

The Prologue to Alfred's Law Code: Instruction in the Spirit of Mercy*

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Alfred's law code tends to receive scant attention in discussions of the character of his reign. It lacks the distinctive stamp of his other writings and acts. It is a conservative code that seeks not to distinguish itself from previous codes, but rather to show continuity with them. It is another among many lists of compensations, listing a variety of crimes and offences, providing the monetary value of their expiation, and also explaining oaths and ordeals, when they apply and how. Alfred's law code makes a few changes and additions to what had gone before, but in no way sets itself apart. Felix Liebermann, the early twentieth-century editor of Anglo-Saxon law codes, explained that Alfred's code lacked distinctiveness because Alfred had to restrain himself; his councillors were far too conservative for a reformation of the law (*Gesetze* 3 36). Patrick Wormald's modern view would seem to contrast sharply with Liebermann's traditional understanding that real statutes were at stake here. Wormald virtually dispenses with the notion of law altogether when he argues that early mediaeval laws were little more than an exercise in image-making ("*Lex Scripta*" 125, 133). His position that Alfred's law code is just another case of propaganda must, however, contend with the fact that the law code in itself makes such a weak

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impression in comparison with other literature of King Alfred's reign. Surely if anyone knew how to use a document to make an impression, it was Alfred. To explain this difficulty Wormald has to argue that the law code with its appearance of a binding claim must soft peddle its authority: Alfred had political pressures not to assert his authority in any radical fashion (133). Wormald has not really moved far from Liebermann, but far enough to fall into an equivocation. Some still more recent scholarship, however, makes clearer why this law code lacks Alfred's voice: the law of that time was essentially traditional; early mediaeval kings could not really conceive of a law code as individual and distinct in nature (Jenkins, Stacey). The same scholarship explains that such law codes were not properly statutory, but that they were indeed still a form of law. They established standards, whose application was rather flexible and relied on the judgment of the magistrate. With their traditional quality and their purpose to offer guidance, they did not supersede previous law codes but rather joined with them. This would explain Alfred's unexceptional effort. It had no basis upon which to make any new departure or offer anything peculiar or distinctive.

When, however, we look back to this law code's prologue we meet something at once traditional and yet utterly distinctive. Anglo-Saxon law codes, whether before or after Alfred, have a standard opening that is both direct and short. An inscription would identify the king promulgating the law code; then in a short preface the king would authorize the law code in the first person, state that the law code arises out of due consultation, and explain, if necessary, what conditions led to its issuance. With such prefaces Anglo-Saxon law codes tend to begin briskly and efficiently. Alfred, however, has something other than a brief opening in mind. He begins well before his own standard preface and well outside the scope of his own laws with what we shall call his prologue. It falls into four sections. It starts suddenly and abruptly with an Old English translation of Exod. 20–23 (*El. Pro.-El.* 48).¹ This excerpt takes up the bulk of the prologue. It contains the Old Testament's first and most basic expression of Mosaic law, namely the decalogue followed by further precepts of moral and civil law. After the bulky Mosaic excerpt the three other sections come in quick succession. We meet again in Old English Christ's statement from the Sermon of the Mount that he had come not to abolish the law but to fulfill it (Matt. 5:17); and accompanying this brief excerpt is the observation that Christ taught mercy and gentleness (*El.* 49). Then follows a translation of Acts 15, which records the primitive Church's conciliar decree that freed the Gentile Christians from a full obligation to Mosaic law. This excerpt too has an accompanying

observation, that whoever knows and keeps the law of charity has no need of a law book to guide his judgments (*El.* 49.1–*El.* 49.6). The fourth and last section is not properly Scriptural; it describes how Christian synods have decreed that Christian nations may, for the sake of mercy, exact monetary compensation instead of corporal or capital punishment (*El.* 49.7–*El.* 49.8). This last section adds, however, that the synods recognized a limit to such mercy. They advocated that merciful allowance of compensation not be repeated in the case of a second crime. Furthermore, they permitted no compensation whatsoever in cases of treachery against one's lord. Just as Judas found no forgiveness for his betrayal of Christ, neither can an offender against a lesser lord be more leniently treated (*El.* 49.7).

This prologue should be read as part of the law code itself. All the manuscripts of Alfred's law code point to it in their table of contents as the law code's first item. And all the manuscripts summarize it there as a judicial application of the Golden Rule: *Be ðon þæt mon ne scyle oprum deman buton swa he wille, þæt him mon deme* [That a man ought not judge another except as he would want himself to be judged]. This summary derives from the text of the prologue itself; for the negative form of the Golden Rule stands at the end of Alfred's version of the Apostolic letter. The word *deman*, however, indicates that the Golden Rule, and so the whole prologue, is addressed to magistrates in particular. They are to understand the spirit in which the law is to be applied, a spirit of fairness and kindness, even of mercy. This peculiar interest in instructing magistrates corresponds to the careful concern over judicial matters that Asser described Alfred as showing (106). He watched his judges closely, and would not tolerate injustice or negligence on their part. Whenever he found someone judging poorly he would upbraid him severely and thereupon require him either to relinquish office or take up an intense study of wisdom (*sapientia*).² This entailed the reading of texts whose authority in wisdom was established, surely patristic and scriptural texts. For Asser refers to reading with the phrase *litteralia studia*, which would seem to indicate that their deficiency was in Latin letters, not in the established body of Anglo-Saxon legal texts. Those who could not read were required to have others read to them. Such an admonition echoes Alfred's preface to the *Pastoral Care*, where he calls for an educational reform based on Latin writings that offer wisdom. Asser's *Life* evidently closed before Alfred turned to his own legal reform, for it makes no mention of the law code. Yet from what he says of Alfred's intentions we can infer that this opening document is meant to help those without Latin. We can consider

it a quick course in jurisprudential wisdom for the magistrates who are to execute the law that follows.

The dominance of Scripture within this document supports such an inference. God's word is the central treasury of wisdom for a Christian society. So although this text begins abruptly without pausing to orient the reader, nevertheless it makes clear to the reader this much, that the following words proceed from the mouth of God: *Dryhten wæs sprecende ðas word to Moyse 7 þus cwæð: Ic eom dryhten ðin God. Ic ðe utegelædde of Egipta londe 7 of hiora ðeowdome (El. Pro.)* [The Lord was speaking these words to Moses and spoke thus: "I am the Lord your God. I led you out of the land of the Egyptians and their servitude"]. This translation of Exod. 20:1 makes only one small gesture to orient its readers by adding *to Moyse*, thus showing to whom God was speaking. The past progressive rendering of the verb (*wæs sprecende*) parallels the structure but not the tense of the Latin perfect (*locutus est*).³ Its sense of ongoing action adds dramatic immediacy to the narrative. When the words of God that follow turn out to be the decalogue, the weight of authority bears heavily down. The reader then, upon entering the text, suddenly encounters the divine word proclaiming moral law.

This prologue, however, is more than just an encounter with God's word. It interprets Scripture by tracing the development of its teaching of mercy. As we saw, it begins with God's own reminder of the salvation that he performed for his chosen people. In the moral teachings that God gives his people he requires that they show comparable graciousness in their dealings with one another—a feature of Old Testament law to which, as we shall see, Alfred paid special attention. The prologue follows the thread to the New Testament and its parallel to the covenant at Mount Sinai, the Sermon on the Mount where Jesus proclaims the ethics of the kingdom of heaven. Here Alfred sums up Jesus' teaching on the law as comprising mercy and gentleness. The prologue then shows how the early church tempered the Mosaic law for its new Gentile converts and offered them the Golden Rule as a summation of ethical behaviour. The last section of the prologue describes how Christian nations have tried to incorporate the biblical principle of mercy into their legal institutions. This last section thus sets up a delicate transition to the law code. It is the hinge between the biblical material and the preface to the new laws of the West Saxons. For not only does this section describe a tradition of Christian law from which the law code draws but also it grounds secular law upon Scripture, especially upon the principle of mercy. Alfred thus located his law code in a biblical lineage. His historical

anthology of legal texts explains that the nature of Christian law is a system of justice in which mercy subsists.

This prologue is thus genealogical and documentary, but not from a dynastic perspective. M.B. Parkes contends that the Parker manuscript with its chronicles of Alfred, laws of Alfred, and genealogies of the family of Alfred evinces a Frankish historiographical and dynastic tradition imported to Winchester by Grimbold. This argument may have some cogency for other elements of the manuscript but does not explain the peculiarity of what we meet in this prologue (167). If Frankish law codes may stand with royal genealogies in order to express royal authority both by blood right and by legislative act, such logic does not operate here (Wormald, “*Lex Scripta*” 134; Dumville 74–75). This prologue makes no claim on behalf of Alfred’s authority, and indeed lacks a Frankish exemplar. It has a very different historical perspective.

