs of having evolved through three versions, each with its own peroration. As the paragraphs are numbered below, the first version consisted

² Anne Clarkson tells me that the manuscript is so tightly bound that it is impossible to tell whether fos. 1–2 are conjoint or not.

³ The comments which follow are mine, but Tessa Webber permits me to say that she is of a similar opinion. Neither hand is a hand that she recognizes from other Christ Church manuscripts.

⁴ This page is reproduced by James (1921, vol. 2, pl. 143).

⁵ But it was seen by Philipott (1659, p. 231), who paraphrases this passage correctly but does not make any comment.

of paras. 1–4, the second of paras. 1–6, the third of paras. 1–9. There is a crucial sentence in para. 3, the syntax of which reflects the evolution of the text. At first, I suppose, the sentence read like this:

Et quoniam multa placita de diratiocinationibus terrarum inter archiepiscopum et praedictum baiocensem episcopum ibi surrexerunt, ...

Then a phrase was inserted which is the cue for paras. 5–6:

Et quoniam multa placita de diratiocinationibus terrarum, et uerba de consuetudinibus legum inter archiepiscopum et praedictum baiocensem episcopum ibi surrexerunt, ...

And then another phrase was inserted which is the cue for paras. 7–9.

Et quoniam multa placita de diratiocinationibus terrarum, et uerba de consuetudinibus legum inter archiepiscopum et praedictum baiocensem episcopum ibi surrexerunt, et etiam inter consuetudines regales et archiepiscopales ...

To put it differently, the text as we have it consists of three segments, only rather loosely connected; and each segment has to be evaluated by itself.

The first segment (paras. 1–4) is no more objectionable than one would expect it to be. It is biased, of course, but does not seek to disguise the fact. It is certainly not contemporary – the rude remarks about bishop Odo could not have been written till after he had fallen from power – but need not be very much later. The sentence in which Hugo de Montfort makes a surprise appearance reads like an interpolation, but most of the text could conceivably have been written as early as the 1080s.⁶

Anyone reading this version of the text is sure to ask the same question. Is that all? Two manors (Stoke and Denton) which actually belonged to the church of Rochester, two small manors (Detling and Preston) which were just limbs of the manor of Maidstone, and ‘many other small pieces of land’ which were not worth mentioning by name? Did Lanfranc accomplish nothing more than that?

Each in turn, the added segments were inspired by a sense that Lanfranc had failed to make the most of his opportunity (the same sentiment which later inspired the various derivative versions). Somebody thought that Lanfranc should have got the court to ratify his church’s franchises (paras. 5–6). Somebody thought that Lanfranc should also have got the court to decide how far these franchises were transcended by the king’s prerogative, and conversely what the archbishop’s entitlements were on manors belonging to

⁶ The opening words have been thought to imply that the king was already dead (Levison 1912, p. 718). A document from Rochester, which begins in a similar way, goes on to say explicitly that Willelm I has now been succeeded by his son: *Tempore uuillelmi regis anglorum magni patris uuillelmi regis eiusdem gentis, fuit quedam contentio inter Gundulfum hrofensem episcopum et Pichot uicecomitem de Grendebruge, ...* (R1, fo. 175v). Even so, I would think it possible that paras. 1–4 were written during the king’s lifetime, by an author who was conscious of speaking to posterity.

the king (paras. 7–9). Perhaps Lanfranc ought to have done these things; but belated attempts to persuade us that he did should rather be taken to imply that he did not. Both segments are manifestly unreliable.⁷

In printing the text, I have not transcribed it quite as tightly as Le Patourel. All through, I substitute ‘et’ for ‘&’, ‘ae’ for ‘e’, ‘;’ for ‘.’ in mid sentence. (I also use ‘:’, not ‘;’, to represent *punctus elevatus*.) The manuscript’s word-division is not always satisfactory (*de esse* for *deesse*, *exprecepto* for *ex precepto*), and a scribe who writes ‘indignities’ when apparently he means ‘in dignities’ is not a guide whom we should think of following closely; in this respect I have allowed myself some latitude. I have also made two large changes, dividing the text into paragraphs and dissecting it into its three constituent segments.

Significant variants are cited from R1, but not from any other manuscript.⁸ Errors in the previous editions are noted, in case the reader may wish to put them right; they are, as will be seen, all too small to affect the meaning.

