THE ANGLO-NORMAN CIVIL WAR OF 1101 RECONSIDERED

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In July of 1101, Robert Curthose, duke of Normandy and the eldest son of William the Conqueror, landed in England with the intention of challenging his younger brother, Henry I, for the English throne.[1] Though contemporaries recognised a good story when they saw one, modern historians have shown a reticence to consider the episode with only three detailed studies devoted to the campaign of 1101. The first came from E. A. Freeman in the nineteenth century, who in characteristically nation- alist terms saw a 'listless' Curthose momentarily dazzled by the prospect of the English throne, with the English rallying to support the king they had freely chosen.[2] The second came from C. W. David, who considered the campaign as part of his biography of Curthose, published in 1920, in a chapter entitled 'The Failure to Gain the English Crown'. As one might expect, David relied exclusively upon narrative sources, which meant he saw the outcome of 1101 as much a result of Curthose's personal failings as Henry's success.[3] The most important and far reaching analysis has been that of C. Warren Hollister, who turned his attention to what he termed the Anglo-Norman Civil War in the early 1970s.[4] Like his twelfth-century predecessors, Hollister immediately recognised the importance of the episode. 'Duke Robert Curthose's invasion of England', wrote Hollister, 'might have changed the course of twelfth century history. But in fact it ended anticlimactically, in a truce rather than a battle, and the newly won crown was saved without a blow.'[5] The posthumous publi- cation of Hollister's biography of Henry I reiterated many of these views, which con- tinue to have an impact on the wider historiography.[6]

The central space occupied by Hollister's discussion should come as no surprise. The 1960s and 1970s represented an exciting and innovative period in the study of

[2] E. A. Freeman, *The Reign of William Rufus*, 2 vols, London 1882, ii, 392–415.
[3] C. W. David, *Robert Curthose, Duke of Normandy*, Cambridge, Mass., 1920, 137.
[4] Hollister's articles are most readily accessible in an edition of collected essays, *Monarchy, Magnates and Institutions in the Anglo-Norman World*, London 1986. For the events of 1101 see, 'Anglo-Norman Civil War: 1101', 76–96; 'Magnates and "Curiales" in Early Norman England', 97–115.
[5] Hollister, 'Anglo-Norman Civil War', 77.
[6] C. Warren Hollister, *Henry I*, London and New Haven 2001, 103–48; D. Crouch, *The Normans: The History of a Dynasty*, London 2002, 165–9. My thanks are due to Professor Crouch for a personal commu- nication in which he discussed the extent to which Hollister's ideas influenced his account. See also, C. Holdsworth, 'Peace Making in the Twelfth Century', *ANS* 19, 1996 (1997), 3 n. 8.

Anglo-Norman history, particularly with regard to the cross-Channel aristocracy, with the application of new prosopographical methods and theoretical concepts. Central to this was John Le Patourel's vision of a homogeneous cross-Channel aristocracy, with its concern for a single cross-Channel ruler. Initially developed in the mid 1960s, the concept was given its most persuasive form with the publication of *The Norman Empire* in 1976.[7] Hollister fully subscribed to Le Patourel's views and worked independently towards similar conclusions.[8] Indeed, Hollister took the argument a stage further than Le Patourel in arguing for an Anglo-Norman *regnum*.[9]

Within this framework, William the Conqueror's death in September 1087 is regarded as a moment of crisis for the aristocracy. None of the Conqueror's sons or the most senior members of the aristocracy accepted the Conqueror's deathbed bequest and subsequent division of Normandy and England. Within a year a period of instability ensued, which would last until Henry's victory over his eldest brother at the battle of Tinchbray in 1106.[10] Curthose, in alliance with a powerful coalition of cross-Channel magnates, attempted to take England from Rufus in 1088. Among his supporter's, Curthose could count on his uncles, the Conqueror's half brothers Robert of Mortain and Odo of Bayeux. Also involved were Bishop Geoffrey of Coutances and his nephew Robert de Mowbray, earl of Northumberland, Roger de Montgomery, earl of Shrewsbury and his son Robert de Bellême, Gilbert de Clare, William, son of Robert, count of Eu and Esutace, count of Boulogne.[11]