When Mary P. Richards argues that this very prologue is not historical and that it thereby shows the non-historical nature of all Old English legal texts, we meet a false distinction (186–87). She maintains that legal manuscripts were not historical because they continued to be living documents that communicated relevant information to their Anglo-Saxon and Norman readers. Her notion that what is historical is dead and irrelevant is surely not an accurate view of the historical. Just because a document has a sense of the past it need not lack vitality, indeed its very vitality may draw nourishment from the sense of the past that inhabits it. So phenomenologists such as H.G. Gadamer and Paul Ricoeur would argue in their discussions of traditionality and historicity (Gadamer 293–96, 389–95; Ricoeur 68–70, 175–225). Richards would do better to call the material in Alfred’s prologue “timely” rather than “timeless.” Even so, her point that Old English legal documents maintained a sense of relevance and authority is an important one. It is consistent with the recent work of the Celticists Dafydd Jenkins and Robin Chapman Stacey, who have applied their discoveries concerning mediaeval law to Old English law, and especially to Alfredian law, namely, that the law codes embodied a living and dynamic tradition of law. Indeed, it is in the Celtic world that we meet anything like an exemplar to Alfred’s prologue. It is possible that Alfred took his cue from the contemporary Irish compendium of Mosaic law called the *Liber ex lege Moysi*. (Fournier 230). This compendium opens with the very same excerpt from the book of Exodus as does Alfred’s prologue. Like the Irish text, Alfred’s prologue would seem to be drawing from Scripture a living tradition. He is showing how the

tradition develops and at the same time letting the tradition speak for itself by recording these various texts.

Our question, however, is what that tradition was saying here. What message did Alfred have this prologue deliver? Most scholars see some kind of message from Mosaic law. Indeed the prologue is often called the Mosaic preface.⁴ This focus upon the large Mosaic portion of the prologue leads to the difficulty of explaining what use Alfred had for Mosaic law as such. Liebermann is the pioneer and strongest exponent of the prologue as monument of Mosaic law. He had a very high view of Alfred's intentions. He saw him as a reforming humanist who found in Mosaic law a splendid model of civilized behaviour to set as an example before his nation's spirit (*Gesetze* 3 36). He warned against thinking that Alfred promulgated this prologue of Mosaic law as enacted law because his councillors were far too conservative for such a reformation of the law (*Gesetze* 3 36; "King Alfred" 21). Liebermann claimed that Alfred endeavoured "to raise the whole standard of English civilization" through Mosaic law ("King Alfred" 24). He argued that its presentation to the West Saxon people conveyed an "ideal of humanity" that could "exalt their legal thinking to a higher standard of civilization." Liebermann acclaimed Alfred for having had such a progressive and superior understanding as to be able to see through the foreignness of this ancient law to its true worth and essential humanity, and consequently to display it as "an honoured gem":

It was no mean merit to unveil before the eyes of all the English people such a treasury hidden up to his time under a foreign garb. In true appreciation of its value, Alfred placed it on the very front of his legislative edifice. He twice proclaimed its origin from God Himself. As a divine and eternal legacy to humanity, it will indeed be forever revered even by the most sceptical student of the comparative history of civilisation. ("King Alfred" 31; cf. *Gesetze* 3 35)

What little commentary we have had about Alfred's prologue has largely upheld Liebermann's prophecy. Even its most recent commentator, Mary P. Richards, echoes the august yet buoyant Felix Liebermann. She speaks of the marked humanistic orientation of Alfred's law code, which traces its sources from the Mosaic law (173). But the echo has become very thin and flat. All the astonishment is gone. Even so rugged a thinker as Sir Frank Stenton only weakly echoed Liebermann's argument when he said that "the only object of this introduction was to acquaint his subjects with what Alfred regarded as a piece of model legislation" (273). J.M. Wallace-Hadrill, however, added a little to Liebermann's reading of the prologue as monumental. He said that the object of displaying a piece of model legislation was only one of

Alfred's objects and that it implied another: "to link his own legislation with that of the Bible, and by linking it to accept the Bible as valid moral law" (*Kingship* 145). Wallace-Hadrill thus offered a very important though understated insight, that the prologue speaks as a document of authority, not merely example.

Patrick Wormald might seem to continue in Wallace-Hadrill's vein. He described the translation of the excerpt from Exodus as an application of the Old Covenant to Alfred's people. He said that it "invited the West Saxons, and perhaps their neighbours too, to see themselves as a new people of God" ("The Ninth Century" 157). Thus he seems also to see this text as maintaining scriptural authority, but that is not his point. For Wormald this prologue, and every other early Germanic legal text, is ideological. Its purpose is to enhance the law giver's reputation and the people's self-regard ("*Lex Scripta*" 131–35). We seem to be back at Liebermann's airy monumentality, but we are really in a different world, just as we are in a different world from Wallace-Hadrill's scriptural authority. For with Wormald the monumentality and authority reflect honour and dignity back upon Alfred. Here we meet the notion of propaganda. Here we meet the Machiavellian. The hermeneutics of suspicion underlies the suggestion that Alfred's use of Scripture dignifies him in the eyes of his people primarily and dignifies his people in their own eyes secondarily.

Indeed, a closer look at the content of Alfred's prologue might arouse our suspicion even more. It concludes on a very heavy note that brings considerable focus upon the person of the king. The prologue at this point states that all offences can be treated in a mitigating fashion, all except treason against one's lord. Was everything before this only leading up to a note of terror, this threat that no mercy exists for the treacherous? Is the prologue in the end a claim invoking the sacred authority of Scripture that the person of one's lord, which ultimately and especially means the king, is inviolate? Has the argument for mercy in the execution of the law really only been a pretext leading up to this one great and all important exception to mercy? Let us consider the larger structure of the prologue still more closely to see how it actually functions.

Liebermann, Stenton, and Wallace-Hadrill each took note of the later elements of the introduction.⁵ They saw them, however, as dominated by the Mosaic law and treated them as appendices to it. This resulted in a reading that did not let those elements speak their share. Wallace-Hadrill best exemplifies this reading. When he said that Alfred had accepted the Bible as valid moral law, he added:

With modifications he accepts the Mosaic law of Exodus as current, and by an excerpt from St. Matthew he demonstrates that Christ had also accepted it as current and valid. The righteous man, says Alfred, needs no other lawbook; the ethic of the Decalogue was an acceptable basis for all law. But men were not righteous; they did need other law. (*Kingship* 149)

Wallace-Hadrill's comments draw from two separate statements in the introduction. They are well chosen references on his part, for they occur at the document's two most critical points of disclosure. However, in taking them as statements that simply affirm the Mosaic law and its authority he misconstrued them. For they qualify the Mosaic law explaining how it is to be received and function in Christian times. The first of these disclosures occurs immediately after the selection from Exodus.

Ðis sindan ða domas þe se ælmihtega God self sprecende wæs to Moyse 7 him bebead to healdanne; 7 siððan se ancenneda Dryhtnes sunu, ure God, þæt is hælend Crist, on middangeard cwom, he cwæð, ðæt he ne come no ðas bebodu to breccanne ne to forbeodanne, ac mid eallum godum to ecanne; 7 mildheortnesse 7 eaðmodnesse he lærde. (*El.* 49)

[These are the laws that the almighty God himself was declaring to Moses and commanded him to keep. And afterwards when the Lord's only begotten Son, our God, that is the Saviour Christ, came to earth, he said that he did not come to break the law or to forbid it, but to increase it with all good things. And he taught mercy and humility.]

In this paragraph the introduction offers a sense of direction that it had as yet withheld. Up to this point the scriptural text stood forth without any accompanying voice of explanation or interpretation; its authority was not tempered by external reflection or qualification. But here a contemporary voice begins to address the readers and put this text and its authority into perspective. The announcement that *Ðis sindan ða domas þe se ælmihtega God self sprecende wæs to Moyse 7 him bebead to healdanne* echoes the text's opening words but emerges from it in this very act of recollection, thus giving it closure in order to set it against what follows. The next sentence sets up a temporal sequence by means of the conjunction *siððan* (here meaning "when") and puts the passage into an historical relation with Christ who succeeds the authority of Mosaic law and begins a new era. The phrase *se ancenneda Dryhtnes sunu, ure God, þæt is hælend Crist* has a credal tone that invites the readers' assent; in confessing that Christ is "our God and Saviour" they acknowledge his supreme authority as well as his redemptive work that founds the Christian era. The sentence then quotes Christ's affirmation of the Mosaic law's validity, with his important

qualification. His declaration that he had come to increase it, implies that it was not yet complete and that it required his authority over it. The Old English translation of the Vulgate's *adimplere* exchanges the image of fullness for that of increase or growth, but the implication remains much the same. If Christ increased it with all goodness, then its goodness was hitherto lacking or partial. And what was the content of that increase? Not a series of additional statutes, but the principle of mercy. For this is the significance of the last sentence in the paragraph. When it states that Christ taught mercy and gentleness it discloses what Christ brought to the law.⁶

The section that follows this paragraph confirms the centrality of mercy to the introduction. It begins with a summary of what led to the council at Jerusalem, where the apostles made the first pronouncement of ecclesiastical law (*El.* 49.1). It tells how after Christ's passion the apostles, before they themselves had gone out to teach (*to læranne*), sent missionaries to the newly converted gentiles in Antioch and Syria to teach Christ's law (*Cristes æ to læranne*). The repetition of the verb *læran* draws a line directly back to the previous paragraph where Christ was teaching mercy and gentleness: the law of Christ that the disciples teach is Christ's teaching of mercy. The introduction goes on to describe how the apostles sent a letter to these new converts from heathen servitude because the legates had run into difficulties. It translates the letter, in which the apostles acknowledge that the missionaries had hindered the Gentile Christians with too many commandments, doing them more harm than good. They conclude their letter by telling the Gentile Christians what laws they are responsible to keep.

