

The use of writs in the eleventh century

RICHARD SHARPE

The central subject of this discussion is a particular diplomatic form that lasted in England for at most some two hundred years, the writ-charter. When it first appeared is obscure for want of surviving examples, but the reign of King Edgar would be a plausible guess. Its extinction in the 1160s is less obscure, and we may even hazard why it came about at that time, when Henry II's government was changing both the role of local courts and the use of documents in the legal process. What is harder to explain is how the writ-charter came to survive so late, for it served as a vehicle of transition.

The earliest extant writ-charter dates from the reign of Æthelred II. In his name there are now known to exist 112 diplomas, a good proportion, certainly a majority of them, authentic, and two writ-charters. The proportion of writs among the surviving documents rises reign by reign through the time of Cnut, Edward the Confessor, William I and William II, until by the end of the eleventh century the Anglo-Saxon style of diploma was extinct and its Anglo-Norman successor was on the verge of extinction.¹ In the same period the number of extant writs increases, and the variety and complexity of purposes and forms of writ rise too, so that the writ-charter, predominant down to the 1070s, is seen as merely the strongest survivor among a whole family of writs. Other forms of writ may go back further than the period from which they begin to survive in numbers – that is a moot point to be discussed, but not here – and further forms of writ proliferate and flourish in the twelfth and thirteenth centuries. It is impossible to know the relative numbers of diplomas and writs actually issued, because, for as long as the diploma continued to be regularly used, it would seem to have been more likely to be preserved in the archives of its recipients. The writ-charter was surely a major element in the obsolescence of the diploma, but its own dominance was short-lived. From the early years of Henry I's reign a new form of document emerged, serving the same ends as the writ-charter by different means. This new form, the charter with a general address, outlasted the writ-charter by centuries, though in the thirteenth century its use became increasingly limited. For a good sixty years

¹ For discussion, see S. D. Keynes, *The Diplomas of King Æthelred the Unready 978–1016* (Cambridge, 1980), pp. 141–5.

the two forms co-existed, from around 1106 to around 1166, but in the end legal change made the writ-charter redundant.

This paper will suggest that the well-preserved archive of Bury St Edmunds allows us to infer a rationale to explain why there appear to be so many documents issued for the same beneficiary for the same purpose by different kings. The key reason is that, unlike the older Latin diploma, a writ-charter was not a privilege that bore perpetual witness to a transaction. It was in its nature a communication in writing to the shire court, and the privileges to which it referred were not grants of property but of prerogative rights alienated, on a temporary basis, by the king. When the king died, or the holder of the right died, the grant was deemed to lapse unless renewed by a new grant, communicated to the shire court by a new writ. A significant feature visible in the Bury archive is that for each distinct right the abbot of Bury obtained a separate writ-charter from the king. This has the effect that at each renewal the abbot of Bury obtained four new documents, resulting in a substantial archive. In principle, there was no need to retain older documents, though the most recent one would probably be produced in evidence when a renewal was sought; once superseded, it could be disposed of. This has had the consequence that few archives have preserved sufficient documentation over an extended period of time to reveal this pattern. From Bury, however, there survive sufficient documents to see the pattern in operation from the last years of King Cnut until the reign of William II. It embodies an Anglo-Saxon principle relating to royal rights, preserved under the first Norman kings, but abandoned in the time of Henry I. About halfway between the period from which documents of this kind survive and the point when the pattern ceased to be observed, the Norman Conquest intervened. The scholars who have catalogued or edited the documents have worked only on one side or the other of that boundary, but what I have described as a pattern becomes much more visible when one follows a series of documents through from the Anglo-Saxon into the Anglo-Norman period.

THE WRIT-CHARTER DEFINED

Before proceeding further, I ought to define my terms, since there are no handbooks with definitions that we might agree to observe, at least insofar as we can agree that the taxonomy of species is possible in this context at all. The ‘diploma’ in the Anglo-Saxon period is the least doubtful: known in Old English as *boc*, it is not in the form of a letter and therefore has no address but instead begins with solemn invocations; it concludes with solemn sanctions and anathemas, subscribed by witnesses whose names are carefully tabulated by the scribe; its format is large, its script imposing, and its Latin wording often lengthy and ponderous. Diplomas were concerned with land, however, and the

bounds of the property involved were defined in English rather than in Latin for wider accessibility. The Anglo-Saxon ‘writ’ by contrast is short, a feature that was (notionally at least) definitive of a letter, in Latin *breue*, the word used to translate Old English *gewrit*; its letter form involves superscription, address and greeting, and in the earlier examples also often a valediction. Between these protocols the tenor of the document is very concise, it may take the form of a notification or an injunction, or it may combine both elements; and from our earliest examples until 1070 it was composed in English rather than Latin. The writ’s format is small and its script functional. Unlike a diploma, a writ is authenticated by the king’s seal.

My third category, the ‘charter’, is less easily defined since even in English contexts the word can be used for many different forms of document, including both diploma and writ. In the present context, however, I shall define it as a document that commences with a general address, and in so doing I am mindful that I am anticipating the category made explicit at the beginning of the thirteenth century. Other features will become a part of the definition as the form establishes its norms, but this one is a readily-recognizable diagnostic. The general address is adumbrated already among the documents issued by William I, but it is both rare and non-formulaic until the early years of Henry I’s reign, when it takes on the standard wording ‘archiepiscopis, episcopis, comitibus, uiccomitibus, baronibus et omnibus fidelibus suis’. It is possible to trace the evolution of this formula over succeeding years. A few years after the formula’s first appearance Henry I introduced the figure of the justice to the shire court; ‘iusticie’ in the singular enters the address of the writ-charter and ‘iusticiis’ in the plural enters the general address, in each case ahead of the sheriff or sheriffs. Next to join are the abbots, ‘abbatibus’, immediately after the bishops. The word *barones* takes the place of *þegnas* in Anglo-Saxon usage, and the status of ‘barons’ during the decades after the Conquest should be understood as equivalent to that of the thegns who owed suit of court in the shires; in the course of Stephen’s reign we find that they are recognized as magnates and they move up the precedence to follow the earls, overtaking the sheriffs who once mustered them in the shire court. The wording, script and format of this Anglo-Norman charter are based on those of the writ-charter, which was its immediate parent.

The expression ‘writ-charter’ has been used, on and off, for the greater part of the twentieth century without a formal definition.² I propose to define it

² This expression is first used, with quotation marks, by Davis, *Regesta* I, xxxv, where he wrote: “Those described as “notifications generally addressed” open with a salutation “to archbishops, bishops, abbots, earls, barons, sheriffs” or some equivalent formula. They might perhaps be described as “writ-charters”.’ There are, I think, three fundamental errors here. The definition offered relates primarily to the general address of a charter that cannot have been delivered to

formally as a writ addressed by the king to the officers and suitors of the shire court.³ This is a specialized form of the writ (which as an official letter might be addressed to anyone), and its function is similar to that of a charter, that is granting or confirming tenure of land or of rights that belonged to what in later ages would be called the royal prerogative. This function means that the writ-charter is normally couched as a notification, though injunction and prohibition clauses are often included. The shire address is sometimes also used where the function is primarily or exclusively a command; for these the hybrid term is not appropriate.

The term 'writ-charter' is a hybrid in more than one sense. It seeks to join form and function and at the same time to bridge the terminologies of pre- and post-Conquest practice. The Anglo-Saxon *genwrit* 'writ' was a formal letter, which could be used as a diplomatic instrument for issuing instructions to officials as well as notifications to the shire and other courts. One of the earliest attested was an instruction to the shire court of Berkshire to meet and hear a law-suit.⁴ In twelfth-century and later usage 'writ' is confined to the instruction, known technically as a 'mandate' or sometimes 'precept' (from its keyword *mando* or *praecipio*); these may be broadly divided into three kinds, executive writs, administrative writs and common law writs. The hybrid term for such documents, 'writ-mandate', though useful in defining such examples in the eleventh century, would appear tautological in the twelfth and later centuries and is generally avoided.⁵

Writs were certainly used in Anglo-Saxon England before the writ-charter came into use as a special form within the larger category. When and why the

Footnote 2 (*cont.*)

its addressees, and there is no reason to attach the qualifier writ- in such cases; on this definition writ-charters continued to be used for centuries and there was no separate category of charter. This form of the general address cannot be found in any authentic charter of William I or William II; indeed it will rarely be found before the reign of King Stephen. And the notion of 'some equivalent formula' begs the question of what is equivalence. Davis gives three examples, *Regesta* 51, 111, 201. The first, Bates 99, has no general address but is addressed primarily to officials, 'to justices, sheriffs, foresters, officials and his sworn men of all England', certainly not an equivalent, and it is in any case a twelfth-century forgery. The second, Bates 185, is again not equivalent, addressed 'omnibus fidelibus suis francis et anglis', and is a messy confection. The third, Bates 6, is a general writ addressed 'uiccomitibus suis et ministris totius Anglie' and has no charter function at all.

³ This definition appears to be implicit in Keynes, *Diplomas*, p. 142.

⁴ The writ does not survive but is referred to in a document recording the resolution of a dispute: 'the king sent his seal to the meeting of the shiremoot at Cuckamsley by Abbot Ælfhere, and greeted all the councillors who were summoned there, namely Bishop Æthelsige [&c.] and the whole shire, and bade and commanded them to settle the dispute' (S 1454; datable 990 × 992).

⁵ Another hybrid expression, 'writ-diploma', has been used for (rare) documents that are hybrid in form between the writ used in England and the form of diploma used in Normandy, such as Bishop & Chaplais, no. 21 with pl. 19–20.

writ-charter emerged are interesting questions, which we must defer for the time being. Writs that did not have a charter-like function had no reason to be added to the recipient's archive, and as a consequence almost all surviving writs before William I's reign are writ-charters. Even these were valid only for as long as the participants were alive, and, when renewed on succession or inheritance, obsolete documents would usually not be retained. In the surviving documents from William I's reign and thereafter we can see many species of writ in use, including a general writ and an ever-increasing range of specific writs. The vital diagnostic in most of these is the address, which must never be passed over lightly as mere common form. It is the indicator of the route or mechanism through which a document served its function.

The most important point about the writ-charter is that it is addressed to – and delivered to – the shire court. In this sense we can see an evolution in the wording of the address. Æthelred's writ-charters were evidently addressed to the bishop, the ealdorman and the thegns of a particular shire.⁶ The bishop and ealdorman were the presiding officers, the thegns those men of high standing who provided the suitors of the court. In Cnut's time the ealdorman's place came to be taken by the earl in the shire court and therefore in the address of the writ-charter, though there were localities where the ealdorman remained in place.⁷ While some bishops and ealdormen had to attend only the meetings of a single shire, there were others who, if they attended all shire moots within their jurisdiction, would have had a considerable amount of travelling to do during the two seasons of the year when shires were meeting.⁸ Some earls – Godwine and Harold are extreme examples – had many shires within their territory, and one presumes that they would have sent deputies on

⁶ This inference, compatible with our knowledge of the role of the bishop and the ealdorman in the shire court (3 Edgar 5, 2 and 2 Cnut 18, 1; Liebermann, *Gesetze* I, 202–3 and 320–1), is based on the addresses (i) of a writ-charter of Æthelred (S 946) (its authenticity has often been doubted, largely because it relates to property concerning which we have forged documents; Harmer (pp. 377–80), however, has no substantive objections to its wording, even saying, 'it is difficult to believe that the address, with its reference to comparatively obscure persons . . . is not authentic' (p. 377); a point to note is that the bishop, who was the impetrant, is omitted from the address, an early example of a declared interest, as noted by Harmer, p. 47), and (ii) of the writ of the king's mother Ælfthryth (S 1242), carrying testimony to the shire court in a land dispute, both from the archive of the Old Minster at Winchester.

⁷ As in the well-known *placitum* (S 1462) recording a suit in the shire court of Herefordshire at *Æthelnothesstan* (Aylton, near Ledbury), where Ranig /Hrani continued as ealdorman.

⁸ The shire courts met twice a year (3 Edgar 5,1; 2 Cnut 18), though additional meetings might be called (2 Cnut 19); pre-Conquest sources do not indicate the season, but the later medieval practice of the twice-yearly general county, held after Easter and after Michaelmas in almost all shires, reflects the older custom (R. C. Palmer, *The County Courts of Medieval England* (Princeton, NJ, 1982), pp. 15–16). Already in the tenth century there were ealdormen who had charge of several shires (L. N. Banton, 'Ealdormen and Earls in England from the Reign of King Alfred to the Reign of King Aethelred II', (unpubl. DPhil dissertation, Oxford Univ., 1981)).

some occasions. In less exceptional cases, there were strong reasons for the earl to attend, and we should not presume too far on the basis of assumed practical difficulties; the timing of meetings might have been well organized so as to allow the bishop and earl to get from one to another. After the Conquest the earl continues to be addressed, and by the time Old English is largely abandoned in William I's writs, in 1070, the earl has become *comes*. The choice of word is clearly suggestive. The shire became *comitatus*, and the *comes* was intended as its secular head. William I, of course, did not have an earl in every shire, but his earls for the most part are styled as earl of this or that shire or shire-town.⁹ It would be interesting to correlate the appearance of earls in the writs issued by William and his successors with the counties that had given their name to earls at this date.¹⁰ Before long there were too many shires without even a notional earl, and it is not clear that the earls actually attended the shire courts. The sheriff, by definition an official of the shire, *scirgerefa*, takes his place, and the Latin word by now used for his title is *nicecomes* 'earl's deputy'.¹¹ Many eleventh-century sheriffs have to be identified as such from their appearing by name but without title in the address of writs or alongside the bishop in the address of writ-charters. The shire court came to be very much identified with the sheriff, and in the period after the Conquest many shire courts changed their venue to the hall of the sheriff's castle or to a hall built for this purpose in the bailey of his castle.¹²

An important variant on the writ-charter addressed to the shire court is that addressed to the several shires in which the beneficiary holds lands. The earliest extant document in this form is a writ-charter of Æthelred II (S 945), but its authenticity is questionable.¹³ This plural usage is in my view influential in determining the formula of the general address referred to above, though it was not necessarily the stimulus that led to the creation of that form of charter.

We do not know, but we can infer from twelfth-century and later practice, that the beneficiary is likely to have asked the king for a document – and surely paid a handsome 'fine' for the privilege. The writ was then drawn up, sealed

⁹ C. P. Lewis, 'The Early Earls of Anglo-Norman England', *ANS* 13 (1990), 207–23.

¹⁰ A start is made by Bates, p. 46.

¹¹ The earliest examples of this terminology in England are in diplomas for Peterborough (Bates 216; datable 1066 × 1067, if authentic) and Exeter (Bates 138; dated 1069, original). The older Latin usage of England is found in diplomas for Wells (Bates 286; dated May 1068) and Worcester (Bates 345; datable 1066 × 1068).

¹² The move from traditional open-air meeting-places into the hall of the earl's or sheriff's residence may well have begun in some shires before the Conquest.