In contrast, Rufus owed his survival to those members of the aristocracy whose interests and lands were predominately based in England. Especially prominent were those Normans who had prospered in royal service, and in particular, those who had assumed the office of sheriff. Their organisation and leadership of the local militia was crucial in containing and defeating the rebellion before it had time to coalesce and develop momentum.[12] Support also came from those members of the cross-Channel aristocracy whose Norman lands lay on the fringes of the duchy, where ducal power had always been difficult to enforce, in particular, Hugh d'Avranches, earl of Chester.[13] However, William de Warenne's involvement is also notable, as his lands lay close to the heartlands of ducal power.[14] Nor were the sides static. Negotiations detached Robert de Mowbray and Roger de Montgomery from Curthose's cause by the time of the siege of Rochester, towards the end of the rebellion in England.[15]

[7] J. Le Patourel, 'Norman Barons', in *Feudal Empires Norman and Plantagenet*, London 1984, VI, 27; *Normandy and England, 1066–1144*, Reading 1971, 9; *The Norman Empire*, Oxford 1976, esp. 179–221.
[8] Hollister, 'Anglo-Norman Civil War', 77–8.
[9] 'Normandy, France and the Anglo-Norman *Regnum*', in Hollister, *Monarchy, Magnates*, 17–58.
[10] The most recent discussions can be found in J. A. Green, *The Aristocracy of Norman England*, Cambridge 1998, 274–83; R. Bartlett, *England under the Norman and Angevin Kings 1075–1225*, Oxford 2000, 4–21; Crouch, *The Normans*, 117–28, 130–5, 165–9.
[11] *ASC*, E, 1088; *Orderic* iv, 128; *John of Worcester* iii, 48; Hollister, 'Anglo-Norman Civil War', 79–80.
[12] I intend to provide a full appraisal of the role of the sheriffs in the rebellion of 1088 in my Ph.D. thesis, 'The Anglo-Norman Aristocracy under Divided Lordship: 1087–1106. A Social and Political Study' (currently in progress); Frank Barlow, *William Rufus*, London 1983, 73.
[13] L. Musset, 'Les fiefs de deux familles vicomtales de l'Hiémois au XIe siècle, les Goz et les Montgomery', in *Revue historique de droit français et étranger* 48, 1970, 431–3; A. Nakamura, 'The Earls of Chester and their Family in Normandy and England from the Early Eleventh Century until 1120', unpublished University of Glasgow M.Phil. thesis, 1997.
[14] 'The Taming of a Turbulent Earl: Henry I and William of Warenne', in Hollister, *Monarchy, Magnates*, 137–44; Green, *Aristocracy*, 31; L. C. Loyd, *The Origins of Some Anglo-Norman Families*, ed. C. T. Clay and D. C. Douglas, Baltimore 1985, 111; L. C. Loyd, 'The Origin of the Family of Warenne', *Yorkshire Archaeological Journal* 31, 1934, 97–113.
[15] *Orderic* iv, 128.

After Rufus's death in August 1100, Henry took the opportunity to seize the English throne. In his challenge to his younger brother, Curthose was supported by essentially the same coalition of magnates and families who had supported him in 1088, although the intervening years had seen several deaths among the major nobility, with sons inheriting their fathers' titles and cross-Channel estates. Robert de Bellême had succeeded to his father's earldom of Shrewsbury, and was joined by his brothers Roger and Arnulf, while William of Mortain had succeeded to his father's lands and title. In addition, William II de Warenne followed a different course from his father and joined the ducal party, together with Walter II Giffard, earl of Buckingham, Ivo de Grandmesnil, Robert de Lacy, lord of Pontefract and Eutace III, count of Boulogne.[16]