Ðæm halgan Gaste wæs geðuht 7 us, þæt we nane byrðenne on eow settan noldon ofer þæt ðe eow nedðearf wæs to healdanne: þæt is ðonne, þæt ge forberen, þæt ge deofolgeld ne weorðien, ne blod ne ðicggen ne asmorod, 7 from diernum geligerum; 7 þæt ge willen, þæt oðre men eow ne don, ne doð ge ðæt oþrum monnum. (*El.* 49.5)

[It seemed good to the Holy Ghost and to us that we not want to set upon you any burden beyond what was necessary for you to bear: that is that you refrain from worshipping idols, and from partaking of blood or anything strangled, and from fornication; and that what you do not want done to yourselves do not to others.]

The essence of their injunction is, in the first place, to abstain from idolatry and immorality. But in this version of the letter it also enjoins them to keep the golden rule. Liebermann took the latter injunction as the prologue's own addition, for it is not found in modern versions of the Bible. But there is a textual tradition of the New Testament that has the golden rule in this

negative form at the very end of the Apostle's letter.⁷ So the introduction is simply following its text of Scripture.⁸

This clause containing the golden rule, however incidental and spurious it may be to modern textual criticism, lies at the heart of Alfred's prologue. As we have seen, the table of contents points to this moment of the text as the expression of the essence of its thought. And it clearly does so with reason. For Alfred clearly took this injunction to be the summary of the law: *Of ðissum anum dome mon mæg geðencean, þæt he æghwelcne on ryht gedemeð; ne ðearf he nanra domboca oþerra. Geðence he, þæt he nanum men ne deme þæt he nolde ðæt he him demde, gif he ðone dom ofer hine sohte* (*El.* 49.6) [From this one law a man can expect to judge every law properly; and he does not need another law book. Let him plan to judge no man in a way that he himself would not want to be judged by that man, if he pursued judgment against him]. The introduction here identifies the Golden Rule with the second of the great commandments, the keeping of which fulfills the law — at least in human relations. It may indeed draw from the apostle Paul's expression of this rule in Rom. 13:9–10, where he concludes that love is the fulfillment of the law. But it is a further step to connect this love to mercy, and still a further step to saying that where there is a right application of this loving mercy no law book is necessary. Such steps can be found in St Augustine. In Book I of the *De Doctrina Christiana* he discussed the centrality of the rule of charity at some length. At one point he quoted Paul's expression of it and then observed that to follow this commandment was to practise the office of mercy.⁹ The thought that the office of mercy embraces the correct love to all creatures and even to God led Augustine to explore how love applies itself differently in different circumstances. He found love refracted into the three theological virtues of faith, hope, and love and said that those together in their complete application render Scripture unnecessary.¹⁰ Now although Alfred referred simply to an intention of mercy toward one's neighbour, his idea that a right will in this regard no longer needs any book of law, and that must include the Mosaic law, shares in the thought of Augustine. How he came by such thought is not at all evident, but he made this extreme statement on good authority and there is no ground for tempering it, as does Wallace-Hadrill, to say that no law book *beyond* the Mosaic law would be necessary for the perfect application of mercy (*Kingship* 149).

In the last section of the introduction Alfred continued to develop this theme of mercy. He explained that since the apostles' council many more nations had accepted the Christian faith and that many synods had been held

throughout the world. He added that synods composed of leaders of both church and state (*halegra biscepa 7 eac oðerra geðungenra witenas*) had been held throughout the English nations after they had accepted the Christian faith. The delegates to these synods, he pointed out, had allowed monetary compensation for a first offence for the sake of the mercy that is at the heart of Christ's teaching: *hie ða gesetton, for ðære mildheortnesse þe Crist lærde, æt mæstra hwelcre misdæde þætte ða weoruldhlafordas moston mid hiora leafan buton synne æt þam forman gylte þære fiohbote onfon, þe hie ða gesettan* (*El.* 49.7) [They decreed on behalf of the mercy that Christ taught that in most any misdeed secular authorities may with their leave and without sin take compensation for a first offence, which they then established]. So there is a limit to the application of mercy. Alfred set the limit at cases of treason against one's lord. He again appealed to the authority of councils and Scripture for this aspect of jurisprudence: *buton æt hlafordsearwe hie nane mildheortnesse ne dorston gecweðan, forþam ðe God ælmihtig þam nane ne gedemde þe hine oferhogdon, ne Crist Godes sunu þam nane ne gedemde þe hine to deaðe sealde* (*El.* 49.7) [except in the case of treason they did not dare decree mercy, for God Almighty did not allow any for those who spurned him, and Christ, God's Son, did not allow any to him who betrayed him to death]. But he concluded his introduction by resuming the general idea of compensation and describing how the numerous synods had stipulated a variety of compensations in their records (*El.* 49.8).¹¹

This last section of the introduction thus describes the attempt to reify the biblical principle of mercy within the state. It explains that the state had instituted mercy within concrete, specific legal formulations in accordance with the authority of the Church. Clearly, however, it does not give mercy an absolute claim within the system of law. It tries to strike a balance between the claims of justice and mercy by limiting the application of mercy to first offenders and cases not involving treason. The principle of mercy, which had been proclaimed in the Christian era as the essence of Christian law, in that if it was fully possessed no other law would be needed, is not allowed to dominate but is circumscribed by a concern to maintain the discipline of justice. For although the system of compensations is put forward as an integration of justice and mercy, nevertheless the application of these compensations is carefully limited.

Such a circumscription of mercy indicates the state's intention of maintaining control of its use in judicial matters. It knows that mercy alone is insufficient for its integrity. This circumscription also indicates a lack of confidence in the ability of mercy to be handled independently. The

immediately preceding Augustinian reflection on transcending the text has thus turned out to send a message opposite to its initial sense. In fact it justifies the continued need for a text that will control and direct the use of mercy. For the common human condition is one of spiritual imperfection. Magistrates are not expected to have the spiritual capacity to act simply according to their own personal practice of, and grasp of, charity.

The translation of the lengthy Mosaic excerpt can now be better understood. Its length and its detail display the very requirement that the law guide and control the thought of the magistrates who administer it. Scripture is shown bending to the common human need for a thorough set of instructions. Furthermore, the content of this excerpt has great and abiding significance. Why Alfred selected this particular portion of Mosaic law from the mass of law contained in the Pentateuch is not hard to discern. These four chapters begin with the ten commandments, the basic disclosure in the Old Testament of just practice, and then follow with a long series of commandments that mostly fall within the sphere of civil law. Furthermore, this particular body of law was given to the children of Israel at Mount Sinai when they became a state in their covenant with the Lord. This is the very foundation of law for God's people.¹² Christ's claim that he came not to destroy the law but fulfil it leaves this law intact but qualified. Alfred's very translation emphasizes how mercy is embodied in biblical law from the outset. The mercy that Christ taught appears here as seminally present. Indeed, we meet here just that balance between mercy and justice that Alfred's prologue fell back on.

In his rendering of this longer excerpt from Exodus Alfred took considerable freedom with the text, just as he did in his other translations. It seems somewhat more arresting that he did so with the sacred page. But we must bear in mind that this portion of the prologue anticipates Christ's claim to have fulfilled the law. Alfred's translation shifts the thought of the text toward Christ's teaching. Furthermore, Alfred's purpose was to present this text to a Christian state. He adapted it to speak more directly to such a body. These adaptations then show Alfred to be in fact upholding the authority of this document. They show him rendering it as something "timely."

Early in his translation Alfred made a simple but signal alteration to the fourth commandment of the decalogue. The Vulgate describes God's schedule of creation as the basis of the sabbath: *sex enim diebus fecit Dominus caelum et terram et mare et omnia quae in eis sunt* (Exod. 20:11). Alfred's rendering names Christ as the creator: *forðam on VI dagum Crist geworhte heofanas and eorðan, sæs 7 ealle gesceafta þe on him sint* (El. 3). This

modification of the text toward Trinitarian theology heralds far more substantial interpretative alterations. But, of course, it is a signal alteration because it shows the text shifted toward explicating Christ.