¹³ Harmer, *Anglo-Saxon Writs*, p. 236, thought the main obstacle to its acceptance was its resemblance to a writ of Edward the Confessor (S 1104); its address to the bishops and earls of the shires rather than the bishops and ealdormen is clearly anachronistic for Æthelred's reign.

and given to the beneficiary, who would deliver it to the shire court. In the Anglo-Norman period, we can be certain that writs might be sealed at any time and wherever the king happened to be; whether this was so before the Conquest is not clear.¹⁴ At the meeting of the shire court it would be presented to the presiding officers as a letter from the king. An official would read it aloud, in English before 1070; translating from English into French for the years between 1066 and 1070; and translating from Latin into both languages after 1070. The court would then give the writ-charter back to the beneficiary to retain, if he wished, for future reference.

A writ-charter obtained by a beneficiary with lands in several shires was presumably taken to meetings in each shire to be presented, read and returned in this way. Such a document is very different from one addressed by the king to every shire in the kingdom. Henry I's so-called coronation charter, for example, was issued in multiple copies, addressed specifically to the officers and thegns of a particular shire court, every one therefore different.¹⁵ Receiving and hearing the king's word was a central part of the shire court's business; the address in the writ-charter was for real at this date. Documents such as the coronation charter, however, would be delivered separately to each shire court by messengers sent from the king himself.

Having now defined our terms, there is then the difficult question of what is achieved by the writ-charter and its publication in the shire court.

It is necessary to read not simply the hundreds of charters surviving from the eleventh century but also a considerable number of the thousands from the twelfth century, since identifying where the documents are evolving throws light on what was signified by the elements that it was found necessary to change. It is still very difficult to do this. Until recently we had only Florence Harmer's work on the pre-Conquest writs and the edition of King Stephen's charters by Ralph Davis. Since 1998, we have had David Bates's edition of those of William I, and within a couple of years we expect to have the enormous edition of the charters of Henry II directed by Sir James Holt and edited by Nicholas Vincent. For the intervening reigns of William II and Henry I an edition is now in hand, but meanwhile one must depend on printed texts scattered through several hundred books, most of them editions of medieval monastic cartularies. It has to be said too that the editions that have been made have

¹⁴ The Ramsey chronicle (ed. W. D. Macray, RS 83 (1886), p. 135) depicts Cnut as travelling about the kingdom accompanied by his secretaries. Written in the late twelfth century, one cannot be sure that it did not reflect rather Henry II's practice.

¹⁵ *Regesta* 488; Liebermann, *Gesetze* I, 521. The copies addressed to Worcestershire and Hertfordshire have survived. There are also copies addressed 'omnibus baronibus et fidelibus suis francis et anglis' and 'omnibus fidelibus suis francis et anglis'.

focused more on the individual documents than on their common features of form and expression. Such discussion of the diplomatic as there is has taken only a synchronic approach.¹⁶ Yet learning how to read and understand such documents is surely of fundamental importance to the study of this period.

The need to understand systematically what the forms are really doing – when they are usually not explicit – is the primary question. One needs to develop a sense of what different clauses do in order to understand what a document as a whole means, and one has to do this not merely for a particular reign but in the light of the evolution of forms over the years. This requires access to a continuous run of documents produced by the kings of England over the whole period in which the writ-charter emerges through to its extinction, a period which also includes the demise of the diploma and the invention of the charter as well as other forms. Often, however, one can only understand the business of an individual document in the context of its archive and the place it holds in the functional documentation of a particular estate or honour. In other words it is necessary not only to study the documents over a long period but to do so both in relation to those documents issued around the same time by the king and those relating to the same business issued over time and by other authorities as well as the king. In addition, of course, there is a need to control several thousand personal names and the careers that they signal. We have a subject that cries out for assistance from the electronic manipulation of all these data, and I have work in hand on a database of royal acta from the Anglo-Norman period.

My own interest is in working out and explaining both the formal and the functional diplomatic of these royal acts. One way in which a start can be made ahead of the completion of the database is to examine a single archive that offers enough evidence to make a meaningful contribution on its own. It has to be one that survives in reasonable shape from both before and after the Conquest. Not many archives have retained a good hoard of writs from before the Conquest, and only two present a degree of fullness. Of these the archive from Westminster, rich in forgeries, is of limited value for the present purpose. The other archive is that of Bury St Edmunds, which continues to be well preserved after the Conquest.

THE ARCHIVE OF BURY ST EDMUNDS

The monastery of St Edmund enjoyed the favour of kings and a wide range of privileges.¹⁷ The monastery itself and its borough were in liberty from at least

¹⁶ Bates, *Regesta*, pp. 43–75.

¹⁷ Below will be found references to grants made and documents issued during royal visits to the abbey by Edward the Confessor (p. 263), William I (pp. 288–9) and Henry I (C).

the time of Cnut, though the Latin expression *libertas* is first used in a confirmation by Henry I and in a number of forged diplomas.¹⁸ I shall not be concerned with the nature of this liberty and shall refer to it simply as the abbey's and abbot's rights. The abbey was also exempt from the diocesan bishop's ecclesiastical jurisdiction, and in 1071, with Archbishop Lanfranc's support, Abbot Baldwin obtained a papal privilege from Alexander II to confirm this.¹⁹ A forged diploma in the name of Cnut says that the monastery shall be 'ab omni dominatione omnium episcoporum comitatus illius funditus liberum', and this association of the bishop with the shire is strong in Bury's perceptions.²⁰ A later chronicle, narrating the foundation legend though sourcing it 'ex cronicis de Ely', says that Bishop Ayelwinus granted all his right and jurisdiction as well as his sacramental rights *intra idem monasterium et oppidum et in circuitu eiusdem oppidi per ambitum unius stadii* 'within the monastery and borough and around the borough to a distance of one stade'.²¹ We shall also be concerned with three other rights, all granted by Edward the Confessor, namely a mint to strike the king's coins, the soke or sokes of the Eight and a Half Hundreds that met at Thingoe, and exemption of the abbey's demesnes from scots and gelds. Each of them is supported by a series of royal documents.

Original charters from Bury St Edmunds are thin on the ground, but there

¹⁸ N. D. Hurnard, 'The Anglo-Norman Franchises', *EHR* 64 (1949), 289–327 and 433–60, thought this originated in a burghal court and probably dated from the time of Æthelstan (p. 319); M. D. Lobel, 'The Ecclesiastical Banleuca in England', in *Oxford Essays in Medieval History presented to H. E. Salter* (Oxford, 1934), pp. 122–40, at 129, says that the 'monastery's power over the town and its fields' dated back so far; but in her book a year later, *The Borough of Bury St Edmund's. A Study in the Government and Development of a Monastic Town* (Oxford, 1935), pp. 4–7, she argued that the *burh* as such dated only from the first years of Cnut's reign. What the jurisdiction amounted to was explained by the abbey's representatives seeking a confirmation from Edward III in 1353 (*Cal. CharterR* V, 137–9). The term *libertas* translates OE *freols*, used in Edward the Confessor's writ confirming Ufi in the abbacy (S 1068; below, L).

¹⁹ D. Knowles, 'Essays in Monastic History 4. The Growth of Exemptions', *Downside Review* 50 (1932), 201–231 (at pp. 208–13); J.-F. Lemarignier, *Étude sur les privilèges d'exemption et de juridiction ecclésiastique des abbayes normandes depuis les origines jusqu'en 1140*, Archives de la France monastique 44 (1937), 146–55. Like other exempt abbeyes at this date, the abbey remained subject to the jurisdiction of the primate; in the twelfth century it altered the text of this papal bull (JL 4692) to reserve only the rights of the papacy.

²⁰ S 980; compare two other forged documents from Bury, S 995, 'cum eiusdem comitatus presule Ælfrico nomine'; S 1046 (which fails to be either a diploma or a writ), 'necnon comitatus eiusdem episcopi consilio', and in the vernacular translation, 'mid ðere schirebiscopes rede'. The Old English expression *scirbiscop* is usual for the bishop of the diocese. See also the quotation from Bertram the Archdeacon, below, n. 42.

²¹ Excerpts from chronicles, accompanying the Life and Miracles of St Edmund in Oxford, Bodleian Library, Bodley 240; extract printed by T. Arnold, *Memorials of St Edmund's Abbey*, RS 96 (1890–6) I, 360. The date is said to be 1021 and the bishop should be Ælfwine rather than Æthelwine.

are some very good cartularies.²² Its pre-Conquest material includes an important series of Old English private deeds and wills from the eleventh century, preserved in two cartularies of the late thirteenth and fourteenth century. There is an ample series of writs of Edward, eighteen in number (of which two survive as originals, S 1071, S 1084, the rest in the Bury cartularies). There are nine writs and a charter of William I; nine writs of William II; a general confirmation in writ form by Henry I and some thirty-five other writs; twenty-two documents issued by Stephen; two general confirmations by Henry II and about twenty other documents. The only early royal diploma that is not certainly spurious (S 507) confers a space of land around St Edmund's monastery, which Mrs Lobel equates with the later medieval *banleuca* of the abbey.²³ The diploma in the name of Cnut (S 980) concerning eel-rents is an early-twelfth-century forgery; the diploma of Harthacnut, a general confirmation (S 995), and the two documents of Edward the Confessor, a general confirmation (S 1045) and a confirmation of the franchise over the Eight and a Half Hundreds (S 1046), are all forgeries of uncertain date; a date in the 1070s is plausible, since Abbot Baldwin's suit against Bishop Herfast relied in part on such documents.²⁴ Forged diplomas were perhaps considered necessary because the royal writs did not deal with the ecclesiastical exemption. The two bilingual documents in Edward's name (S 1045, S 1046) appear to be an attempt to dress up something in the nature of a writ with some of the features of a diploma, but they are not good specimens of the forger's craft. The authenticity of the writs we shall be considering cannot be taken for granted, though few of them have been found suspect. There are, however, one or two that must be questioned, and the specific issues will be aired as we study the documents themselves below.

Most of this material is printed by David Douglas in his *Feudal Documents from the Abbey of Bury St Edmunds* (1932), which gives the texts of 102 royal doc-

²² The extensive remains of the archive are surveyed by R. M. Thomson, *The Archives of the Abbey of Bury St Edmunds*, Suffolk Records Soc. 21 (1980). The textual history of the Old English writs is considered by K. A. Lowe, 'Two Thirteenth-Century Cartularies from Bury St Edmunds: a Study in Textual Transmission', *Neuphilologische Mitteilungen* 93 (1992), 293–301.

²³ Lobel, *The Borough of Bury St Edmund's*, pp. 2–3. She regarded the diploma as probably spurious.

²⁴ The forgeries are associated with Baldwin by A. Gransden, 'Baldwin, Abbot of Bury St Edmunds, 1065–1097', *Anglo-Norman Studies* 4 (1981), 65–76 and 187–95. The narrative of the suit is given by Bertramnus the Archdeacon, *Miracula S. Eadmundi*, §§ 25–9 (edited by T. Arnold in *Memorials of St Edmund's Abbey*, RS 96 (1890–6) I, 26–92, and by F. Liebermann, *Ungedruckte anglo-normannische Geschichtsquellen* (Strassburg, 1879), 202–81). The relevant passage is also excerpted by R. C. van Caenegem, *English Lawsuits from William I to Richard I*, Selden Society 106–7 (1990–1) [*Lawsuits*], no. 9A; discussed by Harmer, pp. 140–5. On the identity of Bertramnus, the late-eleventh-century author, whose name has been corrupted to Hermannus, see A. Gransden, 'The Composition and Authorship of the *De miraculis Sancti Eadmundi* attributed to "Hermann the Archdeacon"', *Jnl of Med. Latin* 5 (1995), 1–52.

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uments from 1066 to 1189. For the Old English acts from before 1066 we have Miss Harmer's edition. She had Douglas available to her, but, although she had clearly studied the documents from after 1066 for the light they could throw on the earlier ones, she excluded those Old English writs issued for Bury in the name of William I. Whether these two scholars shared this blindspot about the Norman Conquest for the same reason or for different but complementary ones is not very important, but it is all the same regrettable. In what follows, I hope it will be clear why we have to read an archive across the period of the Conquest. As H. W. C. Davis wrote in 1909, 'There are not many cases in which we can trace the history of a seignorial jurisdiction continuously from the days of the West Saxon dynasty to those of the Plantagenets. But such cases are worth special study.'²⁵

Within this archive there are four series of documents, most of them writ-charters, relating not to the properties of the abbey but to various privileges. None of the four is necessarily a complete sequence, and of course there are a good many documents that do not belong to any of the four but concern other matters. Such sequences are instructive, and I present the texts arranged so as to focus attention on their connexions.²⁶ After each document there are detailed notes, which can be skipped over in a first reading. A long sequence dating back to the first years of Edward's reign relates to the abbot's legal franchise in the Eight and a Half Hundreds. An even longer series relates to the abbot's jurisdictional rights over his lands and men, which purports to go back to the time of Cnut. Yet another sequence relates to the abbey's exemption from scots and gelds, and I shall examine these documents in that order. But first let us examine the relatively simple series relating to the abbot's right to have a moneyer.

THE ABBEY'S MINT

Edward the Confessor granted the right to have one moneyer minting coin at St Edmund's Bury. His writ in favour of Abbot Baldwin is one of several writ-charters granted by Edward to Baldwin after 14 July 1065 but before Edward's death on 5 January 1066; there is one such in three of the four sequences under examination here (A, H, O). Knowing what we do about the presentation of such writs to the shire court, we can conjecture that these writs were issued in time for the autumn meeting of the shire courts in late September or early October 1065.

²⁵ H. W. C. Davis, 'The Liberties of Bury St Edmunds', *EHR* 24 (1909), 417–31. In this paper he printed a selection of thirty royal documents from the time of William I to Stephen to complement the pre-Conquest writs already printed by Kemble in 1848 and Thorpe in 1865.

²⁶ Since we cannot know for certain when many of the extant documents in the archive were issued, it is impossible to arrive at a consistent arrangement.

A + Eadward cyng gret Æigelmer biscop 7 Georð eorl 7 ToliƷ 7 ealle mine þegenas on Æstengle freondlice. 7 ic cyðe eou þæt ic habbe geunnan Baldwine abbote onne menetere wið inne Seint Eadmundes byrig al swa freolice on ealle þing to habben al swa me mine on hande stonden ower on enig minre burge alre freolu-keost. God seo eow alre freond.

‘Edward king greets Bishop Æthelmær and Earl Gyrth and Toli and all my thegns in East Anglia friendly. And I make known to you that I have granted to Abbot Baldwin one moneyer within St Edmund’s bury to have as freely in all things as I possess in any other of my boroughs most freely. May God be the friend of you all.’

S 1085; Harmer 25. Datable 14 July 1065 × 5 January 1066, between Abbot Baldwin’s appointment and King Edward’s death, but almost certainly in the period July–September 1065. Æthelmær (by this date Ægelmer is a more appropriate spelling, later Aelmer), bishop of Elmham, 1047–dep. 1070 (Harmer, p. 553), and Gyrth Godwineson, earl of East Anglia, 1057–†1066, officers of the shire courts of Norfolk and Suffolk. Toli, from his position in this and several other writs, must have been sheriff of Norfolk and Suffolk (Harmer, p. 575; J. A. Green, *English Sheriffs to 1154* (London, 1990), 60 and 76). The address to Æstengle ‘East Anglia’ rather than to Norfolk and Suffolk differs from that of most writs in the Bury archive, but it is found in another writ of King Edward to Abbot Baldwin (below, O; the third, H, concerned only Suffolk): was a joint meeting of the two shires envisaged in autumn 1065?