The text

(1) *Tempore magni regis Willelmi qui anglicum regnum armis conquisiuit, et suis ditionibus subiugauit: contigit Odonem baiocensem episcopum et eiusdem regis fratrem multo citius quam Lanfrancum archiepiscopum in angliam uenire, atque in comitatu de caent cum magna potentia residere, ibique potestatem non modicam exercere. Et quia illis diebus in comitatu illo quisquam non erat qui tantae fortitudinis uiro resistere posset: propter magnam quam habuit potestatem terras complures de archiepiscopatu cantuarberiae et consuetudines nonnullas sibi arripuit, atque usurpans suae dominationi aascrispit.*

(2) *Postea uero non multo tempore contigit praefatum Lanfrancum cadomensis aecclesiae abbatem iussu regis in angliam quoque uenire, atque in archiepiscopatu cantuarberiae deo disponente totius angliae regni primatem sullimatum esse. Ubi dum aliquandiu resideret, et antiquas aecclesiae suae terras multas sibi deesse inueniret, et suorum neglegentia antecessorum illas distributas atque distractas fuisse repperisset: diligenter inquisita et bene cognita ueritate, regem quam citius potuit et non pigre inde requisiiuit.*

(3) *Precepit ergo rex comitatum totum absque mora considerare, et homines comitatus omnes francigenas et pre-*

⁷ I leave it to the reader to compare paras. 7–8 with the parallel passages in the records of the survey. (Anyone who tries this will be following a path first trodden by William Lambard (1576, pp. 178–80), who discovered manuscript R1 in 1573, and wrote a note in it to say so. Evidently he reported his discovery to Archbishop Parker: the earliest published reference to R1, and to R1’s copy of the text in question here, is a marginal note which appears in some copies of Parker’s big book (1572–4) – those copies which have the altered setting of pages 95–8.)

⁸ To all appearances, the version which appears in R3 (fos. 116r–17r), was copied (with alterations) from R1 (it has the same title), and the version which appears in a register compiled for bishop Hamo de Hethe (Maidstone, Centre for Kentish Studies, DRb/Ar2, fo. 121r–v) was copied (with alterations) from R3 (it has the same interpolated passages).

cipue anglos in antiquis legibus et consuetudinibus peritos in unum conuenire. Qui cum conuenerunt, apud pinendenam omnes pariter consederunt. Et quoniam multa placita de diratiocinationibus terrarum, et uerba de consuetudinibus legum inter archiepiscopum et praedictum baiocensem episcopum ibi surrexerunt, et etiam inter consuetudines regales et archiepiscopales quae prima die expediri non potuerunt: ea causa totus comitatus per tres dies fuit ibi detentus.

(4) In illis tribus diebus diratiocinauit ibi Lanfrancus archiepiscopus plures terras quas tunc tenuerunt homines ipsius episcopi, uidelicet herbertus filius iuonis, Tuoldus de ^brouecestra, Radulfus de curua spina, et alii plures de hominibus suis, cum omnibus consuetudinibus et rebus quae ad easdem terras pertinebant super ipsum baiocensem episcopum et super ipsos praedictos homines illius et alios, scilicet, Detlinges, Estoces, Prestetuna, danituna, et multas alias minutas terras. Et super hugonem de monte forti ^cdiratiocinauit hrocinges, et broc, et super radulfum de curua spina lx solidatas de pastura in ^dgrean. Et omnes illas terras et alias diratiocinauit ita liberatas atque quietas, quod in illa die qua ipsum placitum finitum fuit, non remansit homo in toto regno angliae qui aliquid inde ^ecalumniaretur, neque super ipsas terras etiam paruam quicquam ^fclamaret.

(5) Et in eodem placito non solum istas praenominatas et alias terras, sed et omnes libertates aecclesiae suae et omnes consuetudines suas renouauit, et renouatas ibi diratiocinauit, soca, saca, toll, team, ^gflymenafyrthe, grithbrece, forestal, haimfare, infangenne þeof, cum omnibus aliis consuetudinibus paribus istis uel minoribus istis, in terris, et ^hin aquis, in siluis, in uuis, et in pratis, et in omnibus aliis rebus, infra ciuitatem et extra, infra burgum et extra, et in omnibus aliis locis. Et ab omnibus illis probis et sapientibus hominibus qui affuerunt, fuit ibi diratiocinatum et etiam a toto comitatu concordatum atque iudicatum, quod sicut ipse rex tenet suas terras liberatas et quietas in suo dominico: ita archiepiscopus cantuarberiae tenet suas terras omnino liberatas et quietas in suo dominico.