Accordingly, Alfred excised whole sections from these chapters of Exodus that were irrelevant or inappropriate to his people's judicial needs. He left out the historical narrative at Exod. 20:18–21, which describes the fear of the children of Israel before the presence of the Lord at Mount Sinai. Furthermore, he did not translate any of those parts of the law that concerned ritual sacrifice to the Lord (Exod. 20:24–26; 22:29b–30; 23:14–19). He also did not include the second commandment of the decalogue which prohibited the making of likenesses or images (Exod. 20:4). This particular omission, according to Liebermann, was in keeping with the practice of the western church after the iconoclastic controversy had subsided. To supplement it he appended another commandment to the end of the decalogue by bringing forward a verse found a little later in the chapter, which prohibited the making of metal gods, that is, pagan idols (Exod. 20:23; *El.* 10). Liebermann said of this insertion that it was “directed against the heathenism introduced by the Danish invader” (*Gesetze* 2 26). He also excised Exod. 23:10–12, verses that prescribe the seven-year fallow cycle for the land and repeat the law of the Sabbath as the basis of the practice. The reason he left out this agricultural injunction would apparently be that it did not conform to Anglo-Saxon practice, wherein land lay fallow more often than every seven years. Such excisions removed difficulties that would impede the authority of this text within his own Christian culture.

More revealing still are the civic laws that Alfred kept and revised in such a way that they would conform to Anglo-Saxon law and society. It could be said that Alfred not only translated this portion of the Mosaic law into the Anglo-Saxon language but into Anglo-Saxon legal practice as well. Moreover, he also made some stylistic adjustments. He made sure that they could be read in such a way that they could be the more clearly heard. For instance, Alfred expanded the law dealing with the act of slaying in self-defence as follows.

qui percusserit hominem volens	Se mon se ðe his gewældes monnan
occidere morte moriatur	ofslea, swelte se deaðe. Se ðe hine
qui autem non est insidiatus	þonne nedes ofsloge oððe unwillum
sed Deus illum tradidit in manu eius	oððe ungewældes, swelce hine God
constituam tibi locum quo fugere	swa sende on his honda, 7 he hine
debeat	ne ymsbyrede, sie he feores wyrðe 7

si quis de industria occiderit
proximum suum et per insidias
ab altari meo evelles eum ut
moriatur. (Exod. 21:12–14)

[Whoever should smite a man, intending to kill him, let him die the death. But whoever did not lie in ambush, but God gave him into his hands, I will establish a place to which he should flee. If someone should kill his neighbour by deliberate effort may you cast him from my altar that he may die.]

folcryhtre bote, gif he friðstowe
gesece. Gif hwa ðonne of gier-
nesse 7 gewældes ofslea his þone
nehstan þurh searwa, aluc þu hine
from minum weofode, to þam þæt
he deaðe swelte. (*El.* 13)

[Whoever intentionally kills a man, let him die the death. Whoever kills a man out of necessity or unwillingly or unwittingly, as God gave him into his hand, and he did not ambush him, let him be responsible for the life and its legal compensation, if he seeks sanctuary. If someone then kills his neighbour desirefully and intentionally through cunning, remove him from my altar that he may die the death.]

In the first and third sentences of this injunction Alfred rendered the text much as he found it, making only the small change of bringing the parallel phrases in the third sentence closer together and into alliteration, a change that seems only to contribute elegance and ease of reading. But in the second sentence he made a number of changes. Before he translated the clause *Qui autem non est insidiatus* he inserted another clause which expands upon it: *Se ðe hine þonne nedes ofsloge oððe unwillum oððe ungewældes*. The parallel phrasing, here connected by *oððe* instead of *and*, appears to be for explanation rather than emphasis or elegance. It shows the range of circumstances to which this part of the law applies. The adverb *nedes* gives a fairly broad licence, and narrows criminal intent to a secret ambush. He revised still more extensively in the second half of the sentence. The Latin leaves unstated how the asylum seeker can be restored to his former place. The assumption seems to be that he is in no way culpable and will soon be free to return home. But early Germanic society operated somewhat differently; there would still have to be compensation regardless of whether the slayer had acted in self-defence and without treacherous intent. Alfred's version of the law conforms to this principle: *sie he feores wyrðe and folcryhtre bote, gif he friðstowe gesece*. Alfred made it clear that the untreacherous slayer would have to pay the restitution assigned by the law for his deed, though he would not be required to pay with his life. He also changed the vague matter of asylum into something more specific. And he revised this element of the injunction with rhythm and alliteration, to let its importance stand out.

Another law also deals with those who slay in self-defence, but this one considers a particular circumstance. Alfred inserted some qualifications to show its consistency with the previous law.

si effringens fur domum sive
 suffodiens fuerit inventus
 et accepto vulnere mortuus fuerit
 percussor non erit reus sanguinis
 quod si orto sole hoc fecerit
 homicidium perpetravit et ipse
 morietur
 si non habuerit quod pro furto
 reddat venundabitur
 si inventum fuerit apud eum quod
 furatus est vivens sive
 bos sive asinus sive ovis
 duplum restituet. (Exod. 22:2-4)

[If a thief breaks into or digs into a house and, receiving a wound, should die, his slayer shall not be guilty of his blood. But if he should do this after the sun has risen, he will have committed homicide and shall die. If there should be found with him what was stolen and it is still alive, whether ox, ass, or sheep let him restore it twofold.]

Gif ðeof brece mannes hus nihtes 7 he weorðe þær ofslegen, ne sie he na mansleges scyldig. Gif he siððan æfter sunnan upgonge þis deð, he bið mansleges scyldig 7 he ðonne self swelte, buton he nieddæda wære. Gif mid him cwicum sie funden þæt he ær stæl, be twyfealdum forgielde hit. (*El.* 25)

[If a thief breaks into a man's house by night and he is slain there, he is not guilty of homicide. If he does so after sunrise, he is guilty of homicide and he himself shall die, unless he acted out of necessity. If he is living and there is found with him what he had already stolen, he shall make twofold restitution.]

The sentence, *Si non habuerit . . . venundabitur*, Alfred did not omit. He translated it in the law immediately previous, and either he or someone before him must have transposed it. He translates *vivens* as if it referred to the thief instead of the stolen livestock, which seems a sensible alteration in that it made the law refer to any stolen goods, not just livestock; but this change could be an error. The revisions that Alfred clearly did make here are not so extensive as in the previous case (*El.* 13). He added the word *nihtes* and the clause *buton he nieddæda wære*. The additional word serves only to clarify the situation being described; for in the Latin it is not understood that the thief has broken in at night until the mention of the alternate circumstance of a daylight robbery. The additional clause, however, qualifies this law so that it takes into account the requirements of that other law. The two are not contradictory in the Latin, but Alfred made sure that they would clearly harmonize. This attention to precision

confirms the sense of the abiding authority of these laws; there is a need to guard against their misinterpretation.

Another revision treating homicide concerns the slaying of one's own slave. Again it is rendered toward Anglo-Saxon practice.

qui percusserit servum suum vel
ancillam virga
et mortui fuerint in manibus eius
criminis reus erit
sin autem uno die supervixerit vel
duobus
non subiacebit poenae quia pecunia
illius est. (Exod. 21:20-21)

[Whoever should strike his own slave or bondwoman with a stroke, and they should die in his hands, he shall be guilty of a crime. But if he should survive a day or two he shall not suffer the penalty, for it was his property.]

Se ðe slea his agenne þeowne esne
oððe his mennem, 7 he ne sie idæges
dead, ðeah he libbe twa niht oððe
ðreo, ne bið he ealles swa scyldig,
forþon þe hit wæs agen fioh. Gif he
ðonne sie idæges dead, ðonne sitte
sio scyld on him. (*El.* 17)

[He who smites his own slave or bondwoman, and he is not dead the same day but lives two or three nights, he is not entirely guilty thereof, for it was his own property. If, however, he dies the same day, then let the guilt rest upon him.]

The only significant change here is at *non subiacebit poenae*. Alfred's rendering did not allow that the man would be without any culpability; he made the term of the injunction less precise with the statement that the man would not be so thoroughly guilty. Such a rendering allows that he would still have some responsibility to pay for his deed; it thus recognizes the gradation in the amount of restitution that Anglo-Saxon legal codes prescribed.

In a law dealing with the selling of men into slavery Alfred again rendered it in such a way that it was more clearly consistent with Anglo-Saxon social and legal practice.

qui furatus fuerit hominem et
vendiderit eum
convictus noxae morte moriatur.
(Exod. 21:16)

[Whoever should abduct a man and sell him, if he is convicted of the crime let him die the death.]

Se ðe frione forstele 7 hine bebycgge,
7 hit onbestæled sie, þæt he hine
bereccan ne mæge, swelte se deaðe.
(*El.* 15)

[He who abducts a freeman and sells him, and it is charged [against him] such that he cannot exculpate himself, let him die the death.]