This is the earliest writ in the archive to mention the privilege of minting for the king, but we know from numismatic evidence that there had been a mint at Bury around 1048–50.²⁷ It would appear from the wording that this mint was previously in the king’s hands, even though the borough had already been granted to the abbot.²⁸ Otherwise we should expect reference to an earlier grant.

The next example is a writ of William I which repeats the same royal concession in almost identical words, adding the precedent of Edward’s grant:

B William kyng gret Aylmer bisscop and Rauf earl and alle mine þeynes on Norf’ and Suff’ frendlike. And ic kithe ou þæt ic habbe unnen Baldwine abbot withinnen seynt Eadmundesbiri to þene minsteres beofte one munetere also frelike on alle þing to habben also Eadward kyng mine mey him humeuðe alder frelikest. God be mid ihu.

‘William king greets Bishop Æthelmær and Earl Ralph and all my thegns in Norfolk and Suffolk friendly. And I make known to you that I have granted to Abbot Baldwin one moneyer within St Edmund’s bury at the minster’s request to

²⁷ J. J. North, *English Hammered Coinage I (c. 600–1272)* (London, 1994), pp. 143, 155 and 160. At this date the Bury mint was striking the Small Flan type of Edward the Confessor; Bury strikes most of the subsequent issues of Edward, but not for Harold, and only one type of William I, none of William II, then more often for Henry I from c. 1111.

²⁸ Lobel, *The Borough of Bury St Edmund’s*, p. 11.

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have as freely in all things as King Edward my kinsman granted to him most freely. God be with you.'

Regesta 42; Douglas 5; Bates 36. Datable 14 October 1066 × *c.* 11 April 1070, when Æthelmær, bishop of Elmham, was deposed. Earl Gyrrh's place has been taken by Ralph, earl of East Anglia, almost certainly Ralph the Staller, a courtier under King Edward and earl from before March 1068 until his death; from *DB* II, 194, it is evident that Ralph the Staller died before Bishop Æthelmær was deposed; so it is just possible that the writ addresses his son Ralph de Gael, earl of East Anglia from before April 1070 until deprived in 1075. It is most likely that the writ dates from early in the reign. This document is not preserved in the best of the Bury cartularies, but only in those in which its language has been somewhat modernized.

Whereas Edward granted the right 'as freely in all things to have as I have them most freely in any of my boroughs', William granted it 'as freely in all things to have as King Edward most freely granted them'. The second document repeats the grant to *pene minsteres beofte* 'at the minster's request'. In granting this right, which the abbot had possessed under King Edward, we may guess from later twelfth-century practice that William required payment. And no doubt when the abbot of Bury died, again a payment would be required for the continuation of the right to his successor.

After Henry I had become king, we have another writ that makes the same grant. Although no abbot is named, we may presume that this document was issued to Abbot Robert II, since Henry's original nominee, Abbot Robert I, was never accepted by the community, and it has been conjecturally dated to 1106:

C Henricus rex Anglorum Herberto episcopo et Rogero Bigot et Radulfo Passelewe et omnibus fidelibus suis de Norfolc et Sudfolc et Othoni aurifabro de Lond' salutem. Sciatis quod uolo et concedo ut sanctus Ædmundus habeat monetarium suum in uilla sua cum omnibus consuetudinibus monete sicut habuit tempore patris mei et sicut frater meus per breue suum sibi concesserat. Teste Rogero de Curcella. Apud Sanctum Ædmundum.

'Henry king of the English to Bishop Herbert and Roger Bigod and Ralph Passelewe and all his sworn men of Norfolk and Suffolk and to Otho goldsmith of London greeting. Know that I will and grant that St Edmund shall have his moneyer in his town together with all the customs of the mint as he had in the time of my father and as my brother granted to him by his writ. Witness Roger de Courseulles. At St Edmund's bury.'

Regesta 760; Douglas 29. Datable ?1100 × 16 September 1107; most likely after the election of Abbot Robert II, and therefore *c.* 29 September 1102 × 16 September 1107. Herbert de Losinga, bishop of Thetford, later Norwich, 5 January 1091–22 July 1119 (D. E. Greenway, *Fasti Ecclesiae Anglicanae 1066–1300 II Monastic Cathedrals* (London, 1971), p. 55). There was no earl in East Anglia between 1075 and 1140. Roger Bigod (who died on 8 or 15 September 1107) and Ralph

Passelewe appear together in this order in several documents issued by Henry I during the period 1100 × 1106 (*Regesta* 591, 740, 760, 777, 786, 787, 1036, 1306). Roger Bigod was certainly sheriff (A. Wareham, 'The Motives and Policies of the Bigod Family, c. 1066–1177', *ANS* 17 (1994), 223–42 (at pp. 224–9)). In a document from Ramsey abbey (*Regesta* 373; datable 1092 × 1095), Ralph Passelewe is described as 'eiusdem provinciae iusticiarium', and appears to be an early example of that obscure figure, the local justiciar (H. A. Cronne, 'The Office of Local Justiciar in England under the Norman Kings', *Univ. of Birmingham Hist. Jnl* 6 (1957), 18–38 (at pp. 28–9)). For other possibilities, see Green, *English Sheriffs*, pp. 76–7. The position of the thegns in the address, which was at first translated into Latin as *barones*, is here taken by *fideles*, a noteworthy change.

Otho the goldsmith of London was responsible as *cuneator* for the cutting and distribution to moneymen of the dies for minting coin; his father Otho had held land of the abbey until his death, which Abbot Baldwin († 29 December 1097) assigned to support the rebuilding of the abbey-church, an allocation continued by Abbot Robert II (Douglas 104, 106; but during the vacancy, contrast *Regesta* 653, 25 September ?1101, which allocates Otho's former land at Hawstead to the provision of wine for mass). Otho the younger, included in the address here, was retained in his office by Henry I (*Regesta* 543). He was dead by 1128 (Douglas, pp. cxi–cxli). On Otho, father and son, see P. Nightingale, 'Some London Moneyers and Reflections on the Organisation of the English Mints in the Eleventh and Twelfth Centuries', *NChron* 142 (1982), 34–50 (at pp. 40–1). Roger de Courseulles witnesses another charter at the same time as this one as well as two in 1104 (*Regesta* 674, 676).

The place-date is striking: King Henry was himself at Bury St Edmunds. Two other documents share this place-date. One of them (*Regesta* 759; Douglas 30), a writ-charter annexing the lands formerly held by Peter de Bourges to the abbey's demesnes, has the same witness, Roger de Courseulles, and must have been issued on the same occasion. The editors of *Regesta* have clearly realized this, and they favour a date in 1106, following W. Farrer, *An Outline Itinerary of King Henry the First*, §§ 155–7 (printed in *EHR* 34 (1919), 303–82 and 505–79 and also as a book with its own pagination; reference by document-number is the same for either). A third (*Regesta* 761; Douglas 28) seems to be a forgery from at least thirty years later. Farrer conjectured that Henry passed through Bury as he travelled from Norwich towards Colchester, and he placed this journey in late February or early March 1106.

King Henry's writ clearly refers to an earlier grant by his brother William II, which must have taken the form of a similar Latin writ-charter, but it was not preserved in the Bury archive. It will be clear from the presentation of this and other sequences that Henry I must refer to a writ specifically concerned with the right to a mint, and it seems inevitable therefore that this series once included one from William II.²⁹ It is possible that, when the selection of doc-

²⁹ It is relevant to note, however, that during William II's reign the mint at Bury seems not to have been active (North, *English Hammered Coinage* I, 195).

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uments was made for the antecedent of our cartularies, the writ-charter was overlooked in favour of another document, this time a writ-mandate of William II that refers to the right to a moneyer. This writ is not primarily concerned with the mint. It is an instruction to the sheriffs of East Anglia to reseise Abbot Baldwin in his lands and customs as well as his right to a mint, and it should be read in conjunction with other writs of William II that serve a similar purpose (below, S, T, U):

- D Willelmus rex Anglorum H(ermero) de Ferers et Godrico dapifero et Goscelino et ministris suis de Norfolce et Suffolce salutem. Precipio uobis constanter ut faciatis quod Baldewinus abbas de sancto Eadmundo terras suas omnes et omnes consuetudines suas infra burgum et extra et de monetario et de cambiatoribus habeat sicut ipse illos umquam melius habuit tempore regis Edwardi et tempore patris mei. Et uolo ut de omnibus predictis rebus resaysiatis sicut melius saysitus erat in predicto tempore. Et postea si aliquis aduersus abbatem aliquid reclamauerit termino conuenienti sit inde ad rectum. Et uidete sicut me diligitis ut abbatem inde iuste et honorifice tractari faciatis. Teste Hugone de Grantemainilo.

‘William king of the English, to H(ermero) de Ferrers and to Godric the steward and to Goscelin and to his officials in Norfolk and Suffolk, greeting. I command you faithfully to see to it that Abbot Baldwin of St Edmund shall have all his lands and all customs within borough and without and of moneyer and assayers as well as he had them in the time of King Edward and of my father. And I will that you shall reseise him in all things as he was well seised in the foresaid time. And hereafter if anyone shall bring any suit against the abbot, let him have justice at the appropriate time. And see to it as you love me that you have the abbot treated justly and honorably. Witness Hugh of Grantmesmil.’

Regesta 392, lxiii; Douglas 14. Datable 26 September 1087 × 2 August 1100, probably near the beginning of the reign. Hermer de Ferrers and Godric the steward are both known from Domesday Book. They appear together also in a writ for the abbot of Ramsey (*Regesta* 461), and in another document for Bury (below, S) their names are reversed. They would appear to have acted as sheriffs of Norfolk and Suffolk in the period from September 1087 until at least 1091 (Green, *English Sheriffs*, 60 and 76). (Douglas 14 mistakenly expands H. as ‘Henrico’, though Douglas 12 (below, S) has the name correctly in full.) Goscelin of Norwich is named along with Abbot Baldwin and Roger Bigod among the king’s *barones* finding judgement for the abbot of Ely *c.* 1081 (*Regesta* 129; Bates 122; *Lawsuits* 18C); in William II’s time he was reeve in the eastern part of Norfolk (Winterton lay within his area of responsibility, *Regesta* 468).

We appear to have a sequence of four writ-charters concerned precisely with the right to a moneyer, King Edward to Abbot Baldwin, King William I to Abbot Baldwin, a presumed renewal by King William II to Abbot Baldwin, and King Henry to Abbot Robert. In addition there survives from William II a writ with the command *precipio*, instructing the sheriffs to reseise the abbot in his

lands and customs, that also mentions the mint. Further writs extend the sequence: in 1125 Henry I repeated the abbot's right to 'a mint and a moneyer and a money-exchange as heretofore after justice has been done upon the other moneyers of England' (*Regesta* 1430; Douglas 51). The privilege was later augmented by King Stephen to include a second die (*Regesta* 762; Douglas 72) and a third die was added later (*Regesta* 763; Douglas 73).

THE EIGHT AND A HALF HUNDREDS

This mint sequence is not unique, nor does it in any way reflect a situation brought about by the circumstances of the Conquest. Let us follow a second series from the Bury archive, starting early in the reign of Edward the Confessor:

E Eaðward cyng gret Grymkytel biscop 7 Ælfwine 7 Ælfric 7 ealle mine þegenas on Suðfolce freondlice. 7 ic cyðe eou þæt ic wille þæt þæt land æt Mildenhale 7 þa nigen half hundreda socne in to Þinghogy licge in to sancte Eaðmunde mid sace 7 mid socne swa ful 7 swa forð swa hit minre meder on hande stod 7 ic nelle geðafian þæt heom ænig man ætbrede ænig þinga þæs þe ic heom ær geuðe.

'Edward king greets Bishop Grimketel and Ælfwine and Ælfric and all my thegns in Suffolk friendly. And I make known to you that I will that that land at Mildenhall and the sokes of the Eight and a Half Hundreds pertaining to Thingoe shall belong to St Edmund with sake and with soke as fully and completely as it was in my mother's possession. And I forbid anyone to take away from them any of the things that I have already granted to them.'

S 1069; Harmer 9. Datable to 1043–4 (H. W. C. Davis in *EHR* 24 (1909), 419). Grimketel, bishop of Selsey 1039–47 (Harmer, p. 562), had care of the diocese of Elmham during the period 1043–4, after Stigand was deprived of his see at the same time as his patron Queen Emma was removed from court soon after 16 November 1043 (*ASC* D). Ælfwine and Ælfric are unknown, though from their position in the document one would expect them to be the sheriffs of Norfolk and Suffolk, taking the earl's place. (No earl is known in East Anglia between Harold Thorketill's son in 1042 and Harold Godwineson from 1045.) Ælfwine can hardly be an error for Æthelwine (Agelwinus), who may have been sheriff of Norfolk or perhaps rather reeve of Thetford in the time of Harthacnut (S 996; Harmer 56) And Ælfric cannot be Ælfric Wiltgar's son who had administered the sokes for Queen Emma when she first held them, because his role had passed to Ordgar before the time of Emma's removal (see below, I, J).

In the Old English documents concerning the Eight and a Half Hundreds there is much inconsistency in the grammatical treatment of the word *socne* 'sokes' (plural), which is sometimes clearly preserved (genitive plural *þara socna*, H), but in the same document it appears in the singular (*heo syððan me sylfan on handa stod*), though its feminine gender is preserved. In linguistically less well preserved copies the plural is often not clear and the pronouns show no small confusion; the

translation follows this without attempting to restore what might have been in the original.

This is Edward's original grant of the manor of Mildenhall and the Eight and a Half Hundreds 'pertaining to Thingoe', 'with sake and with soke as fully and completely as it was in my mother's possession'. The unusual jurisdiction of the Eight and a Half Hundreds that met at Thingoe appears to have been considerably older than the queen's holding it as a soke.³⁰ The meeting-place lay close to the north gate of Bury itself, and, though they appear distinct from the abbey's rights in these writs, these hundreds were later known as the Liberty of St Edmund.³¹ Its area and its powers put it on a level with the shire court. Helen Cam saw Bury, a royal vill from the ninth century, as the 'natural administrative centre' for the hundreds that met at Thingoe.³² When it was granted to the queen is unknown, but Edward's grant may have given to the monks of Bury a franchise that had previously been exercised as a royal jurisdiction from Bury. It was of course a burden, but a profitable one.³³ The *Miracula S. Eadmundi* says that Edward made this grant at the time of a devotional visit to St Edmund's shrine.³⁴ Queen Emma's fall from favour dates this writ to the time of Abbot Ufi (†1044). Her forfeiture is alluded to more explicitly in the second writ of this sequence:

F Eadward kyng gret Aylmer bisscop 7 Alfger erl 7 Toly and alle mine theynes on Suffolce frendlike. And ic kithe ihu þat ic wille þat þe half nigende hundred sokne þe ic habbe ihuen God and Seynt Eadmunde mine mey þat ic ligen into þat halegen minstre at Eadmundes biri so ful and so forth so mine moder it fermist ahte, and it Alfrich Withgares sune hire to hande biwiste, and it sithen me seluen on honde stoden. 7 ic ne am becnowe þat ic ani man uthe þenen ut neyther ne ham-sokne ne grithbreche ne forstal ne fichtwite ne hebberthef <ne ferdwite> ne non þere rithte þa thider in mid rithte ibereð be fullen wite.