Henry, like Rufus before him, found support among his officials and sheriffs. Other supporters can be seen to have had close personal ties to Henry stretching back to the late 1080s, when he attempted to establish himself in western Normandy, including Richard de Redvers; or came from families whose lands were concentrated mainly in England or lay outside of Normandy, as was the case of the Beaumont brothers, Robert count of Meulan and Henry, earl of Warwick. Also listed as partisans of Henry were Roger Bigod and Robert fitz Hamon.[17] As in 1088 the king could rely upon the support of the Church, with Archbishop Anselm especially prominent.[18] Finally, and rather sweepingly, Orderic noted that the 'all English' supported Henry, adding that they did so because they did not recognise the 'rights of the other prince'.[19]

Overall, a remarkable degree of consistency is apparent over a thirteen-year period in the decisions made by many members of the aristocracy to support either, Rufus and Henry, or Curthose. Significantly, apart from Odo of Bayeux, many of those who were to initiate so much instability in 1087 had unblemished records of loyalty to Conqueror's regime. The formulation of the concept of a civil war to help explain this was a significant departure in the existing historiography. Hollister's civil war thesis was in reality part of the wider analysis of relations between the Anglo-Norman aristocracy and the sons of the Conqueror that he undertook in the 1970s. A core component of Hollister's civil war argument was his belief in a change in the nature of politics under Rufus. Using a methodology based upon a comparison of witness lists to surviving royal *acta* from the Conqueror's reign to that of his son, Hollister concluded that a dangerous schism had been created between the cross-Channel magnates and a newly risen administrative elite, whom Hollister termed *curiales*. The prominence of these *curiales* in the surviving texts could only be explained by the gradual eclipse of the great magnates at the heart of the royal entourage and therefore the centre of political power. At the time of Rufus's death, the split between magnates and *curiales* was as pronounced as ever, manifesting itself in the decisions made by the aristocracy to support either Henry or Curthose. As Hollister succinctly summarised 'the war of 1101 pitted the *curiales* of the previous reign against the non-curial magnates'.[20]

Except it may be doubted that this is indeed what happened.[21] At the outset, it

[16] *Orderic* v, 308; *ASC*, E, 1101; Hollister, 'Anglo-Norman Civil War', 79–80; *idem, Henry I*, 132.
[17] *Orderic* v, 298; *Gesta Regum* i, 716.
[18] *Gesta Regum* i, 716; Eadmer *HN*, 127.
[19] *Orderic* v, 314, '. . . omnes quoque Angli alterius princips iura nescientes in sui regis fidelitate perstiterunt, pro qua certamen satis optaverunt'.
[20] Hollister, 'Magnates and "Curiales"', 114.
[21] For critiques of the statistical approach undertaken by Hollister see, Barlow, *Rufus*, 210–13; D. Bates,

must be recognised that the so-called Anglo-Norman Civil War was a war without any fighting. The prevailing mood among the aristocracy in 1101 was quite clearly one where the avoidance of conflict was regarded as a priority. Many of the sources that record the events of 1101 play a variation on a theme of negotiation and reconciliation. Eadmer stated that Archbishop Anselm was appointed as a mediator between the nobility and the king, before Curthose had landed in England, and during the period just after Whitsuntide, when sections of the nobility were beginning to openly desert Henry.[22] After Curthose's landing negotiations between him and Henry continued. The Anglo-Saxon Chronicler noted that 'the chief men' went between Curthose and Henry and reconciled them.[23] William of Malmesbury recorded that 'wiser heads' among the aristocracy were keen not to break the 'law of natural affection' between brothers.[24] Orderic inverted the order of things by suggesting that the aristocracy actively sought war and it was the intervention of Henry, who negotiated with his brother on a face to face basis, that avoided this calamity.[25] John of Worcester noted that 'sensible discussions' resulted in a peace, while Wace named three of the baronial negotiators: Robert de Bellême and William of Mortain, presumably for Robert Curthose, and Robert fitz Hamon for Henry.[26]