We see Alfred interpreting the verse by translating *homo* with *frio*. The law evidently refers to someone not yet a slave, and Alfred makes this very clear in his rendering. More significantly, we see him expanding the clause *convictus noxae*. He elaborated on the conditional sense of this participle by spelling out more precisely what entailed conviction, namely that it was

when a man could not exculpate himself. Thus he made sure that the law included due process of examination.

A more substantial revision occurs in the law against usury.

si pecuniam mutuam dederis populo
meo pauperi qui habitat tecum
non urgues eum quasi exactor nec
usuris opprimes. (Exod. 22:25)

[If you should give lendred
money to one of my poor people
who dwells with you, you must not
coerce him as an extortionist nor af-
flict him with usury.]

Gif ðu fioh to borge selle to þinum
geferan, þe mid þe eardian wille, ne
niede ðu hine swa swa niedling 7
ne gehene þu hine mid ðy eacen.
(*El.* 35)

[If you give money in loan to
your companion who wants to dwell
with you do not coerce him like a
slave and do not afflict him with in-
terest.]

Alfred changed the terms here. He made the law refer not simply to the poor but to a man who wants to place himself under the responsibility of another. In this way he has opened the law to Anglo-Saxon social structure. He also at one point reversed a word's referent and syntactic function when he used *niedling* where the Latin had *exactor*. In doing so he focussed on the rights of the debtor and made clear that he was not to be treated as a slave, since he was supposed to be protected, not oppressed, by the lender.

In another law concerning the economy of slavery a very different circumstance is considered, that where the slave chooses to remain a slave when freedom is offered (Ex 21:2–6; *El.* 11). Alfred altered only two words in a lengthy passage, but both serve to transmute the context of the law somewhat toward the world of ninth-century Wessex. In the Latin the injunction begins by limiting its application to Hebrew slaves, not foreign ones: *si emeris servum hebraeum sex annis serviet tibi*. Alfred, however, writes, *Gif hwa gebycgge cristenne þeow, VI gear ðeowige he*. The immediate significance of this alteration is clear. Alfred has deliberately committed an anachronism and brought the law forward to the Christian world. But there is a further significance. Alfred is upholding the universal application of this law code. For he does not render *hebraeum* with the name of another tribe or nation; he does not write *Westsearne*, *Engliscne*, or *of þinre leode*. He thus defines the nation to which the Mosaic law code now applies as essentially Christian, not particularly tribal. This single verbal alteration foreshadows the prologue's later movement into the universal laws of the kingdom of God at its appropriation of the Sermon on the Mount.

This injunction goes on to enjoin that such a slave be freed in his seventh year of service. It stipulates, however, that he must leave just as he came,

wearing the same clothes as when he entered this service. If he had brought a wife with him, she may leave with him. But if he had received a wife while in his master's service, she and any children of that union are to stay behind. With such a stipulation the slave may well decide to remain in his slavery rather than go forth empty and alone. The law makes provision for such a choice. It even reifies this hypothetical slave by quoting his inner thoughts. Alfred takes up this reification and adds to the slave's reflection in a way that suits his culture.

quod si dixerit servus diligo
dominum meum et uxorem ac
liberos non egrediar liber
(Exod. 21:5)

[But if the slave should say, "I
love my lord, and wife, and children.
I will not go forth free"]

Gif se þeowa þonne cweðe: "Nelle
ic from minum hlaforde ne from
minum wife ne from minum bearne
ne from minum ierfe" (*El.* 11)

[If then the slave should say, "I
do not want to leave my lord, my
wife, my children, or my inheritance
. . . ."]

He adds property, or more literally inheritance (*ierfe*), to the slave's motivation for staying. This implies an economy where a slave could not only own property but also bequeath it. It also expresses Anglo-Saxon society's preponderant concern with property and its maintenance.

In another law concerning property Alfred rewrote the text in severely abbreviated form and changed its directive somewhat. He takes great freedom with the sacred text in order to make it relevant. The law concerns the loss of property that has been entrusted to a friend. Exodus describes in considerable detail the various circumstances that could occur and in the midst of that allows that if the friend claims to have no responsibility for the loss he can swear an oath (Exod. 22: 7–13). Alfred omits most of this detail and then focusses on the matter of the oath.

si quis commendaverit amico
pecuniam aut vas in custodiam
et ab eo qui susceperat furto ablata
fuerint
si invenitur fur duplum reddet
si latet dominus domus adplicabitur
ad deos
et iurabit quod non extenderit
manum in rem proximi sui ad
perpetrandam fraudem
tam in bove quam in asino et ove ac
vestimento

Gif hwa oðfæste his friend fioh, gif
he hit self stæle, forgyldde be twyfealdum.
Gif he nyte, hwa hit stæle,
geladige hine selfne, þæt he ðær nan
facn ne gefremede. Gif hit ðonne
cucu feoh wære, 7 he secgge, þæt
hit here name oððe hit self acwæle,
7 gewitnesse hæbbe, ne þearf he
þæt geldan. Gif he ðonne gewitnesse
næbbe, 7 he him ne getriewe,
swerige he þonne. (*El.* 28)

et quicquid damnum inferre potest
 ad deos utriusque causa pervenient
 et si illi iudicaverint duplum
 restituet proximo suo
 si quis commendaverit proximo suo
 asinum bovinum ovem et omne
 iumentum ad custodiam
 et mortuum fuerit aut debilitatum
 vel captum ab hostibus
 nullusque hoc viderit
 iusiurandum erit in medio
 quod non extenderit manum ad rem
 proximi sui
 suscipietque dominus iuramentum
 et ille reddere non cogetur
 quod si furto ablatum fuerit
 restituet damnum domino
 si comestum a bestia
 deferet ad eum quod occisum est et
 non restituet. (Exod. 22:7–13)

[If someone should commit money or property to his friend for him to keep and it should be stolen from him who had received it, if the thief is found let him pay double. If the thief remains hidden the master of the house must petition the gods and swear that he did not put his hands to his neighbour's goods to perpetrate fraud, whether it be a cow, an ass, a sheep, clothing, or whatever loss he might inflict. If someone should commit to his neighbour an ass, a cow, or a

[If a man entrust property to his friend, if he himself steals it let him repay it twofold. If he knows not who stole it let him clear himself from having perpetrated there any fraud. If [the property] was livestock and he says that it was either captured or killed itself, if he has witnesses he need not make restitution. If he has no witnesses and he is not believed, let him then swear an oath.]

sheep, and all the feed for its keeping, and it should die, or be harmed, or be captured by an army, and no one saw it, an oath must be taken between them that he did not put his hand to his neighbour's goods. The owner shall receive that oath, and the man is not compelled to offer restitution. But if it should be stolen let him make restitution of the loss to its owner. If it was devoured by a beast, let him bring back what was killed, and he shall not offer restitution.]

Alfred not only distilled the principle here but also changed the substance by revising the procedure that it prescribes. He introduced witnesses, allowing that a man need not take an oath if he has such support.

Alfred also reduced a much smaller injunction, again to simplify it and ensure that it have a general meaning through the omission of distracting or potentially legalistic detail.¹³

si occurreris bovi inimici tui aut
 asino erranti reduc ad eum
 si videris asinum odientis te iacere
 sub onere
 non pertransibis sed sublevabis cum
 eo. (Exod. 23:4–5)

[If you should be met by your
 enemy's straying cow or ass return
 it to him. If you see the ass of one
 who hates you lying under a burden
 you shall not pass it by but with him
 shall raise it up.]

Gif ðe becume oðres mannes gieme-
 leas fioh on hond, þeah hit sie ðin
 feond, gecyðe hit him. (*El.* 42)

[If there should come into your
 hand another man's stray animal,
 even if it should be your enemy['s],
 let him know about it.]

In Alfred's translation the type of animal is not specified. Alfred generalized the content of this law still further by having it state first that any man's beast is to be taken care of in this way, enemy or otherwise. He made the law less demanding in that his version required only that one inform the owner of the errant beast but not that one return it. He omitted the second half of the law not only because it was repetitive but because its specificity was irrelevant — the ass not being part of the Anglo-Saxon economy.

Alfred, however, also expansively reworked the rhetoric of certain injunctions of the Mosaic civil law. Several times he used expansive language to enlarge upon and draw attention to laws that enjoined a spirit of fairness and mercy. The first is a very short commandment against the harming of the economically and physically vulnerable, namely widows and orphans.

viduae et pupillo non nocebitis.
 (Exod. 22:22)

[You shall not harm the widow
 or orphan.]

Þa wuduwan 7 þa stiopcild ne sceð-
 ðað ge, ne hie nawer deriað. (*El.* 34)

[Widows and orphans neither
 harm, nor injure them in any way.]

All that Alfred did here was add a short parallel clause along that included an adverb of emphatic denial. The extra clause heightens the intensity of this negative command. Alfred did not regularly add parallel phrases in his translation of Exodus; in fact he sometimes omitted those that were originally there. By adding one here he in effect underlines the verse by making it stand out from its plainer surroundings.