³⁰ Bertramnus the Archdeacon, *Miracula S. Eadmundi*, § 2, tells a story set in the mid-tenth century, concerning *quidam Leofstannus nuncupatus, pollens honore uicecomitatus in diocesi qua noster ueneratur sanctus* 'someone named Leofstan, holding the office of sheriff in the district where our saint is venerated', who on 1 May *placitaturus aderat cuidam aceruo quem Thingogo solite uocat populi frequens appellatio* 'was present to hold pleas at a mound which the usage of the people calls Thingoe'. The name itself, meaning 'meeting mound', points to its function as a moot-hill.

³¹ J. Gage, *The History and Antiquities of Suffolk. Thingoe Hundred* (London, 1838), pp. ix–xi.

³² H. M. Cam, 'Early Groups of Hundreds', in *Historical Essays in honour of James Tait* (Manchester, 1933), repr. in her *Liberties and Communities in Medieval England* (Cambridge, 1944), pp. 91–105 (at p. 100); Lobel, *The Borough of Bury St Edmund's*, p. 7, is confident that the location of the meeting-place confirms that the borough was 'the head-quarters of the officers connected with this jurisdiction', the base, therefore, of the reeves said to have administered the sokes for Queen Emma.

³³ R. H. C. Davis offers a depiction of the abbot's administrative burden: 'The Monks of St Edmund, 1021–1148', *History* 40 (1955), 227–39 (at pp. 229–30). Davis sees the grant to St Edmund's as a speedy and safe way to dispose of the sokes, which he had confiscated from his mother. ³⁴ *Miracula S. Eadmundi*, § 17.

‘Edward king greets Bishop Æthelmær and Earl Ælfgar and Toli and all my thegns in Suffolk friendly. And I make known to you that I will that the sokes of the Eight and a Half Hundreds that I have given to God and my kinsman St Edmund shall belong to the holy minster at Edmund’s bury as fully and as completely as ever my mother owned it, and Ælfric Wihtgar’s son administered it for her, and afterwards it was in my own possession. And I am not aware that I have granted away from it to anyone either hamsocn or grithbreach or forestall or fihwite or æbaretheof <or fyrdwite> or any of the rights that lawfully pertain to it with payment of the penalty at the full rate.’

S 1078; Harmer 18. Datable 1051 × 1057. Æthelmær (Ægelmer, Aelmer), bishop of Elmham, 1047–dep. 1070, as above, and Ælfgar, earl of East Anglia between 1051 and 1057, as below (G). Toli was sheriff of Norfolk and Suffolk from before 1057. Ælfric Wihtgar’s son, who held land in Suffolk, is said to have been active since the reign of Æthelred II (Harmer, p. 550). This document is not preserved in the best of the Bury cartularies, but only in those in which its language has been somewhat modernized. The text has only five of the six franchises, but the late-thirteenth-century Latin translation given by the cartulary (and printed by Harmer) has six, although in a different sequence: ‘uidelicet hamsokne 7 grithbreche 7 forstal 7 ferdwite 7 hebbrethef 7 fithwite nec aliquam rectitudinem . . .’.

This renewal dates from the period when Leofstan was abbot of Bury, but it cannot date from when he was first installed as abbot after Ufi’s death in 1044. Frank Barlow interprets it as returning the hundreds to Bury, supposing that they had been repossessed by King Edward when his mother was restored to favour, but there is no other evidence of such repossession.³⁵ It is worth observing here that though the estate of Mildenhall was granted to the abbey at the same time as the sokes of the Eight and a Half Hundreds, it is not repeated in the subsequent grants, and Domesday Book provides the evidence that this property was lost, though the records at Bury do not indicate that it was restored to Queen Emma.³⁶

Another document seems to belong in sequence here, but its address is muddled and there is a serious question-mark over the document as a whole:

G Edward king gret Grimketel biscop and Alfger ceerl 7 Toly and alle mine theines on Suthfolk frendlike. And ic kithe ihu þat ic wille þat þe half nigende hundred

³⁵ F. Barlow, *Edward the Confessor*, 2nd ed. (New Haven, CT, 1997), pp. 77–8. He suggests that the reference to the administration of the franchise ‘makes it clear that the second grant is not simply a confirmation of the first, like the confirmation at the end of 1065 to the new abbot, Baldwin’ [i.e. H below]. I do not follow the reasoning; they could have administered the sokes for her during Cnut’s reign and subsequently. Is it rather an assumption that, when Edward restored his mother to her former dignity, he returned everything she had held?

³⁶ *DB II*, 288b; Douglas, *Feudal Documents*, pp. cix and clii. According to Domesday, Mildenhall was given to Bury by King Edward but was afterwards held of the abbey by Stigand; in 1086 it was in the king’s hands.

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sokne [þe] in to þinghowe lige in to Seint Ædmunde mid sake and mid sokne so ful and so forth so it mine moder on hande istod. 7 ic nelle thafien that hem oni man abrede ani þere þinge þat ic her uthe.

‘Edward king greets Bishop Grimketel and Earl Ælfgar and Toli and all my thegns in Suffolk in friendly wise. And I make known to you that I will that the sokes of the Eight and a Half Hundreds [which] pertaining to Thingoe shall belong to St Edmund with sake and with soke as fully and as completely as it was in my mother’s possession. And I forbid anyone to take away from them anything that I have formerly granted to them.’

S 1070; Harmer 10. The mention of Grimketel ought again to point to the period at the end of 1043 and beginning of 1044; but Earl Ælfgar did not become earl of East Anglia until after September 1051, when Harold Godwineson forfeited the earldom. Ælfgar surrendered it to Harold when he was reinstated on 14 September 1052, but he became earl again when Harold succeeded his father as earl of Wessex in April 1053. He remained earl of East Anglia until he was outlawed in 1055, but he was again restored and continued until he became earl of Mercia in autumn 1057. Toli remained sheriff of Norfolk and Suffolk under Earls Ælfgar and Gyrth. Since this address is impossible, the document is not authentic as it stands. Why it should have been forged is not apparent, since the survival of S 1069 (above, E) in particular, but also this whole series, must have meant it served little purpose. An alternative explanation may be that an authentic writ has been corrupted in the process of copying from a lost cartulary; the name of Bishop Grimketel might have been repeated in error from the first writ in the sequence, though in the extant Registrum Album they are not consecutive, so the error would have had to lie in an antecedent cartulary, making ours the third generation of cartulary-transmission. This writ is found only in Registrum Album, in which its language has been somewhat modernized.

The franchises mentioned for the first time in S 1078 are specified again a few years later when the same grant is renewed to Abbot Baldwin:

H Eadweard cyningc gret Ægelmær bisceop 7 Gyrð eorl 7 Tolig 7 alle mine þegenas on Suðfollice freondlice. 7 ic cyðe eow þæt ic wylle þæt þa healf nygoðe hundreda socne lige innto þam halgan mynstre innto Sancte Eadmundes byrig mines mæges swa full 7 swa forð swa Ælfric Wihrgares sunu hig minre meder to handa bewiste. 7 heo syððan me sylfan on handa stod on ealle þingan 7 ic hig þider inn geuðe mid ælc þæra þinga þæs þe þær mid rihte to gebyrað mid fyrdwite 7 fyhtwite 7 æbære þeof 7 griðbryce 7 foresteall 7 hamsocne. 7 ic bidde eow eallan þæt ge beon Baldewine abbote on fultume þæt he mote beon ælc þæra gerihta wurðe þæs þe he ah þær of rihtlice to habbene for minan lufan. 7 ic ne eom gecnawe þæt ic ænigean menn geafe þa socne þanon ut þe ic hig ær þider inn gefreode. 7 gyf ænig mann sy þæt wylle ænig þæra socna him to handa drægen 7 secge þæt ic hig ær him geunnan scolde ic wylle þæt he cume beforan me mid his sweotelunge 7 do me gecnawe hwær ic hig him ær geuðe þæt nan oþer ne sy.

‘Edward king greets Bishop Æthelmær and Earl Gyrrh and Toli and all my thegns in Suffolk in friendly wise. And I make known to you that I will that the sokes of the Eight and a Half Hundreds shall belong to the holy minster at my kinsman St Edmund’s bury as fully and as completely as ever Ælfric Wihthgar’s son administered it for my mother, and afterwards it was in my own possession. And I granted it to that with all things that lawfully pertain to it, with *firdwite* and *fihtwite* and *æbæretheof* and *grithbreach* and *forestall* and *hamsocn*. And I bid you all that you assist Abbot Baldwin so that he may be entitled to possess all the rights that he ought lawfully to have there for love of me. And I am not aware that I have granted away from it to anyone the sokes which I had formerly freed to them therein. And if there be anyone that shall take into his own possession any of the sokes and shall say that I had formerly granted them to him, I will that he come before me with his evidence and make known to me where I had formerly given them to him, so that there be no other [sc. claim].’

S 1084; Harmer 24. The original writ is reproduced in Bishop and Chaplais, pl. 2. Datable 14 July 1065 × 5 January 1066, between Abbot Baldwin’s appointment and Edward’s death, but almost certainly in the period July–September 1065. Æthelmær (Ægelmer, Aelmer), bishop of Elmham, 1047–dep. 1070, and Gyrrh Godwineson, earl of East Anglia, 1057–†1066, officers of the shire courts of Norfolk and Suffolk, as above. Toli had been sheriff of Norfolk and Suffolk under Earl Ælfgar before 1057 and remained in office under Earl Gyrrh.

The ‘evidence’ (*sweotelung*) referred to here, and in a writ-charter from Edward to the shire of Kent (S 1092), and also in a letter of Archbishop Wulfstan (S 1386), may well refer to similar royal writs, though Harmer, p. 449, is reluctant to say that it does. The verb *sweotelep* ‘manifests’ is often the key-word of notification in private deeds, for example, S 1219, S 1224, S 1468 (‘Her switelep on þis write þe forwarde þat Ailmer þe biscopes brother hauede wrouht with Vui Abbot and wið alle þen hird binnen seynt Eadmundes biri’), and S 1470, and in wills, for example, S 1486, S 1489, all from the Bury archive.

King William’s writ again specifies these six franchises, though the cartulary copies have turned *firdwite* and *fihtwite* into ‘frithwite’ and ‘flitwite’, both non-existent terms that appear with disturbing frequency in royal charters from the mid-twelfth century and later as the clerks ceased to have any comprehension of these ancient penalties.

I Willelm cyng gret Aeigelmer biscop 7 Raulf eorl 7 Norðman 7 alle mine þegenas on Suðfolce freondlice. 7 ic cyðe eou þat ic wille þat þa socne þes nigeðan healf hundredes ligan in to þam halgan mynstre æt sancte Ædmundes byrig nu swa ful 7 swa forð swa hi Ælfric Wichtgares sune bewiste 7 Orðgar siððan Ymme þere cwene to hande Æwardes moder cynges mines mæges 7 heo sylf þider in geunnen hauede on callen þingan on fyrdwite 7 on fihtwite 7 on æbæoreþeof 7 on griðbriche 7 on forestalle 7 on hamsocne. Nu forbeode ic alcan men þa socne him to hande teonne aðer ge engliscan ge frenkiscan ge denniscan butan sancte

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Ædmunde 7 þan abbode 7 gyf hwa heoðenforð þissan wyð cweþen wille, ic wille witan þonne hwat heo sy God sy cower freond.

‘William king greets Bishop Æthelmær and Earl Ralph and Northman and all my thegns in Suffolk in friendly wise. And I make known to you that I will that the sokes of the Eight and a Half Hundreds shall belong to the holy minster at St Edmund’s bury now as fully and as completely as ever Ælfric Wihthgar’s son administered it, and Ordgar afterwards, for Emma the queen, mother of King Edward my kinsman, and he himself had granted it to it in all things, with fyrdwite and fihtwite and æbæretheof and grithbreach and forestall and hamsocn. Now I forbid all men, whether they be English or French or Danish, to take in their own hands the sokes other than St Edmund and the abbot. And if anyone henceforth will speak against this, I will know then whether he be God’s friend and yours.’

Regesta 41, vii; Douglas 3; Bates 38. Datable 14 October 1066 × c. 11 April 1070. Ralph, earl of East Anglia, Ralph the Staller, a courtier under King Edward and earl from before March 1068 until his death not later than April 1070, as above. Northman appears to have succeeded Toli as sheriff in Suffolk, or he may have acted as under-sheriff in Suffolk for Toli (Green, *English Sheriffs*, 76). The order of the six franchises exactly follows the order of Edward’s writ to Baldwin (H). In the last phrase, ‘yours’ presumably refers to the officers of the shire.

This sequence continues with a writ of William II, with a general address, where one would certainly have expected a writ-charter addressed to the shire court of Suffolk:

J Willelmus rex Anglorum episcopis comitibus uiccomitibus ceterisque suis fidelibus salutem. Notum uobis sit quod uolo ut socna VIII hundredorum et dimidii tam pleniter monasterio sancti Ædmundi modo adiaceat sicut Alfricus filius Wihthgari et postea Ordgarus eam custodierunt ad manum Ymme Regine matris Ædwardi regis et sicut ipsemet eam in omnibus sancto concesserat Ædmundo et post eum Willelmus pater meus concesserat sancto in sex forisfactoris scilicet hamsocne fichtwite forestal griðbreca æberetheof feordwite et hoc omnibus Anglis et Francigenis. Interdico ut nullus ea in eandem socnam sibi attrahat nisi Sancto Ædmundo et abbati et si quis deinceps hiis contradixerit quis sit scire uolo. Teste Ædwardo de Salesberia.

‘William king of the English to the bishops earls sheriffs and his other sworn men, greeting. Be it known to you that I will that the soke of the Eight and a Half Hundreds shall belong to the minster of St Edmund as fully as ever Ælfric Wihthgar’s son and Ordgar afterwards administered it for Emma the queen, mother of King Edward, and as he himself granted it in all things, and after him William my father granted it to the saint in six franchises, namely hamsocn fihtwite forestall grithbreach æbæretheof fyrdwite and that over all English and French. And I forbid that anyone take for himself those [suits] in the same soke, except to St Edmund and the abbot. And if anyone hereafter contradicts this, I will know who he be. Witness Edward of Salisbury.’

Regesta 292, lxxviii; Douglas 18. Only formally datable to William II's reign, 26 September 1087 × 2 August 1100; probably issued during autumn 1087 or spring 1088. The address is a general address earlier than the establishment of the normal formula in the early 1100s. The witness Edward of Salisbury attests a forged diploma of William I for Selby abbey, suggesting that this form of the name was found as witness elsewhere; he is identified with Edward, sheriff of Wiltshire, who occurs in the first years of William I's reign (*Regesta* 267, Bates 339), and who witnesses in 1081–2 (*Regesta* 135, 136a, 137, 149; Bates 193, 154, 39, 60) as well as in other documents (Green, *English Sheriffs*, p. 85). He held more than thirty manors in Wiltshire and other counties in 1086. His son Walter was sheriff of Wiltshire *c.* 1110 (Green, *English Sheriffs*, 85; add *Regesta* 971), and Walter's younger son Patrick was created earl of Wiltshire or of Salisbury by the Empress (G. E. C., *The Complete Peerage* (London, 1910–59) XI, 373–7). The six franchises are named in a sequence different from the previous documents.