(6) Huic placito interfuerunt Goisfridus episcopus constantiensis qui in loco regis fuit, et iustitiam illam tenuit, Lanfrancus archiepiscopus qui ut dictum est placitauit et totum diratiocinauit, Comes cantiae, uidelicet praedictus Odo baiocensis episcopus, Ernestus episcopus de ⁱrouecestra, Ægelricus episcopus de cicestra, uir antiquissimus et legum terrae sapientissimus, qui ex precepto regis aduectus fuit ad ipsas antiquas legum consuetudines discutiendas et edocendas, in una quadriga, Ricardus de tunebrigge, Hugo de ^jmonte forti, Willelmus de arces, Haimo uicecomes. Et alii multi barones regis et ipsius archiepiscopi, atque illorum episcoporum homines multi. Et alii aliorum comitatum homines etiam cum toto isto comitatu, multae et magnae auctoritatis uiri francigenae scilicet et angli.

(7) In horum omnium praesentia multis et apertissimis rationibus demonstratum fuit, quod rex anglorum nullas consuetudines habet in omnibus terris cantuariensis aecclesiae, nisi solummodo tres. Et ^killae tres quas habet con-

suetudines, hae sunt. Una, si quis homo archiepiscopi effodit illam regalem uiam ^lquae uadit de ciuitate in ciuitatem. Altera, si quis arborem incidit iuxta regalem uiam, et eam super ipsam uiam deiecerit. De istis duabus consuetudinibus qui culpabiles inuenti fuerint, atque detenti dum talia faciunt, siue ^muademonium ab eis acceptum fuerit, siue non: tamen ⁿin secutione ministri regis et per ^ouadimonium, emendabunt quae iuste emendanda sunt. Tertia consuetudo talis est. Si quis in ipsa regali uia sanguinem fuderit, aut homicidium, uel aliud aliquid fecerit quod nullatenus fieri licet, si dum hoc facit deprehensus atque detentus fuerit: regi emendabit. Si uero deprehensus ibi non fuerit, et inde absque uade data semel abierit: rex ab eo nichil iuste exigere poterit.

(8) Similiter fuit ostensum in eodem placito, quod archiepiscopus cantuariensis aecclesiae in omnibus terris regis et comitis debet multas consuetudines iuste habere. Etenim ab illo die quo clauditur alleluia, usque ad octauas paschae, si quis sanguinem fuderit, archiepiscopo emendabit. Et in omni tempore tam extra quadragesimam quam infra quicumque illam culpam fecerit quae cilduuite uocatur, archiepiscopus aut totam aut dimidiam emendationis partem habebit. Infra quadragesimam quidem totam, et extra: ^pdimidiam emendationem. Habet etiam in eisdem terris omnibus, quaecunq; ad curam et salutem animarum uidentur pertinere.

(9) Huius placiti multis testibus multisque rationibus determinatum finem postquam rex audiuit: laudauit, laudans cum consensu omnium principum suorum confirmauit, et ut deinceps incorruptus perseueraret firmiter precepit. Quod propterea scriptum est hic, ut et futurae in aeternum memoriae proficiat, et ipsi futuri eiusdem aecclesiae christi cantuarberiae successores sciant, quae et quanta ^qin dignitatibus ipsius aecclesiae a deo tenere, atque a regibus et principibus huius regni aeterno iure debeant exigere.

Manchester, John Rylands University Library, Latin 109, fos. 1r-2v, without title; R1, fos. 168r-70v, with title in red *De placito apud pinendenam inter lanfrancum archiepiscopum, et odonem baiocensem episcopum*; Le Patourel 1948, pp. 21-4; Bates 1998, pp. 319-21

^a assc- with the first s erased : asc- R1 ^b hr- R1 ^c diracionauit R1 ^d glossed insula est ^e -umpn- with p erased : -umn- R1 ^f -mer- bates ^g extending into the margin ^h in om. bates ⁱ hr- R1 ^j -e om. bates ^k -e bates ^l -e bates ^m -dim- le patourel, bates ⁿ ins- perhaps rightly ^o -dem- le patourel ^p aut totam aut repeated by error before dimidiam ^q ind- wrongly