Shortly afterward he reworked the law concerning a poor man who gives his only coat in pledge.

si pignus a proximo tuo acceperis
 vestimentum
 ante solis occasum redde ei

Gif mon næbbe buton anfeald hrægl
 hine mid to wreonne 7 to werianne,
 7 he hit to wedde selle, ær sunnan

ipsum enim est solum quo operitur
 indumentum carnis eius
 nec habet aliud in quo dormiat
 si clamaverit ad me exaudiam eum
 quia misericors sum. (Exod.
 22:26)

[If you should receive your neighbour's raiment in pledge return it to him before sunset. For it is his only cloak with which he may cover his body, and he has nothing else in which to sleep. If he calls to me I will hear him, for I am merciful.]

setlgonge sie hit agifen. Gif ðu swa
 ne dest, þonne cleopað he to me, 7 ic
 hine gehiere, forðon ðe ic eom swiðe
 mildheort. (*El.* 36)

[If you should receive your neighbour's raiment in pledge return it to him before sunset. For it is his only cloak with which he may cover his body, and he has nothing else in which to sleep. If you do not do so then he will call to me and I will hear him, for I am very merciful.]

Alfred has both added to and taken away from this verse. He omitted the clause referring to the coatless sleep, an extra detail dealing with a specific situation. Perhaps he was making sure that the law did not depend on such concrete particulars. He did, however, add to the text in other ways. He gave it parallelism, alliteration, and a fine sense of rhythm and symmetry that the Latin lacked. He also heightened the commanding tone with the addition of the clause *Gif ðu swa ne dest*; and he added emphasis to the already emphatically placed *misericors* with the adverb *swiðe*.

In the law concerning the fair treatment of foreigners we meet another example of Alfred omitting part of an injunction and at the same time adding to it graceful and emphatic prose.

peregrino molestus non eris
 scitis enim advenarum animas
 quia et ipsi peregrini fuistis in terra
 Aegypti. (Exod. 23:9)

[Do not mistreat the foreigner,
 for you yourselves were once foreign-
 ers in Egypt.]

Þam elðeodegan 7 utan cumenan ne
 læt ðu no uncuðlice wið hine, ne mid
 nanum unryhtum þu hine ne drece.
 (*El.* 47)

[Do not allow any mistreatment
 of the foreigner and alien; do not op-
 press him with any injustice.]

Alfred omitted the Latin dependent clause; it did not apply to a Christian people, at least not on the literal, historical level. But in his treatment of the main clause we see him again using rhythm and expansive parallelism, of phrase and clause, to emphasize a law enjoining merciful behaviour.

There are four further instances of Alfred adding emphasis toward the end of the Old Testament excerpt. They all have to do more directly with the fair judgment on the part of judges. One is a commandment against receiving false testimony.

non suscipies vocem mendacii
nec iunges manum tuam ut pro
impio dicas falsum testimonium.
(Exod. 23:1)

[Do not receive the word of a
liar, or join your hand [to his] lest
you give false testimony for an im-
pious man.]

Leases monnes word ne rec ðu no
þæs to gehieranne, ne his domas ne
geðafa ðu, ne nane gewitnesse æfter
him ne saga ðu. (*El.* 40)

[Do not receive the word of a
liar, or consent to his judgments, or
repeat any of his testimony.]

Alfred made several changes here. He used *word* instead of *stefn* to translate *vox*, preferring to state the matter directly instead of metonymically. He put the phrase *leases monnes word* at the front of the first clause and further emphasized it by referring back to it with a demonstrative pronoun that maintained the same syntactic function in the clause. He translated the verbal phrase *non suscipies* with a periphrasis: *ne rec ðu no þæs to gehieranne*. This too is a more emphatic wording, having the force of something to the effect of “Don’t even think about following it.” He altered the second clause, *nec iunges manum tuam*, which, coming from a Hebrew idiom for complicity, would probably not have made clear sense in Old English, to something that would speak more directly to someone with judicial authority: *ne his domas ne geðafa ðu*. He changed the syntax of the last clause so that it was no longer a dependent result clause with a subjunctive verb, but a coordinate clause with yet another imperative. This verbal structure stresses more directly a judge’s responsibility for the quality of his own judgment. It also simplifies the sentence structure, gives it more symmetry together with more cadence, and it strengthens the authoritative tone by making it a sentence of three coordinate imperatives in a row. It seems intended to make an impression on the judicial reader.

In the injunction immediately following Alfred made still stronger changes. This is a prohibition against following the untrustworthy inclinations of the masses.

non sequeris turbam ad faciendum
malum
nec in iudicio plurimorum
adquiesces sententiae, ut a vero
devies. (Exod. 23:2)

[You shall not follow the crowd to
do evil, nor agree to a conclusion
according the judgment of a crowd,
lest you deviate from the truth.]

Ne wend ðu ðe no on þæs folces un-
ræd 7 unryht gewill on hiora spræce
7 geclysp ofer ðin ryht, 7 ðæs un-
wisestan lare ne him ne geðafa. (*El.*
41)

[Do not turn, contrary to your
duty, to the people’s ill-counsel and
unjust desire in their talk and clam-
our, and do not allow them that
very unwise advice.]

Alfred severely altered the sentence structure and changed its emphasis. He discarded the gerundive phrase *ad faciendum*. He so altered the second imperative clause that it was no longer a clause in itself; he removed the verb and added two new prepositional phrases dependent on the first clause. He entirely omitted the result clause at the end of the injunction and replaced it with an imperative clause of his own making. These cuts did not result in any diminution of force. He added elegance and emphasis to the first clause with its new parallel phrases. He focussed narrowly on one aspect of the commandment. For he passed over the gerundive phrase's idea of doing evil; he left understood the idea of deviating from the truth in the result clause; but he elaborated on the idea of bad counsel in *turbam* and *iudicio plurimorum* throughout the sentence with the phrases *folces unrwæd*, *unryht gewill*, *spræce and geclysp ofer ðin ryht*, and *ðæs unwisestan lare*. Alfred saw the heart of the injunction as a warning against evil influence on judicial decisions and analyzed this aspect further in his rendering. His careful emphasis recalls Asser's account of Alfred's difficulties with corrupt judges.

Alfred's concern that his judges uphold equity finds still stronger expression shortly afterward in his rendering of a commandment to give judgment to the poor.

non declinabis in iudicio pauperis.
(Exod. 23:6)

[Do not fail to give judgment to
the poor.]

Dem ðu swiðe emne. Ne dem ðu
oðerne dom þam welegan, oðerne
ðam earman; ne oðerne þam liofran
and oðerne þam laðran ne dem ðu.
(*El.* 43)

[Judge very fairly. Do not judge
with one judgment for the rich and
another for the poor, nor one for
those you like and another for those
you dislike.]

Alfred expanded the scope of this injunction to a universal perspective on equity. The Old Testament commandment simply wanted to assure that the poor would not be neglected in the court, but would have their complaints heard and pursued. Alfred had his rendering refer to discrimination in judgment not merely neglect, and directed his consideration to both those who could suffer from it and those who could benefit. In doing so Alfred gave this law a flavour of the New Testament. Not only are judges to treat the poor fairly, which is a basic theme of the Old Testament, they are also to treat their enemies as fairly as they treat their friends, which is a central theme of the Sermon on the Mount, and closely allied with the golden rule (Matt. 5:43–48).

Alfred continued to press the issue of equitable and unsullied judgment three injunctions later, where there comes a warning against receiving bribes.

nec accipias munera quae excaecant
etiam prudentes
et subvertunt verba iustorum.
(Exod. 23:8)

[You shall not take bribes, because they blind even the wise, and corrupt the words of the just.]

Ne onfoh ðu næfre medsceattum,
forðon hie ablendað ful oft wisra
monna geðoht 7 hiora word on-
wendað. (*El.* 46)

[Never take bribes, for they all too often blind the thought of wise men and corrupt their word.]

The less dramatic changes that Alfred made here have significance all the same. All he did was make a double negative with *næfre*, insert an adverbial phrase with *ful oft*, and shift the focus of the parallelism from “the wise and the words of the just” to “the thought and the words of the wise.” The first two changes add emphasis, and the third indicates Alfred’s concern to foster wisdom. For it would hardly be right to suppose that he omitted to translate *iustorum* because he was not interested in justice, but rather because he wanted here to focus the text upon wisdom, the all-encompassing virtue.

In all these adaptations we are meeting that early mediaeval attitude to the law, which Stacey and Jenkins described as dynamic and flexible. We see the ancient law of Scripture translated into an immediate authority. It is harmonized with Alfred’s own Christian culture. But still more we see the law being explicated around a dominant principle. For Alfred’s translation of the Mosaic excerpt sets up the theme of mercy in Christ. It leads to the Sermon on the Mount.