This document is especially interesting for the closeness with which it translates the idiom of the Old English writs that preceded it into Latin. The verb 'adiaceat' for example calques the Old English idiom *licgan in to* 'to lie into', meaning to belong to; the idiom 'Ymme þere cwene to hande', meaning on behalf of Queen Emma, is calqued as 'ad manum Ymme Regine'. The writs presented as precedents, William I's in particular, have influenced the drafting in detail, suggesting that the king's chancery clerks were working not so much according to a strict formula currently in force as adapting their formulaic principles to the available particulars of an individual case. An alternative possibility is that the drafting was done at Bury, which might lead to suspicion about the writ's authenticity, though the witness of Edward of Salisbury makes this less likely. Particularly striking, however, is the prohibition clause, which does not simply forbid anyone to infringe the abbey's franchise but asks for the name of anyone so doing. This phrase, deriving from pre-Conquest practice, would seem to put us in the tradition of common law writs, and it makes the general address all the more surprising here.³⁷

In the description of the lands belonging to the abbey that was drafted for Abbot Baldwin around the time of the Domesday Survey and given its extant form early in William II's reign, these writs are referred to. For after listing the abbey's property within the area of the Eight and a Half Hundreds, this document adds that in these, 'St Edmund has entire sake and soke and all royal customs over the land of anyone who happens to own there. And he has this by gift of the most glorious King Edward and after that by grant of the invincible King William and also of his son and successor King William, and the sealed

³⁷ See below, p. 272 and n. 40.

writs of all of them which confirm this to be so are preserved as an unassailable witness'.³⁸

The next item in the sequence, and the last with which I shall be closely concerned, is a writ-charter of Henry I in favour of Abbot Robert, named in a document issued at the same time and presumed to be Robert II:

K Henricus rex Anglorum Herberto episcopo et Rogero Bigot et omnibus baronibus suis Francis et Anglis de Norfolce et Suffolce salutem. Sciatis quod uolo et firmiter precipio ut sanctus Eadmundus habeat sakam et sokam et omnes consuetudines et omnia placita per VIII hundredos suos et dimidium ita plenarie et integre sicut rex Eadwardus ei in primis dedit et sicut pater meus et frater meus postea concesserunt. Nec cognosco quod alicui datum habeam aliquid de consuetudine sancti Eadmundi in eisdem hundredis sed uolo ut honorifice omnia teneat. Teste Roberto Malet. Apud Westmonasterium in Natali Domini.

'Henry king of the English to Bishop Herbert and to Roger Bigod and to all his thegns French and English in Norfolk and Suffolk, greeting. Know that I will and firmly command that St Edmund shall have his sake and soke and all customs and all pleas through his Eight and a Half Hundreds as fully and completely as King Edward in the first place gave them to him and as my father and my brother afterwards granted them. I am not aware that I have given to anyone anything from the custom of St Edmund in the same hundreds but I will that he shall hold them all honourably. Witness Robert Malet. At Westminster at our Lord's Nativity.'

Regesta 656; Douglas 22. Datable 25 December 1102 in the first months of Robert's abbacy. Herbert de Losinga, bishop of Norwich, and Roger Bigod, sheriff of Norfolk and Suffolk, as above. This is the first writ in the Thingoe series to address Norfolk as well as Suffolk; the Eight and a Half Hundreds lie only in Suffolk. The witness Robert Malet held the important honour of Eye, centred in Suffolk (C. P. Lewis, 'The King and Eye: a Study in Anglo-Norman Politics', *EHR* 104 (1989), 569–87; C. R. Hart, 'William Malet and his Family', *ANS* 19 (1996), 123–65); he was Henry I's chamberlain (so titled in *Regesta* 682, 13 February 1105; *Complete Peerage* X, appendix, p. 51) and frequently witnessed his documents, until he deserted the king before the battle of Tinchebrai (29 September 1106). Robert Malet also appears in the address of another writ-charter in favour of Bury that seems likely to have been approved at the same time as this one. *Regesta* 655; Douglas 23. Also dated at Christmas, surely in the same year, and witnessed also by Waldricus the chancellor. This has been read as possibly signifying that Robert was sheriff of Suffolk at this date (Green, *English Sheriffs*, p. 76), though I think that unlikely. This writ grants to Abbot Robert (there named) the right of warren in all his demesne lands.

³⁸ The so-called Feudal Book of Bury St Edmunds, ed. Douglas, *Feudal Documents*, p. 9. Douglas's text omits the word 'in' before 'inrefragabile testimonium'.

Thereafter the series continues with a considerable number of documents issued by Henry I. Next in date is probably the writ addressed to the shires of Norfolk and Suffolk, commanding all who hold land in the Eight and a Half Hundreds to attend the pleas held by the abbot's *iusticia* 'justice' (*Regesta* 777; Douglas 32; datable 1103 × 1106). In addition there are six mandates, mostly from the later part of the reign, showing that the abbot had frequent resort to the king to protect his sokes.³⁹

THE ABBOT AND HIS RIGHTS

A third sequence of writs in the Bury archive takes us back to a still earlier date than King Edward's grant of the sokes of the Eight and a Half Hundreds to Abbot Ufi in 1043 or 1044. This sequence concerns the appointment of the abbot and his tenure from the king. It begins with a writ that ought to belong to the beginning of Edward's reign:

L Eadward king gret Alfric biscop and alle mine þeynes on Norfolke and on Suffolke frendlike. And ic kithe ihu þat ic wille þat Vui abbot be þet [*sic*, ? þes] minstres wirðe at Seynt Eadmundes biri and alle þinge þe þer be biereþ on lande 7 on sake and on sokne and on alle þinge so ful and so forth so it firmest þider inne lay. 7 ic wille þat se freols stonde into þat minstre unawent þe Cnut king þider inne uthe 7 sithen Hardcnut kyng mine brother. 7 ic nelle þat efre eni bisscop ani þing him þer on ateo.

'Edward king greets Ælfric bishop and all my thegns in Norfolk and Suffolk in friendly wise. And I make known to you that I will that Abbot Ufi shall be entitled to possess the minster at St Edmund's bury and everything pertaining to it in land and in sake and soke and in all things as fully and as completely as ever they pertained to it. And I will that the freedom shall abide with the minster unaltered which King Cnut granted to it and afterwards King Harthacnut my brother. And I forbid any bishop ever to appropriate anything there to himself.'

S 1068; Harmer 8. Datable 8 June 1042 × November 1043 (H. W. C. Davis in *EHR* 24 (1909), 418, 'it must have been one of the earliest grants made by the Confessor after his accession'). A sixteenth-century note in one copy describes this as 'the first grant of King Edward the Confessor in the first year of his reign'. Ælfric, bishop of Elmham from 1039 until his death and the consecration of Stigand some time in 1043; if the date was known, that would be the terminus ad quem, since it must predate Stigand's deprivation in November. The absence of

³⁹ *Regesta* 1812; Douglas 37; datable 1102 × 1133. *Regesta* 1598; Douglas 40; datable 1121 × 1129. *Regesta* 1227; Douglas 41; addressed to the shires and datable 1114 × 1129 (note that *Regesta* is incorrect in dating it to the vacancy of 1119–21, and that the two copies have different witnesses). *Regesta* 1813; Douglas 45; datable ?1121 × 1133. *Regesta* 1605; Douglas 50; datable 1121 × 1129. *Regesta* 1642; Douglas 48; datable 1129 × 1130.

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either earl or sheriff from the address is unexplained; in E, where there was no earl, two presumed sheriffs were addressed. Ufi was the first abbot of Bury, 1020–†1044. This document is not preserved in the best of the Bury cartularies, but only in those in which its language has been somewhat modernized.

The authenticity of the document is not beyond question. Four features raise doubt. The omission of earl or sheriff is not serious; the reference to the preceding grants of Cnut and Harthacnut, however, may be thought suspiciously post-Conquest in flavour. The clause specifically excluding the bishop is the most worrying, as it may link the writ to the case against Bishop Herfast (above, p. 256), for which diplomas appear to have been forged before 1081. The fact that this is the first reference to *freols* or liberty in the archive may point in the same direction. Harmer, pp. 144–5, after discussing the forged diplomas, concludes that ‘there is no reason for doubting the authenticity of ll. 1–5 [i.e. to ‘inne lay’] . . . and the next sentence may well be authentic. It is the last sentence of all that arouses suspicion,’ and she leaves it an open question. My own preference is to suppose that the last two clauses have been written over an erased clause, ‘7 ic nelle geðafian . . .’, along the lines found in the other writs of this sequence and elsewhere. For surviving examples of such overwriting, see below, p. 287.

In this writ-charter King Edward notifies the shires that he has confirmed Abbot Ufi in his possession of the abbey and everything pertaining to it, both in land and in legal privileges. The essence of this writ is that the king confirms the abbot in his rights, as if he were newly chosen; but the circumstances were not that Ufi was the new abbot but that Edward was the new king. In adding that what he confirms was previously granted by King Cnut and after him by Edward’s half-brother King Harthacnut, Edward sounds exactly like Henry I referring back to the writs of his father and his brother, and I strongly suspect that it results from later tampering with the writ. Even more questionable is the prohibition clause, which is the closest any royal writ comes to specifying that the abbot’s rights within his abbey and borough exclude the bishop’s authority, the subject of forged diplomas in the names of Harthacnut and Edward, and surely introduced against the background of Abbot Baldwin’s struggle against Bishop Herfast.

After Abbot Ufi’s death in 1044, Leofstan became abbot. One would expect that there should be a writ-charter in similar words confirming him in the abbacy and renewing his control of the abbey’s lands and soke. There is no such writ-charter now in the archive, though there are two other writs that repeat its provision with a prohibition which in this case is similar to those we have seen in some writs of the Thingoe series:

M Eadward cyngc gret mine biseopas 7 mine eorlas 7 ealle mine þegnas on þam schiren þær Sancte Eadmund hafað land inne freondlice. 7 ic cyðe eow þæt ic wylle þæt Leofstan abbote 7 ealle þa gebroðra on Eadmundes byrig beon heora

sake 7 heora socne wurðe ofer ealle heora agene menn ægðer ge binnan burh ge butan 7 ic nelle geðafian þæt heom ænig man ænig woh beode.

‘Edward king greets my bishops and my earls and my thegns in those shires where St Edmund has lands in friendly wise. And I make known to you that I will that Abbot Leofstan and the monks at St Edmund’s bury shall be entitled to their sake and their soke over all their own men either within borough or without. And I forbid anyone to do them any wrong.’

S 1071; Harmer 11. The original writ is reproduced in Bishop and Chaplais, pl. 1. Datable 1044 × 14 July 1065, during the abbacy of Leofstan (Harmer, p. 566). In the new Sawyer, Kelly adds ?1044, suggesting that she sees this as the writ-charter investing Leofstan in his rights as abbot.

N Eadward king gret mine bisceopes 7 mine earles 7 alle mine þeignes on þam schi-ran þer þe lond inne liggeð freondlike. 7 ic kithe eow þat ic wille þat Leofstan abbot 7 þa brothere þat he ben here sake 7 here socne wrthe ofer þa land þe man in to þer halgen minstre bequeþeth so ful 7 so forth so he hauede þe hig her ahte. 7 ic nelle þafien þat men hem ani unricht bede.

‘Edward king greets my bishops and my earls and all my thegns in the shires where the land lies in friendly wise. And I make known to you that I will that Abbot Leofstan and the monks shall be entitled to their sake and their soke over that land that anyone bequeaths to the holy minster as fully and as completely as he had it who formerly owned it. And I forbid anyone to do them any injustice.’

S 1072; Harmer 12. Datable 1044 × 14 July 1065. This document is not preserved in the best of the Bury cartularies, but only in those in which its language has been somewhat modernized.

The distinctive component in the former may be to restate the abbot’s rights over his own men wherever they be; in the latter it may be that it extends the abbot’s sake and soke over his lands and men to include not merely what he owned when that was confirmed but what he acquires subsequently by bequest. Another writ-charter repeats that St Edmund is to have his soke, that no one, churchman or layman, is to take it away from him, and, King Edward adds, ‘I will know that man’s name who shall wish to rob God and St Edmund and me’.⁴⁰ This formula can be compared with that in William II’s document concerning the Eight and a Half Hundreds (J). It would appear that Abbot Leofstan may have had occasion more than once to go to King Edward for a document to defend the rights belonging to his abbey and abbacy. In selecting documents for preservation, however, it would seem that the archivist has sometimes retained such writs in place of the writ-charter that confirmed Leofstan in his possession of the abbey.

⁴⁰ S 1079; Harmer 19. Datable 1051–2 or 1053–7.

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After Leofstan's death on 14 July 1065 the king's physician Baldwin, monk of Saint-Denis, was soon appointed abbot of Bury, and the writ-charter confirming him in this position is as clear as one could ask for:

O Eadward kyng gret Aylmer biscop 7 Girth earl 7 Toly and alle mine þeynes on Estangl' frendlike. 7 ic kithe ihu þat ic habbe unnen Baldewine abbot þe abbot-riche into Seint Eadmundes biri 7 alkere þinge þe þer into bireth mid sake and mid sokne so ful 7 so forth so Lefston abbot oþer ani abbot it toforen him firmest haude. Nu bidde ic alle þe manne þe ben Godes frend and min þat him filste to lage 7 to rithte loc wer him ned beth 7 he ihure fultumes beþurfe for mine loue. And ic nelle nane men þafien þat him fro hande teo ani þing þat ic him gifen habbe oþer get þinke to done no swither þan he min brother were.

'Edward king greets Æthelmær bishop and Gyrth earl and Toli and all my thegns in East Anglia in friendly wise. And I make known to you that I have granted to Abbot Baldwin the abbacy at St Edmund's bury and everything pertaining to it with sake and with soke as fully and as completely as ever Abbot Leofstan or any abbot before him had it. Now I bid all men who are God's friends and mine that they help him to obtain his law and his right, wherever he has need and requires your help, for love of me. And I forbid anyone to take away from him anything I have given him or yet intend to give him, any more than I would allow if he were my brother.'

S 1083; Harmer 23. Datable 14 July 1065 × 6 January 1066, between Abbot Baldwin's appointment and King Edward's death, but almost certainly in the period July–September 1065. This date for Leofstan's death comes from John of Worcester (ed. Darlington and McGurk II, 646), the earliest and best witness. Æthelmær (Ægelmer, Aelmer), bishop of Elmham, 1047–dep. 1070, and Gyrth Godwineson, earl of East Anglia, 1057–†1066. Toli had been sheriff of Norfolk and Suffolk under Earl Ælfgar before 1057 and remained in office under Earl Gyrth. This document is not preserved in the best of the Bury cartularies, but only in those in which its language has been somewhat modernized.

Thereafter writ-charters of William I and William II, both addressed to the shires where Abbot Baldwin has land, repeat the terms of his holding his abbacy and its rights:

P William kyng grete mine biscopes and mine erles and alle mine þeynes one þe schiren þer Baldewyne abbot haueth lond and men inne frendlike. And ic kithe ou þat ic an þat he be his abbotesriches wrthe and his sake and sokne binnen porte and buten so ful and so forth so Eadward kyng mine mey it þyder inne uthe on alle þinge. And ic nelle þafien þat him oni man of honde teo noþing þat ic him unnen habbe.