Where did Alfred find inspiration for such an approach to introducing the law? It proves revealing to look to the continent where Alfred chiefly sought guidance and inspiration for his educational reform. Grimbold, the scholar whom Fulco, the Archbishop of Rheims, sent to Alfred, is thought to have brought a number of manuscripts with him to contribute to Alfred’s revival of learning.¹⁴ Fulco’s predecessor, Hincmar, had been very actively engaged in legal thought. So Grimbold had been commissioned from a see that must have been rich in legal documents. Hence Simon Keynes and Michael Lapidge have speculated that perhaps the Bodleian’s Hatton 42 came over with Grimbold (305). It is a collection of canons and capitularies, including Ansegisus’s collection of Charlemagne’s capitularies. This is a tantalizing thought because of certain correspondences between Charlemagne’s legal concerns and Alfred’s. Charlemagne’s *Admonitio Generalis* calls for just judgment on the basis of Deuteronomy’s injunction not to judge out of fear, monetary persuasion, or respect of the person (ch. 63). The collection

of Ansegisus records the same demand (bk. I, ch. 60). Charlemagne's *Capitulare Missorum Generale* calls for fair treatment of the poor, the widow, and the orphan (ch. 26, 27, 40). Ansegisus records something comparable (bk. IV, ch. 15). Unfortunately, the *Summary Catalogue's* description of Hatton 42 indicates that this particular collection could not have been at Alfred's court.¹⁵ Such general principles of equity are common in ninth-century Carolingian capitularies, and can only show that Alfred shared in this intellectual climate.

Keynes and Lapidge, however, have noticed a far more specific parallel between Alfred's prologue and a Carolingian source (305). Fulco's letter to Alfred, where he introduced the scholar Grimbald, describes how Augustine of Canterbury treated the English gently after their conversion just as the apostles in their letter of Acts 15 had treated the Gentiles gently by not laying excessive burdens of new laws upon them. It further describes how numerous synods in various places decreed and established canon law in order to build up and strengthen the Church. But this source can account for only a small part of the framework of Alfred's prologue. Its reasoning does not follow the same course. Fulco said that gentle treatment was applied merely as groundwork, but that as the Christian faith grew the Church "wished neither to be content with these measures, nor ought to have been." The Church, he said, went on "to instruct the faithful more perfectly" in the Christian faith through their exhortations and "to seek the benefit" of its members through synodal decrees (Keynes and Lapidge 183–84).¹⁶ Fulco was concerned here with neither an essential and stable pattern of gentle treatment nor with the development of secular law.

But Fulco's predecessor Hincmar was. In 881, at a synod at St Macra's, Hincmar addressed the assembly on a number of legal matters, both secular and ecclesiastical. In the seventh chapter he dealt with the subject, *De praestanda per poenitentiam emendatione* [Concerning the proffering of compensation through penitence]. He began by saying:

Ecce quæ de rapinis et de raptoribus sanctus Spiritus per sibi organa digna comminatus est et decrevit. Ecce quæ antecessores vestri imperatores ac reges, in diversis synodis ac placitis, consilio episcoporum ac cæterorum fidelium suorum inde constituerunt. Quæ quomodo de emendationibus quæ male acta sunt legi per Moysen datæ congruant, qui eam legit intelligit. (*Capitula* 1081B)

[See what the Holy Spirit has ordered and decreed about theft and thieves through spokesmen that possess his worth! See what your former emperors and kings established about such things in various synods and settlements through the counsel of their bishops and other faithful Christians! And whoever reads

the law of Moses will understand how these decrees that concern compensation [for] what has been done wrong are in agreement with the law given through Moses.]

Not only does Hincmar's reference to synods that comprise bishops and other worthy counselors suggest Alfred's own words but his positing a congruence between the present system of compensation and Mosaic law suggests the very logic of Alfred's prologue.

Alfred may have been particularly interested in the writings of Hincmar, that politically involved and vocal archbishop, not only because he himself was concerned with national polity, but also because he would have met Hincmar when he was a boy at the ceremony where Hincmar betrothed Judith to Alfred's father Æthelwulf and crowned her. Hincmar was a legal thinker who often tried to define the correct balance between justice and mercy, which was just what he went on to do in this chapter by explaining the proper relationship between repentance, restitution, and punishment. Hincmar elsewhere spoke of the need for magistrates to use mercy with discretion so as not to imperil the state. In the *De Regis Persona et Regio Ministerio* he devoted two chapters to this matter, which, interestingly enough, immediately precede his warning that magistrates not be influenced in judgment by bribery or blandishments (846A–847D: ch. 20–21). Yet he went on shortly thereafter to explain again that the authority of the Church recommends the exercise of mercy in the state's judicial practice.

nec satisfactio interdicenda sit, nec reconciliatio deneganda, et sacri canones, et decreta sedis apostolicæ, auctoritate sacra, evangelica, et apostolica, et prophetica patenter ostendunt, quia misericordiæ Dei nec modum possumus ponere, nec tempore diffinire . . . quia apud Dominum est misericordia, et copiosa apud eum redemptio. (851D–852A: ch. 27)

[Let not compensation be forbidden nor reconciliation be denied. Both the sacred canons and the decrees of the apostolic see clearly show by sacred, evangelical, apostolic, and prophetic authority that the mercy of God cannot be removed, nor limited in time, because with the Lord there is mercy, and with him is plenteous redemption.]

Hincmar's concern with repentance as the grounds for restitution may be what prompted Alfred to say that compensation only applied to a first offence, on the grounds that a second offence would indicate an insincere repentance. It might seem a strange qualification when one considers that Alfred was discussing the act of instituting the Christian principle of mercy at large. For mercy in the gospel accounts was to be limitless in human

relations. Christ had said that one does not forgive one's brother only seven times, but seventy times seven (Matt. 18:21–22). But Alfred evidently became concerned with preserving justice in the face of the principle of mercy.

Our difficulty is compounded in the second limitation of mercy. It is hard not to notice that Alfred's concern to preserve fidelity, his society's most essential bond, through inexorable punishment conflicts with the gospel's injunction to forgive one's enemies. But political theology demands special consideration as ninth-century Europe was particularly well aware. The state, according to St Paul, had a divinely sanctioned duty to punish evildoers (Rom. 13:1–7), and excessive mercy could be seen to be a shirking of this duty. Hincmar had been very clear in his teaching that mercy must be used by kings with discretion (*De Regis* 846A–D: ch. 20). And because the state is itself very precarious, as ninth-century Europe had testified to itself, it must guard its own integrity. Moreover, Alfred's decisive term, *hlafordsearu*, evidently had a technical significance in this passage that meant not merely a slaying of one's lord but high treason against the king. This calls into play special theological considerations. Christian nations of this period shared a sacral view of kingship, wherein an attack upon the king was an attack upon the Lord's anointed (Wallace-Hadrill "*Via Regia*" 185 and *Kingship* 150–51; Folz 118–31). That the office representing God's authority over his people on earth was at issue here is suggested in Alfred's linking the seriousness of *hlafordsearu* with rebellion against God. This reading is confirmed by what is surely Alfred's source for this second limitation, the report of the legates George and Theophylact on their proceedings in England (*Councils* 447). Their report is based on the council that they held in 787 with Offa of Mercia, Cynewulf of Wessex, and the bishops and elders of the land. Chapter 8, *De ordinatione et honore regum*, quotes a number of biblical passages that support the notion of a divinely dispensed regal dignity and power, including Paul in Rom. 13, and then discusses regicide:

In necem regis nemo communicare audeat, quia christus Domini est: et si quis tali scelere adhæserit, si Episcopus est, aut ullus ex sacerdotali gradu, ex ipso detrudatur, et a sancta hæreditate dejiciatur, sicut Judas ab Apostolico gradu ejectus est: et omnis quisquis tali sacrilegio assenserit, æterno anathematis vinculo interibit, et Judæ traditori sociatus, sempiternis cremabitur incendiis.
(454)

[Let no one take part in the slaying of a king, for he is the Lord's anointed. And if someone is implicated in such a crime, if he is a bishop or anyone from the rank of priest, let him be put out of office and dismissed from his blessed inheritance, just as Judas was removed from the apostolic rank. And everyone

who consents to such a sacrilege will perish in the eternal chains of damnation, and as an associate of that traitor Judas will burn in everlasting flames.]

This passage makes the same association as Alfred did between the slaying of kings and Judas's betrayal (49.7). When Alfred, however, immediately added that God *bebead þone hlaford lufian swa hine* [commanded that one love one's lord as oneself], he showed his thought's basis in charity. He adapted the second great commandment in an interesting fashion, that it focus upon one's lord. He is, as it were, one's first neighbour. Treachery betrays the bond of love by which the state subsists. The state comes to reflect here the kingdom of heaven. The limitation upon mercy is no contradiction of the gospel's proclamation of forgiveness. Judgment and damnation are within the gracious message of the gospel. As Christ is both judge and redeemer so judgment and mercy, punishment and forgiveness, can and surely must, stand as one.