'William king greets my bishops and my earls and all my thegns in the shires where Abbot Baldwin has lands in friendly wise. And I make known to you that I own him to be entitled to possess his abbacy and his sake and soke within market and

without as fully and as completely as King Edward my kinsman gave to it in all things. And I forbid anyone to take away from him anything I have given him.’

Regesta 12, i; Douglas 6; Bates 34. Datable 14 October 1066 × 26 September 1087, but almost certainly before 1070 because it is in Old English, and most probably very early in the reign. The use of the word *port* ‘market’ rather than the word usual in this formula, *burh* ‘borough’, provides an early clue to the burghal rights; there is no document specifically concerned with the market until the time of Abbot Anselm (below, p. 286). This document is not preserved in the best of the Bury cartularies, but only in those in which its language has been somewhat modernized.

In William’s reign the abbey’s exemption from episcopal jurisdiction was challenged by Bishop Herfast, who followed Æthelmær in 1070.⁴¹ There is no writ-charter in the Bury archive that addresses him as bishop, though Bury clearly recognized his role in the shire courts of Norfolk and Suffolk.⁴² Indeed, the persistent association of the bishop with the shire here and in the forged diplomas, already noted, may suggest that interference by the shire in the abbey’s liberty was attributed to the bishop’s interest, and that this was a key issue against him. The decision in the abbot’s favour and against the bishop, arrived at in the king’s court in May 1081, was notified in a writ addressed to Roger Bigod as sheriff of East Anglia and the king’s *fideles*, but the bishop is not addressed where formally one might expect that he would have been.⁴³ This dispute, incidentally, provides a window on how the abbot exercised his legal rights, since Bertramnus tells us who, on one occasion, conducted the king’s pleas on the abbot’s behalf in the *uilla*: Hugh de Montfort (the king’s constable in Normandy), Roger Bigod (who was at the time sheriff), Richard fitz Gilbert of Clare (the king’s justiciar in England in 1075 and perhaps the local justiciar in East Anglia), and others named and unnamed.⁴⁴ These three were all important

⁴¹ While the evidence for the dispute during the last thirty years of the century is largely from the abbey’s side, V. H. Galbraith, ‘The East Anglian See and the Abbey of Bury St Edmunds’, *EHR* 40 (1925), 222–8, identified one document preserved by the abbey but presenting the bishops’ purported case.

⁴² Bertramnus the Archdeacon, *Miracula S. Eadmundi*, commissioned by Abbot Baldwin, describes Herfast as ‘Erfasto duarum Est Engle uicecomitatum episcopo’ (§ 25; *Lawsuits* 9A).

⁴³ *Regesta* 138, 139, xiv; Douglas 8; Bates 40. For an early example of the omission of the bishop where he was an interested party, see S 946 (above, n. 6). At this date Baldwin had a diploma drawn up in Latin and Old English, an accurate if partisan statement of the proceedings (Bates, 204), surviving in the hand of a recognizable Bury scribe; there is no sign that it was ever sealed, however, and it is questionable whether it had any royal authority.

⁴⁴ *Miracula S. Eadmundi*, § 26; *Lawsuits* 9A. These three were also witnesses to the diploma of 1081. The suggestion that Richard fitz Gilbert was local justiciar is a guess by Cronne, founded on his appearance ahead of the sheriff (‘Ricardo filio comitis et R. uicecomiti’) in the address of a writ for Bury resulting from successful litigation (*Regesta* xl, 242; Douglas 9; Bates 43).

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men in the king's service; Roger and Richard were also great landholders in East Anglia.

From the beginning of William II's reign, there are several documents that present a picture that is not easy to unravel. First, we have a writ-charter with plural address, which seems to be the writ for our sequence. The witness is once again Edward of Salisbury:

Q Willelmus rex Anglorum omnibus episcopis comitibus ceterisque baronibus suis in omnibus comitatibus in quibus Baldwinus abbas habet terras et homines salutem. Notum uobis facio quod Baldwinus abbas abbaciam suam cum saca et socna in omnibus tam pleniter habere concedo (*sic*) infra burgum et extra sicuti Æduardus rex et post eum Willelmus rex pater meus sibi concessit. Neque hoc cuiquam consentire uolo ut sibi aliquid ex hiis que concessi subtrahat. Teste Ædwardo de Salesbyr'.

'William king of the English to all bishops earls and his other thegns in all the shires where Abbot Baldwin has lands and men greeting. I make known to you that I grant Abbot Baldwin to have his abbacy with sake and soke in all things as fully within borough and without as King Edward and after him King William my father granted to him. And I will not consent to anyone to take away anything from what I have granted to him.'

Regesta 293, xlviiii; Douglas 13. Only formally datable to William II's reign, 26 September 1087 × 2 August 1100; probably issued during autumn 1087 or spring 1088. The witness Edward of Salisbury, as above (J).

The relationship between this notification to the shires and another two writs of William II is not explicit and must be inferred. One of these is a writ addressed to the officials of the shires where the abbot has lands, as distinct from a writ-charter notifying the officers and suitors of the shire court. Like D above, it is couched as a mandate, though this time with the keyword *mando* rather than *precipio*, and, significantly, it is witnessed by Edward of Salisbury, who also witnessed William II's writ-charter confirming Baldwin in his abbacy (Q):

R Willelmus rex Anglorum omnibus uiccomitatibus suis ceterisque ministris in cunctis uiccomitatibus in quibus sanctus Eadmundus terras habet uel homines salutem. Mando uobis quod ego concedo sancto Eadmundo omnes illas terras et omnes illos homines quos habuit in tempore regis Eadwardi et in tempore regis Willelmi patris mei cum terris eorum. Et ideo precipio ut nullus uestrum de illis terris et de illis hominibus amplius se si me diligitis intromittat. Teste Eadwardo de Sar'.

'William king to all his sheriffs and other officials in all the shrieualties in which St Edmund has lands or men greeting. I order you that I grant to St Edmund all those lands and all those men with their lands that he had in the time of King

Edward and in the time of King William my father. And therefore I command that no one of you shall interfere with those lands and those men hereafter, if you love me. Witness Edward of Salisbury.'

Regesta 294, xlvi; Douglas 15. Only formally datable to William II's reign, 26 September 1087 × 2 August 1100; probably issued during autumn 1087 or spring 1088. The witness Edward of Salisbury, as above (J). The calendar in the *Regesta* places 293 and 294 together, suggesting that Davis had recognized their pairing, though in his appendix (xlvi, xlvi) this is not the case; Douglas 13, 15, appears not to have recognized the pairing. The use of *mando* here is striking; context would expect a word of notification, and the command comes later with 'ideo precipio'.

Substance and witness show that this is a twin to the writ-charter, but in its form it is distinct. While the writ-charter notifies the shire court that the abbot is to have his abbacy with sake and soke, and commands that no one is to detract from this, the writ to the sheriffs and other officials specifically instructs them not to act in the abbey's soke. We may well wonder whether this would actually strengthen the abbey's immunity beyond anything it had enjoyed before or whether it rather reflects the evolution of what immunity meant. The twinning of notification to the shire and command to the sheriffs and officials is not unusual, and we can count this writ therefore as part of the process of confirming the abbot. The other writ has been thought to have been produced very soon after William I's death:

S Willelmus rex Anglorum G(odrico) dapifero et Hermero salutem. Precipio ut abbas sancti Eadmundi omnes terras suas et omnes homines suos ita bene habeat sicut melius habuit die qua pater meus uiuus et mortuus fuit et die qua ego nouissime in Angliam ueni. Et omnes consuetudines similiter. Quia uolo ut sua omnia cum honore teneat. Et uidete ne aliquis sibi iniusticiam faciat. Teste Rogero Bigot. 'William king of the English to G(odric) the steward and Hermer greeting. I command that the abbot of St Edmund shall have all his lands and all his men as well as he well had them on the day when my father was alive and dead and when I had most recently arrived in England. And all customs likewise. Since I will that he shall hold all things with honour. And see that no one does him any injustice. Witness Roger Bigot.'

Regesta 291, xlvii; Douglas 12. Datable to 26 September 1087 × 2 August 1100; the wording suggests very near the beginning of the reign. Hermer de Ferrers and Godric the steward, as above, would appear to have acted as sheriffs of Norfolk and Suffolk in the period from September 1087 until at least 1091 (Green, *English Sheriffs*, pp. 60 and 76). Its formula reminiscent of the Domesday Book formula, 'on the day when King Edward was alive and dead', is found in other writs of William II (among them, below, T).

In the *Regesta* and in Douglas's edition this writ is placed as if it preceded the pair already considered, that is, as if Baldwin had obtained this writ before he

obtained the batch of writs witnessed by Edward of Salisbury. This inference is not explained but was probably based on the adverb *nouissime* ‘most recently’, quoted in the calendar.⁴⁵ It seems to me more likely that, rather than being some sort of emergency writ obtained before the new king had confirmed the abbot’s various privileges, it is a subsequent writ. There are two possibilities: that it was, so to speak, a triplet, directed by name to the local sheriffs in addition to the writ addressed to all the sheriffs where St Edmund has lands, or – perhaps more likely – a further writ, obtained later, not so much as belt and braces but for its command to the sheriffs to stop anyone else from doing injustice to the abbot by infringing his liberty. It represents an extension of the command we have already seen in two writ-charters of Edward the Confessor from the time of Abbot Leofstan (M, N). There the king forbade anyone to do the abbot any injustice (*unriht*); here the king orders the sheriffs to use their position to stop anyone from doing him injustice (*iniusticia*). This belongs to the tradition of common law writs, and one might have expected it to add, *ne amplius inde clamorem audiam pro defectu iusticie* ‘so that I hear no complaint hereafter for want of justice’.

Two other writs granted by William II reflect infringements of the abbey’s rights, both in respect of the abbey’s own liberty and its sokes in the Eight and a Half Hundreds. It seems certain that the sheriffs and their officials were in some sense both the culprits and the king’s officials ordered to restrain the culprits. First, let us take the writ relating to the abbey’s liberty:

T Willemus rex Anglorum omnibus iudicibus suis et uicecomitibus et ministris regni Anglie salutem. Volo et precipio ut sanctus Ædmundus et Baldewinus abbas et monachi sui teneant terras et homines et sacam et socam infra burgum et extra et omnes alias consuetudines ita pleniter et honorifice sicuti breuia regis Ædwardi et breuia patris mei et mea propria breuia demonstrant quod idem sanctus et sui in omnibus tenere debent. Et prohibeo ut nullus presumat eis molestiam uel iniuriam inde facere et defendo etiam ut non cogatis homines sancti ire ad scyras uel hundretos nisi illos qui tantum terre tenent unde digni fuissent tempore regis Edwardi ire ad scyras et ad hundretos, et non placitet abbas neque sui de ulla re unde saisitus erat die qua pater meus uiuus et mortuus fuit. Teste Radulfo filio Ursonis.

‘William king of the English to all his judges and sheriffs and officials in the realm of England greeting. I will and command that St Edmund and Abbot Baldwin and his monks shall hold their lands and men and sake and soke within borough and without and all other customs as fully and honourably as the writs of King Edward and the writs of my father and my own writs prove that the saint and his

⁴⁵ This is the only occurrence of the phrase in William II’s acts; one might compare, in William I’s, ‘antequam mea coniunx in Normanniam ueniret’ (Bates 120); two similar examples from Henry I’s time (*Regesta* 1189, 1614).

people ought to hold in all things. And I forbid anyone to presume to cause them trouble or loss and I also forbid you to require the saint's men to attend shires and hundreds, except those who hold so much land that they were entitled in the time of King Edward to attend shires and hundreds, and the abbot and his men shall not plead [in those courts] concerning anything of which he was seized on the day when my father was alive and dead. Witness Ralph fitz Urse.⁷

Regesta 393, lxiv; Douglas 16. Datable 26 September 1087 × 29 December 1097, between William's accession and Baldwin's death. The witness Ralph fitz Urse attests only here.

The inclusion of *iudices* in the address is unusual: who is intended? Taking precedence over sheriffs, it cannot refer to the thegns or *barones* who were the judgement-finders in the shire-court. In *Regesta* 366 (William II for Tynemouth priory) and *Regesta* 439 (William II for Chertsey), the address is 'iustic(iis), [366 adds *baronibus*], uiccomitibus, ministris' (and both add 'fidelibus'). Identified by Cronne (see note on C) as local justiciars. In *Regesta* 389 (William II for Bishop Harvey of Bangor) and *Regesta* 378 (William II for Tavistock), we find *iustificatores* or *regales placitatores* in this position, where they are the king's regents deputizing for William II during his absence from England.

We are here again dealing with something in the nature of a common law writ, not confirming any right but requiring the sheriffs and their officials, in particular, not to force the attendance at meetings of shires or hundreds of the abbot or his men (with a noteworthy exception).⁴⁶ Something which is particularly resonant in the context of our discussion here is the use of the plural *brenia* 'writs' with reference to all three kings, Edward, William I and William II. One is tempted to see here an allusion to the pattern that I seek to clarify, that confirmation in a range of rights was achieved by a separate writ-charter for each one – though in fact the plural seems more likely to refer to the series of writs relating to the single right at issue, the abbey's liberty. The plural might refer to the pairing of writ-charter and executive writ for its implementation or to the writs issued at the beginning of each reign and further writs such as this one issued when conflict led the abbot to seek them. Again, with reference to the Eight and a Half Hundreds:

U Willelmus rex Anglorum uiccomitibus et omnibus fidelibus salutem. Mando uobis et precipio ut faciatis habere abbati sancti Ædmundi suos octo et dimid' hundredros cum omnibus consuetudinibus que ad eos pertinent sicut umquam sanctus Ædmundus tempore regis Ædwardi et patris mei et meo eas melius

⁴⁶ This contrasts with what is implied in the conflated general confirmation by Henry I (*Regesta* 644), where the sheriff is instructed to compel attendance at the abbot's pleas for those holding land in the Thingoe Hundreds. This suggests that some of the abbot's men preferred to avoid his jurisdiction, and that too may have led him to seek the king's help in bringing them into line.

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habuerit et sicut breues sui et carte dirationantur. Et qui rectitudines sancti Ædmundi retinuerit, uolo et precipio ut inde ei plenam iusticiam faciatis, quia uolo ut cum magno honore et bene omnes suas rectitudines habeat. Testibus Willelmo cancellario et Eudone dapifero.

‘William king of the English to his sheriffs and all his sworn men greeting. I order you and command that you shall see to it that the abbot of St Edmund has his Eight and a Half Hundreds with all customs that belong to them as well as St Edmund had them in the time of King Edward or my father’s or mine and as their writs and charters deraign. And if any has held back St Edmund’s lawful rights, I will and command that you do him [sc. the abbot] full justice, because I will that he shall have all his lawful rights with great honour and well. Witnesses William the chancellor and Eudo the steward.’

Regesta 394, lxxxviii; Douglas 19. Datable August 1093 × 29 December 1097. William Giffard took office as chancellor after Robert Bloet was nominated as bishop of Lincoln and before he was consecrated (therefore March 1093 × 22 February 1094; D. E. Greenway, *Fasti Ecclesiae Anglicanae 1066–1300* III *Lincoln* (London, 1977), p. 1); the handover seems to have happened in August or September. The mention of the abbot means that this must have been issued before Baldwin died.

Here too, in spite of the inclusion of *fideles* ‘sworn men’ in the address, the writ is directed at the sheriffs. It is clear, therefore, that in addition to obtaining writs at the beginning of the reign, formally confirming to the shire court that the rights continue, together with executive writs to order the king’s officials to act accordingly, the abbot from time to time had recourse to the king because his rights were under attack, chiefly, it would seem from the king’s officials.

There is no writ-charter surviving in this sequence to show Henry I’s confirming the appointment of Abbot Robert I, nominated by the king on the day of his coronation to fill the vacancy left by Baldwin’s death nearly three years earlier. Nor is there any to confirm the position of Abbot Robert II, nominated after Robert I had been deposed by the council held at Westminster at Michaelmas 1102, nor Abbot Albold, elected in 1114 after a long vacancy. There is a writ of Henry I (*Regesta* 1278, Douglas 44, ?April–May 1121) to his officials where St Edmund has lands and revenues, commanding that St Edmund and Abbot Anselm are to have their lands, men, hundreds, churches, rents and properties that might well be construed as effecting the investiture of Anselm; and another (*Regesta* 1597, Douglas 52, 1123 × 1129), dated somewhat later, addressed to the sheriff and *barones* of Suffolk, but there is no writ-charter so doing.

EXEMPTION FROM SCOTS AND GELDS

A fourth series of writs exempts the demesne lands of the abbey from all scots and geld. Whether these are properly described as writ-charters is hard to say:

they appear to comply with the requirement of the address, but the wider inclusion of sheriffs in the addresses is certainly different from the standard and may in fact mean that the documents are essentially aimed at the sheriffs and not at the shire court. Although the earliest example retains a notification (*ic cyða eou*), the Latin texts do not; there are other examples where English combines notification and injunction but Latin has only the injunction, and in these cases the verb of command is what matters; they are properly therefore writs rather than writ-charters.

The earliest writ in this series was dated *c.* 1051 by Miss Harmer on the basis of a proposition that the exemption was related to the king's abolition of *berregeld*. I do not myself see the connexion with the general abolition and would rather see it as a genuine exemption for Bury's *inland* or demesne. The privilege was clearly regarded as an important one, since this writ survives in seven cartulary copies and was included in no fewer than eleven charters of inspeximus and confirmation between the thirteenth and the sixteenth century.

V Eadward cyningc gret Ægelmer biscop 7 Ælfgar eorl 7 ealle mine ðegenas 7 sciregerefan on Suthfolce 7 on Norðfolce 7 swa hwer swa Sancte Eadmund ænig land hafep freondlice. 7 ic cyða eou þæt hic gehate be fullan hæse þæt Sancte Eadmundes inland sy scotfreo fram heregelde 7 fram eghwilec oðer gaful.

‘Edward king greets Æthelmær bishop and Ælfgar earl and all my thegns and sheriffs in Suffolk and Norfolk and wherever St Edmund has any land in friendly wise. And I make known to you that I expressly command that St Edmund's inland shall be scotfree from *berregeld* and from every other tax.’

S 1075; Harmer 15. Datable 1051 × 1057. Æthelmær (Ægelmer, Aelmer), bishop of Elmham, 1047–dep. 1070, and Ælfgar, earl of East Anglia, 1051–2, 1053–5, 1055–7, as above. Sawyer has followed Harmer in dating the document *c.* 1051. If one takes a narrow reading of *berregeld*, the date would lie between Ælfgar's appointment as earl and the abolition of *berregeld*, not circa but *in* 1051. Note how the address shifts from the named officers of the East Anglian shires to include sheriffs wherever St Edmund holds land.

On the principle that is becoming apparent, this privilege ought to have been kept in force by a writ from King Edward issued to Abbot Baldwin, but no such writ has survived. It was renewed, though without use of the word *berregeld*, by William I and by Henry I:

W Willelmus rex Anglorum Ailmaro episcopo et R(adulfo) comiti et omnibus baronibus et uicecomitibus Francis et Anglis ubicumque sanctus Ædmundus terram habet salutem. Mando et precipio ut dominia sancti Ædmundi sint quieta ab omnibus scottis et geldis sicuti melius fuerunt tempore regis Ædwardi. Valet.

‘William king of the English to Bishop Æthelmær and to Earl Ralph and to all thegns and sheriffs French and English wherever St Edmund has land greeting. I

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order and command that the demesnes of St Edmund shall be quit of all scots and gelds as well as they were in the time of King Edward. Fare well.'

Regesta 43, iii; Douglas 4; Bates 35. Datable 14 October 1066 × c. 11 April 1070. Bishop Æthelmær and Earl Ralph, as above. Most of William's documents at this early date are in Old English; one must wonder what has determined the use of Latin here. Note again how the address shifts from the named officers of the East Anglian shires to include the thegns and sheriffs wherever St Edmund holds land.

The text here obviously follows closely the wording of the writ of King Edward, including the address which is unusual among the surviving examples. The emphasis in the Latin on the words of command suggests that this was a document intended to be acted upon by the sheriffs rather than something for the shire court to take notice of. Once again, there is no writ in the series from the reign of William II, but there are three from Henry I. Let us take first the one that most resembles a writ-charter, in that it begins with the officers of the shire but, for the third time in this series, it changes direction to address the sheriffs in whose shrievalties St Edmund has lands:

X Henricus rex Anglorum Herberto episcopo de Norwico et Rogero Bigot et Hugoni de Lioth et Radulfo Passelewe et omnibus baronibus francis et anglis de Norfolce et Suffolce et Essex et omnibus uiccomitibus in quorum uiccomitatibus sanctus Eadmundus et abbas Robertus habent terras salutem. Precipio quod totum dominium sancti Eadmundi et abbatis Roberti ita geldet et ita sit quietum ab isto geldo et ab omnibus geldis sicut fuit in tempore patris mei et fratris mei Willelmi regis. Et prohibeo ne aliquis eis super hoc iniuriam faciat. Testibus Willelmo episcopo Wynton' et Rogero Bigot. Apud Cantuariam.

'Henry king of the English to Herbert bishop of Norwich and Roger Bigod and Hugh de Lioth and Ralph Passelewe and all thegns French and English in Norfolk and Suffolk and to all sheriffs in whose shrievalties St Edmund and Abbot Robert have lands greeting. I command that all the demesne of St Edmund and Abbot Robert shall so pay geld and shall be so quit of that geld and all gelds as it was in the time of my father and of my brother King William. And I forbid anyone to injure them in this matter. Witnesses William bishop of Winchester and Roger Bigod. At Canterbury.'

Regesta 861; Douglas 33. Datable 3 August 1100 × 15 September 1107. The terminal date is set by the death of Roger Bigod on 8 or 15 September 1107; Abbot Robert himself died 16 September 1107. William Giffard, bishop of Winchester, was nominated a day or so before Henry I was crowned on 5 August 1100; he was invested with the temporalities in the same year but was not consecrated until 11 August 1107 (Greenway, *Fasti* II, 85). A narrow date depends on the elusive dating of the sheriffs and on the question of which Abbot Robert is meant, as above. If we accept that Robert II was nominated soon after Robert I was deposed at Michaelmas 1102, this becomes the terminus a quo, and we might look to Henry

I's three days in Canterbury, 8–10 March 1103. But before then, William Giffard went into exile soon after the Christmas court 1102 (*ASC s.a.* 1103; Eadmer *HN* 146) and did not return until February or March 1104. Farrer, *Itinerary*, § 81, therefore dates this writ 1104 × 1107. Within that period there is nothing to indicate when the king was at Canterbury. The address of this document opens as if it were a writ-charter to three shires but switches direction to address the sheriffs wherever St Edmund holds land, to whom its command is in fact directed; like William I's writ, it uses a word of command rather than notification.

Next we have another similar writ of Henry I addressing the bishop and the sheriff, as if meant for the shire court of Norfolk, but again this becomes a writ addressed to the sheriffs:

- Y Henricus rex Anglorum Herberto episcopo et Rogero Bigot et omnibus uicecomitibus in quorum uicecomitatibus sanctus Ædmundus habet terras salutem. Precipio quod omnia dominia sancti Ædmundi sint ita quieta de omnibus geldis et scottis sicut fuerunt in tempore regis Ædwardi et patris mei. Testibus Rogero Bigot et Ursone de Abetot. Apud Neweport.

'Henry king of the English to Bishop Herbert and to Roger Bigod and to all sheriffs in whose shrievalties St Edmund has lands greeting. I command that all the demesnes of St Edmund shall be as quit of all gelds and scots as they were in the time of King Edward and of my father. Witnesses Roger Bigod and Urse d'Abetot. At Newport.'

Regesta 658; Douglas 27. Datable 3 August 1100 × 15 September 1107. Bishop Herbert and Roger Bigod, as above. This is the only charter of Henry I placed at Newport, and there is no basis for narrowing the date-range.

It is striking that in this case Henry makes reference only to the position in the time of King Edward and of his father William I; perhaps the absence of 'et fratris mei' here is significant. May we infer from silence that William II was reluctant to allow this exemption? No, because in the third of Henry's writs mentioning this exemption, 'et fratris' is included. This writ, straightforwardly addressed to the sheriffs and officials, with its inclusion of a prohibition clause, would seem to be one issued at the abbot's request to put a stop to challenges against his abbey's exemption:

- Z Henricus rex Anglorum omnibus uicecomitibus suis in quorum uicecomitatibus sanctus Ædmundus habet terras et homines et omnibus ministris suis salutem. Volo et firmiter precipio quatinus omnia dominia sancti Ædmundi sint ita quieta de omnibus scottis et geldis et aliis rebus sicut fuerunt in tempore patris mei et fratris. Et prohibeo ut homines sui et terre sue non aliter scotent quam tunc temporis fecerunt ubicumque sint et non uadant ad scyras uel ad hundretos nisi sicut tunc fuerunt. Teste Roberto Malet. Apud Westmonasterium post Natale Domini.

'Henry king of the English to all his sheriffs in whose shrievalties St Edmund has lands and men and to all his officials greeting. I will and firmly command that all

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the demesnes of St Edmund shall be as quit of all scots and gelds and other things as they were in the time of my father and brother. And I forbid that his men and his lands shall owe scot otherwise than they did at that time wherever they may be, and they shall not attend at shires and hundreds except as they did at that time. Witness Robert Malet. At Westminster after our Lord's Nativity.'

Regesta 657; Douglas 24. Datable 3 August 1100 × September 1106, since the date must precede Robert Malet's desertion. The similarity in witness and in dating clause suggest that this was issued within a few days of those confirming Abbot Robert II in the Eight and a Half Hundreds (*Regesta* 656; Douglas 22) and granting him right of warren in his demesnes (*Regesta* 655; Douglas 23), that is during Christmas 1102, shortly after the appointment of Abbot Robert II.

Hereafter, any reference to exemption of the abbey's demesnes from scots and gelds is covered by documents with a general rather than a specific purpose.

THE RENEWAL OF WRIT-CHARTERS: A HYPOTHESIS

The way in which these documents are here presented is intended to make clear that there is a pattern. It appears that for each of four prerogative rights the abbey always held a separate writ from the living king issued in the time of the living abbot. The sequences are not perfect in either sense – we are missing a renewal of the exemption from scots and gelds from Edward to Abbot Baldwin and again from William II to Abbot Baldwin, but we have reason enough to infer that they once existed. Likewise the writ-charter from William II to renew the abbot's right to a moneyer is missing, but Henry I's writ-charter confirms that it once existed. It is possible that such gaps are due to chance – that individual documents had gone missing before the remaining ones were organized by the compilers of the cartularies – or due to incorrect selection: the archivists who sought to put together the series of writs were not able in every case to choose the correct documents for inclusion and substituted in one or two cases something that was not quite appropriate. For three of the four rights, the expectation is that there should be a writ-charter to notify the shire that status quo ante has been continued; but the exemption from scots and gelds was a matter for the sheriffs and their staff, so in this sequence one expects writs directed to these officials.

There are three distinct elements to this hypothesis. First, it is well recognized that holders of such privileges obtained renewals from a new king. Holders of much smaller grants from the king might well do the same.⁴⁷ Whether they did so voluntarily for the sake of greater security or under royal compulsion is something on which eleventh-century evidence is silent. It is

⁴⁷ For example, Regenbald the chancellor obtained writs from William I to confirm him in the lands granted to him by Edward and Harold (Bates 223–4; S. D. Keynes, 'Regenbald the Chancellor (*sic*)', *ANS* 10 (1988), 185–222, at 210–13).

only later that we can say that Richard I and John *required* the renewal of charters in order to make money from the process.⁴⁸ Second, it is inferred that each abbot sought a renewal on the basis that the rights were held in connexion with the life-tenure of the abbacy and not as perpetuities attaching to the institution. This must rest on the evidence from Edward's reign, because Baldwin's long tenure meant that the circumstance did not arise during the reigns of William I and William II, and at the beginning of Henry I's reign it is obscured by the fact that the filling of the abbacy depended on the new king. Third, it is argued that the documents were concerned separately with separate privileges, a point that may be more strictly diplomatic than administrative.

One particularly prominent gap is the absence of any writ-charter issued to Abbot Baldwin by King Harold between 6 January and meetings of the shire courts around Easter 1066. It would seem very likely that Baldwin would have solicited such confirmations, but keeping such documents after Harold's defeat would have been worse than pointless.⁴⁹

We may well ask, What kind of reasons prompted all this accumulation of documentation? But that question really conceals two separate points. The accumulation of documents is an archival decision to keep documents after they have ceased to be strictly necessary. Older documents were obviously brought out as precedents for obtaining newer documents, but there was no real need to retain documents dating back decade after decade. To do so is an archival choice, and historians benefit from the conservative choice made at Bury. More importantly, however, it is apparent that a writ-charter was not considered to be a permanent testimony to the grant of rights. It had to be an up-to-date writ-charter confirming that the present king has agreed to allow the abbot to continue to hold the privileges so documented. The writ-charter served to communicate certain facts from the king to the shire court, and in practice the expectation was that each new abbot obtains a new set of writs from the king to preserve the king's right and, in a more practical sense, in order that the shire is properly notified that he has been permitted to retain the privileges that his predecessor had held. For complementary reasons, when the king died, the abbot obtained a new set of writs to affirm that he was permitted to continue holding the privileges of this king as he had held them of his predecessor.

⁴⁸ The large bulge in the number of royal documents issued at the beginning of Henry II's reign (when issues from the Anarchy had to be resolved) has long been known (T. A. M. Bishop, *Scriptores Regis* (Oxford, 1961), p. 31; T. K. Keefe, 'Place-date Distribution of Royal Charters and the Historical Geography of Patronage Strategies at the Court of King Henry II Plantagenet', *Haskins Soc. Jnl* 2 (1990), 179–88).

⁴⁹ Only one survives for all England (S 1163 from Wells), though if my hypothesis is correct, one might suppose that many writ-charters had been sought ahead of shire meetings in spring and autumn of 1066.