It should be clear that Alfred saw the system of compensations as an integration of mercy and justice. Mercy itself was the dominant and transforming principle of this synthesis. It had found its institutional realization in the legal system.¹⁷ For Alfred's prologue has as its central moment of logic the Golden Rule, or due charity for one's neighbour. Because this distribution of charity is circumscribed within a system of justice we meet here an especially clear instance of something that James Doull mentions only in passing in his article, "Augustinian Trinitarianism and Existential Theology." As he refers to the barbarian Christian nations of the early mediaeval period, he describes them as intuitively, almost naturally, working out the thought of Augustine that seeks to ground human existence in the Trinity: "the barbarians themselves sought to combine in their political communities individual freedom with devotion to the universal. . . . The Trinitarian principle had its existence in the intuitive freedom of barbarous peoples" (153). If we remember that Augustine sought to portray the Trinity as truth in the unity of love we find a hint of the wealth of thought underlying Alfred's prologue. For here Alfred seeks to unite mercy with justice so as to bring their unity into the life of his people.

To note such wealth does not demand a return to the Victorian veneration of Alfred. Quite the contrary. If Alfred was for the Victorians a mirror or icon of their own self-regard, of their empire, of their civic piety, he is becoming for us a mirror of our suspiciousness, of our mistrust of public virtue and piety, indeed of our disdain of anything that claims to be good. But let us be wary of any easy or hasty reduction of Alfred's image to an

opportunistic, even Machiavellian, guise (Nelson 68). This prologue's public use of piety reads as no mere calculated display. Reverence for the king of Wessex is beside its point. Its real work is to present Scripture that it may search the hearts of its readers and direct them to serve not themselves but live in charity with their neighbour — especially in the practice of public life. It allows that the good of the state is a harmony of love and justice. It allows that the state can seek to be gracious through obedience to basic principles of revealed truth.

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NOTES

¹ Liebermann's edition calls this portion of Alfred's law code the Introduction (*die Einleitung*) and abbreviates it as *El.* (Vol. 1, 26–47). Quotations come from Liebermann's transcription of Manuscript E, CCCC 173, i.e., the Parker manuscript.

² “Nimium admiror vestram insolentiam, eo quod, Dei dono et meo, sapientium ministerium et gradus usurpatis, sapientiae autem studium et operam neglexistis” [I am thoroughly astounded at your audacity that you would assume, under God's and my authority, the function and status of wise men, yet neglect the study and practice of wisdom].

³ References to the Vulgate are based on *Biblia Sacra Iuxta Vulgatam*. The *Quadripartitus* version of Alfred's text cannot be expected to represent his Latin exemplar.

⁴ The very way that Liebermann divided up the introduction prejudices the way one reads it. The Mosaic section stands forth and the rest is recessed. The translation of Exodus is divided verse by verse into separately numbered paragraphs (1–48). The last three sections and Alfred's preface to his own code are all brought in under paragraph 49 and subdivided therein, lumped together into a swift closure.

⁵ Whitelock also mentions them in her description of the prologue. Her comments are of little interest here, however, because although she called it a “carefully thought-out introduction” she did not actually discuss the nature of its thought (96).

⁶ The translator of the *Quadripartitus* understands this. He translates this last sentence of the Old English not as an independent sentence but as a phrase in the relation of ablative of instrument to the word *adimplere*. His whole sentence reads, “Non ueni legem soluere sed adimplere, pietate scilicet et misericordia” [I did not come to destroy the law but to fulfill it, namely with gentleness and mercy].

⁷ For in Matt. 7:12 it reads “Do unto others as ye would have them do unto you,” as opposed to “What ye do not want done to yourselves do ye not to another.”

⁸ In the United Bible Society's second edition of *The Greek New Testament* (ed. Kurt Aland, Matthew Black, Carlo M. Martini, Bruce M. Metzger, and Allen Wikgren; New York, 1968) the textual apparatus for Acts 15:29 explains that many manuscripts of the patristic era have this addition. It occurs in all the languages: Greek, Syriac, Coptic, Ethiopic, and Latin in both the Itala and Vulgate versions. It occurs in many manuscripts of the Vulgate. The textual apparatus initially gives the Greek as “καὶ πορνείας, καὶ ὅσα μὴ θέλετε ἑαυτοῖς γίνεσθαι ἑτέροις μὴ ποιεῖν.” But it indicates that an alternate and more frequent ending to this sentence is ἐτέρω μὴ ποιῆτε,

which is equivalent to the *Quadrupartitus*'s "Quod uobis non uultis fieri, non facietis alii," as well as to Alfred's "ne doð ge ðæt oþrum monnum." Alfred could have got this reading from a Greek, an Itala, or a Vulgate version, but, of course, a version of the Vulgate is the most likely.

⁹ *De Doctrina Christiana* I.xxx.33: "Iam uero si uel cui praebendum uel a quo nobis praebendum est officium misericordiae, recte proximus dicitur; manifestum est hoc praecepto, quo iubemur diligere proximum, etiam sanctos angelos contineri, a quibus tanta nobis misericordiae impenduntur officia, quanta multis diuinarum scripturarum locis animadvertare facile est. Ex quo et ipse deus et dominus noster proximum se nostrum dici uoluit" [If, however, we are in a position to bestow the obligation of mercy to someone or receive it from someone, that person is rightly called our neighbour. It is evident that this precept, in which we are commanded to love our neighbour, embraces even the angels who bring down to us so many acts of mercy, as is easy to discover in a multitude of scriptural passages. Wherefore even God himself, our Lord, wants to be called our neighbour]. [Translations from *De Doctrina* are my own.]

¹⁰ I.xxxix.43: "Homo itaque fide et spe et caritate subnixus eaque inconcussa retinens non indiget scripturis nisi ad alios instruendos. Itaque multi per haec tria etiam in solitudine sine codicibus uiuunt" [And so the man who is upheld by faith, hope, and love and possesses them fully does not need the Scriptures except for teaching others. Wherefore many live without books in solitude by means of these three virtues].

¹¹ Cf. Wallace-Hadrill, *Barbarian West* 55–59.

¹² The *Liber ex lege Moysi* opens with the same abruptness as Alfred's text: *Ego sum Dominus Deus tuus* I would take issue, however, with Fournier's suggestion that "n'est-il pas invraisemblable de penser que l'auteur du prologue anglo-saxon s'est largement inspiré du *Liber ex lege Moysi*" (230). Alfred's independent purpose is evident in his omitting more from this extract than does the Irish compendium, in his adapting the text to his own interests where the compendium only records the received Latin text, and in his moving on to the New Testament where the compendium proceeds to extract other chapters from Exodus, Leviticus, Numbers, and Deuteronomy. The compendium, moreover, includes some of the very food laws from which the Apostles released Gentile Christians.

¹³ We can see similar though less dramatic reductions to other precepts of the Mosaic law code: *El.* 16 (Exod. 21: 18–19), *El.* 18 (Exod. 21: 22–23), *El.* 20 (Exod. 21:26–27), *El.* 22 (Exod. 21:39), *El.* 26 (Exod. 22:5), *El.* 27 (Exod. 22:6). In these reductions Alfred tended to simplify the law and broaden its application.

¹⁴ Keynes and Lapidge describe how a fairly large number of ninth-century manuscripts both arrived in England and were copied, inferring that they could well have been associated with Grimbald (214).

¹⁵ According to the *Summary Catalogue of Western Manuscripts* Hatton 42 (or #4117) is a collection of three manuscripts (848–49). Only the first is ninth century. It was written in Brittany and contains the Hibernian canons, a collection of Welsh laws, Adamnani's penitential canons, and the first book of the epitome. Even if these texts were of any interest to Alfredian studies their presence at his court seems to be ruled out by the fact that they contain tenth-century Breton glosses. The other two manuscripts were written in tenth-century France. The one is the collection of Church canons compiled by Dionysius Exiguus. The other is the first book of Ansegisus's collection of capitularies, really the only interesting text in the whole collection for this study. A twelfth-century hand wrote on the back cover "Liber Sc. Dunstani," whereby the editors of the *Catalogue*

speculate that the collection “was brought from Brittany to Glastonbury in the course of the tenth century.”

¹⁶ Cf. *Councils and Synods* 8–9.

¹⁷ It might be worth comparing Alfred’s synthetic logic to John Scotus Eriugena’s in the *Periphyseon*. There, in the return of all mankind into God, the mercy and justice of God are reconciled under mercy’s domination. Eriugena was able to give a rationale that placed punishment within the governance of mercy; in fact for him punishment could be seen as an act of mercy, because it was the forcible withholding of the will from base, self-destructive desires (O’Meara 144–45).

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Abbreviations

MGH *Monumenta Germaniae Historica*. Berlin, 1826–.

PL *Patrologia Latina*. Ed. J.P. Migne. Paris, 1844–91.

Admonitio Generalis. MGH, *Legum Sectio II: Capitularia Regum Francorum*. Tomus I. Ed. Alfredus Boretius. Hannover, 1883. 52–78.

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