Let us think a little bit further about the obtaining of all these documents. It is October 1087, King William is dead, and the news has reached Bury. What does Abbot Baldwin do? We know that he regularly attended the court of William II, because he witnessed some of his diplomas. Does he take the first opportunity to ask for a whole quiverful of new confirmations, or are they requested only as some need arises? Both of William II's writ-charters already quoted (J, R) have the same single witness, Edward of Salisbury. He also appears as the witness to an executive writ of William II instructing his sheriffs and their officials not to interfere with the lands and men of Bury (S), another element to the refreshing of the dossier, and we may presume that he would have witnessed the writs of William II missing from our series, those for the moneyer and for the exemption from scots and gelds. He is very likely to be equated with Edward the sheriff, who was sheriff of Wiltshire through the reign of William I and witnessed a number of his acts.⁵⁰ His witnessing seems very likely to confirm that these three documents were obtained at the same time and presumably very early in William II's reign. There is the interesting possibility that he had for some years held some interest at Bury, since he is probably the 'Eduardus uiccomes' who is one of two sheriffs, along with Roger Bigod of East Anglia, who witness the tendentious diploma drawn up at Bury following the settlement of the case against Bishop Herfast.⁵¹

Further support for the notion that the writ-charters were renewed as a batch at the start of the reign may perhaps be drawn from the fact that the three writ-charters of William I in our sequence are all composed in Old English and must therefore date from the opening years of the reign. The odd one out is the writ concerning exemption from scots and gelds, and in this case we have already noted that these writs are not so much writ-charters for publication through the shire courts as executive writs intended for the sheriffs of the relevant counties. When Abbot Robert II sought new writ-charters from Henry I, probably towards the end of 1102, there is no extant writ that explicitly confers the abbacy on him, but the renewal of the sokes of the Eight and a Half Hundreds is dated at Westminster at Christmas and witnessed by Roger Malet; so is the grant of the right of warren, which may be a new right at this stage; the writ continuing the exemption from scots and gelds, also witnessed by Roger Malet at Westminster, is dated 'post Natale Domini' rather than 'in

⁵⁰ See note on J above. Green, *English Sheriffs*, p. 85, accepts the connexion. He would seem likely to have been the first sheriff of Wiltshire to have based his operations in the new castle at Salisbury (Old Sarum) rather than at Wilton, where the shire court met.

⁵¹ *Regesta* 137; Douglas 7; Bates 39. The two names are found only in the original diploma. Although contemporary, and apparently by a recognizable Bury scribe, this diploma was never authenticated by the king and its status is therefore in practice hardly different from an original forgery.

Natali Domini', the difference perhaps of a few days. The odd one out in this batch is the writ-charter of Henry I confirming the continuation of the right to a moneyer, which was witnessed at Bury St Edmunds by Roger de Courseulles along with two other documents including a general writ of protection. Whether the date 1106 is correct for these, I am unsure.

I have described this as a hypothesis because it has not been fully tested against other archives over the same period. The Bury archive was chosen for this analysis because of its relative completeness through the period. That feature, in part the result of archival conservatism, in part the accident of survival through later centuries, should not mean that it is untypical of archives as we might have found them in the middle of Henry I's reign. What may, however, render it untypical is that the rights to which these series of writ-charters relate are not simply rights of property.

Grants that carried rights relating to jurisdiction had to be notified to the shire court, because such grants had a substantive effect on the court and its business. This factor may have been what first inspired the writ-charter, bringing together the writ as official letter and the business that might otherwise have been represented by a diploma. The earliest evidence for such grants comes from the 950s. By the time we see this pattern in the Bury archive, the writ-charter has become so well established as part of the procedure when the king makes a grant that we find it used even for the grant of a moneyer, something which had no direct consequences for the shire court. On the other hand, the abbey had a right to market and toll in the borough, which was not explicitly supported by any document until Abbot Anselm obtained a writ from Henry I, allowing the abbey to have its market as well as it had it 'in the time of my father and my brother and mine hitherto and as Abbot Baldwin well held it or any of his predecessors'; there is significantly no reference to earlier writs, and it would seem possible that none had previously been felt necessary for this privilege.⁵² Trying to deduce a diplomatic procedure, as I am doing, cannot be entirely divorced from the evolution of legal rights and institutions.

If the key factor in the sequences we have considered is that they were grants of privileges, that would reduce the number of archives in which such series may have once existed. It would not invalidate the hypothesis but would

⁵² *Regesta* 1914; Douglas 42. Farrer offers dates in 1124 (§ 505) and 1127 (§ 562), the *Regesta* favours 1135. I cannot help wondering whether this should be dated close to the time when Abbot Anselm codified in a charter the customs owed to the abbey by the burgesses of its borough, 'which they deraigned before me in my court that they had in the time of King Edward and in the times of King William and his sons William and Henry, and in the time of my predecessors Baldwin and other abbots' (Douglas 113, datable 1121 × 1138). The fact that the borough had long had the right to a market is implicit in the wording of William I's writ conferring the abbacy and its rights on Abbot Baldwin (above, P).

focus it on the kinds of rights that required this recurrent renewal. A stronger objection against the hypothesis would be that Bury's rights were so peculiar that no other religious house had such need, or that, among houses holding great franchises, those of Bury were particularly insecure over a long period. Neither of these is persuasive. Ely, with which King Edward was very closely connected, had very great privileges, comparable in kind if not in scale to those of Bury. Here we have one writ surviving from the reign of Edward the Confessor, appointing Wulfric to the abbacy and the rights that go with it, comparable with those investing abbots of Bury.⁵³ It is but a small hint at what we might have had if Ely had been more conservative. From William I's reign there are several writs to show that the abbey defended its rights, but no comparable series; and after Henry I had raised Ely to a bishopric and divided the abbey's resources, older documents were probably of little relevance and may well have perished.

A sequence from Christ Church, Canterbury, offers a better parallel to our pattern. First there is a writ from the beginning of Cnut's reign, confirming to Archbishop Lyfing the *freols* or liberty of the cathedral priory.⁵⁴ Where this refers to other *freolsas*, translated by Harmer as 'charters of freedom', which Lyfing 'had in plenty if only they were good for anything', it is perhaps more likely that diplomas were intended rather than earlier and out-dated writs. Cnut's writ authorizes him *ninne freols settan on minan naman* 'to draw up a new charter of freedom in my name', implying at least that a document in the living king's name is worth more. After this there is a writ-charter investing Lyfing's successor Æthelnoth in his legal rights in 1020 (S 986). And after that similar writ-charters from Edward the Confessor investing Archbishop Eadsige, which ought (if genuine) to date from soon after the king's accession (S 1086); there is no document dating from his first appointment in 1038. Another, surviving now as an original, largely overwritten in the late eleventh century, seeks to do the same for Archbishop Stigand (S 1088). A similar overwriting has removed almost all the original text of the document that might have been the equivalent from William I to Lanfranc in 1070 (*Regesta* 38, Bates 66). The question-marks attaching to this series mean that it does not provide the quality of corroboration one would like; and, in any case, it provides no parallel for the separate sequences found at Bury. None the less, it suggests that sequences existed elsewhere and supports the inference that a writ from the living king to the living abbot, in this case archbishop, was at least desirable.

⁵³ S 1100; Harmer 47. Datable to the first months of Wulfric's abbacy, c. 1045 (*Heads*, p. 45, dissenting from Miss Harmer's case for c. 1055).

⁵⁴ S 985; Harmer 26. Datable 1017 × 12 June 1020, after Thurkill was appointed earl and most likely before Cnut went to Denmark in 1019, and probably in 1017. Probably contemporary with S 1461, Robertson 77.

The pattern inferred at Bury should not be thought to represent the totality of the writs in its archive. In the foregoing pages we have already noted three categories of writ, the writ-charter notifying the shire courts, the executive writ ordering the king's officials to implement what had been notified to the shire court, and other writs issued in the context of a dispute over rights that represent the king's intervention to support the impetrant who requested the writ. These last belong to a category that cannot at this date be called common law writs but rather precursors of such writs; the formulaic characteristics differentiating them from writ-charters are not well established in the eleventh century. We have noticed instances where a missing document in the first category seems to have lost its place to or at least been covered by a document in one of the other categories.

The remaining large category comprises documents that deal with other matters, sometimes relatively minor matters, whether old or new. Commonest are documents associated with new grants of property. Throughout the period we have been dealing with, such documents were acquired and kept. To take some relatively early examples, there are several documents issued by Edward the Confessor that relate to particular properties. In the 1040s King Edward granted to St Edmund the land at Pakenham that had belonged to Osgot; this is a very concise writ-charter addressed to Bishop Stigand and Earl Harold and the thegns of East Anglia, datable therefore to 1044 × 1047 (S 1074). The only other writ-charter in the archive with their names in the address (S 1073) might be read as another writ – it would be the earliest in its category – that serves to warn off anyone interfering with the abbot's rights: 'I will that all things that lawfully belong to my kinsman St Edmund and that good men have granted to it shall belong to it without dispute'. Does this hint at a disputed grant? It will not advance the present argument to discuss numerous examples of documents relating to particulars, but it is important to say that in looking for the central core of documents that relates to rights preserved over a long period one has to avoid distraction from those that repeat a general proposition only in order to add a detail.

It is worth noting also that sometimes Bury's rich archive either had no records or had lost them, even relating to royal grants. Abbot Baldwin's record of the abbey's properties mentions, for example, land at Caistor in Henstead Hundred, given by King Edward, but as evidence of this grant the abbey relied on the testimony of the hundred.⁵⁵ It refers also to several holdings pertaining to the manor of Brooke in Clavering Hundred, adding that the whole manor was given by William I at the time when he first sought St Edmund's help. 'When he made this gift, with lowered head and humble heart, he placed a bent knife on the saint's altar in the sight of very many of his nobles. And he gave his let-

⁵⁵ Douglas, *Feudal Documents*, p. 12.

ters with his seal, which are still kept, in which he granted this same manor and its pertinents with sake and soke and all other custom as fully as Gyrrh, formerly a most powerful earl, had fully and well held it in the time of King Edward and as he himself on becoming king had held it in his own hand before he gave it to St Edmund'.⁵⁶ The wording is obviously taken from a royal document, presumably William I's writ-charter, but it did not find its way into the cartularies, though the manor continued to belong to the abbey until the Dissolution.

I should add a final caution. We have identified as flawed a document (L) that would, if its precedent clause were authentic, clearly enhance the strength of the hypothesis. This document was at least subject to the kind of overwriting seen at Canterbury and may have been pure forgery. It is not the only document in the archive over which suspicion hangs, though no one has ever suggested wholesale forgery of writs at Bury. There were probably two periods when the monks resorted to forgery, in the 1070s during the dispute with Bishop Herfast and in the 1120s when Anselm was abbot. It is not impossible that there are other forgeries here, made early and well enough to avoid detection, and it is even possible that the entire hypothesis is flawed, merely recovering a pattern created by clever forgery in this archive. The pattern, however, surely cannot be solely a Bury forger's idea.

My hypothesis, if correct, not only sheds light on the basis of tenure of certain rights and the documentary procedures by which they were held and continued. It also serves to help pick one's way between different categories of document within the archive. The recognition of different species of document is hampered especially by the difficulty of searching through all the charters of William II and Henry I and the consequent lack of any clear perception of how stable their formulation was. Inferring and applying a very strict formulation would lead to the multiplication of perceived forgeries and would in any case presuppose a regularity that might well be unrealistic. Whether variation in certain particulars represents special factors, subtle speciation, imperfect forgery, professional inaccuracy in the chancery, or a high tolerance of difference is still unknown.

THE BREAKDOWN OF THE SYSTEM

We have already encountered some uncertainties in perceiving when Henry I granted writs to Abbot Robert. This is in part due to the lack of clear information on when Robert was elected and able to request writs as abbot. In the

⁵⁶ *Ibid.* p. 13. Other grants by William I and his queen are mentioned, *ibid.* p. 4, and *DB* I, 222b, II, 210a, making William and Matilda the abbey's most generous benefactors after the Conquest (E. Cownie, 'Religious Patronage at Post-Conquest Bury St Edmunds', *Haskins Soc. Jnl* 7 (1995), 1–9, at p. 3). Another royal grant for which writs survived at this date was King Edward's grant of Onehouse in Stow Hundred, confirmed by William I (*DB* II, 360b; S 1875); the writs are now lost.

sequences already considered, we have found writs reflecting the confirmation of the Thingoe hundreds (K), exemption from scots and gelds (X, Y), and warren (*Regesta* 655), at Christmas, probably in the year 1102. These fit into the pattern we have followed from the pre-Conquest period through the reigns of William I and William II, but there is nothing similar in the archive from a later date, and there are no comparable writs continuing the other sequences.

There is, however, one document that appears to be a general confirmation of Bury's liberties by Henry I. It rolls up into one document three rights previously confirmed by separate documents, the abbot's liberty, the sokes of the Eight and a Half Hundreds, and exemption of his demesnes from scots and gelds.⁵⁷ It does not name an abbot, yet it cannot have been issued when the abbacy was vacant and its revenues at the king's disposal. Herbert is addressed as bishop in the shire courts of East Anglia, but no sheriff is named, though the address is otherwise compatible with delivery to the shire courts. The wording is sometimes close to its Old English antecedents, 'adiaceat', for example, in the sense 'shall belong'. Models for general confirmations existed in plenty, but this document is in no sense a *pancarta*; it is still limited to three of the four privileges for which Bury used to have recurrent separate writs. Hence perhaps its apparent oddity: it deals neither in specific nor general terms. The document is so unusual that it seems probable that it is a forgery, though there is no problem with the witness list. The best explanation may be that it reflects a fusion of several writs issued by Henry I for Abbot Robert towards the end of 1102. Thereafter we find no sign that writs continued to be obtained according to the late Anglo-Saxon pattern that we have been considering.

The particle pattern that we have seen quite clearly in the Bury archive is not readily found anywhere among the charters of Henry I, and we can infer that it was no longer the way that things were done. The circumstances of this change may become clearer when we have a better understanding of the products of the chancery in his time and a clearer sense of how franchises were evolving. Change in the formulation of royal documents, however, is often associated with change in the legal institutions they relate to. Our study of Bury relates only to the way in which its interlocking ecclesiastical lordships were passed on from abbot to abbot from the reigns of Cnut and Edward to the first years of Henry I. Without a similar example from a similar seignory held by laymen, it would be inappropriate to speak of reliefs due at each suc-

⁵⁷ *Regesta* 644; Douglas 21. Its apparent date should be 29 September 1102 × 29 March 1103. Roger was invested as bishop of Salisbury at the council held at Westminster, just before Michaelmas 1102 and consecrated after Anselm's return, 11 August 1107. Abbot Robert II of Bury was nominated a few days later, but the date of his election is not known. The terminal date would be Anselm's departure from England after Easter (29 March), which he celebrated with the king at Winchester in 1103.

The use of writs in the eleventh century

cession in this period. It is apparent that during the eighty years or so covered by these examples the abbot's seignorial rights had to be renewed for each new abbot as well as from each new king. In Henry I's time, the growing perception of the church as a perpetual holder of lands, and therefore the holder of perpetual rights, may have influenced a general move away from the pattern illustrated here towards a system built around general confirmations, granting or renewed by successive kings but not requiring renewal on the succession of each new abbot.⁵⁸

⁵⁸ This paper was first aired in diplomatic classes at Oxford in the 1990s; it was given a more public hearing at the Battle conference in July 2000. I am grateful to Stephen Baxter, Christopher Brooke, David Crouch and Antonia Gransden for their comments on it.