Overall, the observations of these writers constitute a formidable body of analysis. They suggest that the impetus behind the search for a negotiated settlement in 1101 was well understood several decades later when many of these accounts were written and lay much deeper than an understandable fear of war. The observations of William of Malmesbury, Orderic and the other writers who concerned themselves with the nature of Curthose's challenge to Henry's kingship need to be seen as part of a much wider set of discussions and disagreements over succession and political legitimacy that had been a general feature of political life for generations.[27] More specifically, the events of 1101 have to be seen in the context of the violence and instability created after the division of England and Normandy in 1087. Orderic constructed a rhetorical scene where he presented the arguments put forward by a rebellious aristocracy to justify its actions in 1088. It was claimed that Curthose was the first born, weaker and more pliable in character, and the aristocracy had already sworn fealty to him for their Norman lands. They doubted whether it was possible to serve two lords who were in the eyes of the conspirators, so different and lived so far apart.[28] The evidence from this passage would suggest that substantial sections of the aristocracy clearly doubted whether the decision taken to divide Normandy and England in 1087 was either legally, correct or politically viable. Quite clearly the Conqueror's deathbed bequest was contrary to the political preferences of many members of the cross-Channel elite, and whose response was to think in terms of violence to overturn the Conqueror's bequest.

'The Prosopographical Study of Anglo-Norman Royal Charters', in *Family Trees and the Roots of Politics: The Prosopography of Britain and France from the Tenth to Twelfth Century*, ed. K. S. B. Keats-Rohan, Woodbridge 1997, 89–102. Especially important is the appendix to *Henry I*, where Hollister maintains the value of his approach, Hollister, *Henry I*, 499–506.
[22] Eadmer *HN*, 127.
[23] *ASC*, E, 1101.
[24] *Gesta Regum* i, 716–18, 'Sed satagentibus sanioris consilii hominibus, qui dicerent pietatis ius uiolandum si fraterna necessitudo prelio concurreret, paci animos accommodauere, reputantes quod, si alter occumberet, alter infirmior remaneret, cum nullus fratum preter ipsos superesset.'
[25] *Orderic* v, 318.
[26] *John of Worcester* iii, 98; *Wace* ii, 270–1.
[27] See the comments in D. Bates, 'The Conqueror's Adolescence', *ANS* 25, 2002 (2003), 5.
[28] *Orderic* iv, 122–6.

Recognition of this immediately launches any revision of the so-called Anglo-Norman Civil War onto a different historiographical trajectory than that previously taken; one that is firmly rooted in the wider concepts of succession politics, but also in the historiography of the 'Feudal Revolution'.[29] This offers an interpretative framework that acknowledges political change and the recourse to violence, yet also the need for conflict resolution and the peaceful co-existence of legitimate centres of power, which might exercise overlapping claims on the loyalties of a trans-regional aristocracy. In this context, the peace settlement of 1101 is far from the anti-climax that Hollister thought. It must be viewed as part of a genuine and ongoing attempt by the aristocracy to solve the problems of instability, by seeking to accommodate the rights and responsibilities of both Henry and Curthose within a framework that stressed the separate political and legal co-existence of England and Normandy. Arguably, this is what the Conqueror had attempted in 1087, and was attempted again by the aristocracy within the terms of the treaty of Rouen in 1091.[30] This treaty might be thought to be an even more remarkable settlement than the one negotiated in 1101, in that it had to contend with the ambitions of three brothers and the legacy of Rufus's unprecedented intervention into Normandy.[31] Overall, given the conceptual framework in which Hollister viewed the cross-Channel aristocracy and the methodology he employed to interpret surviving royal *acta*, Hollister's analysis undoubtedly underplayed the anxieties that contemporaries felt on the issue of succession, an anxiety that continued to be expressed in the histories written in the first quarter of the twelfth century.

The general framework within which the aristocracy is now discussed has moved on considerably from the 1970s, and leaves little room to doubt that it was a truly heterogeneous entity, whose overall concern for a single cross-Channel ruler must have been variable.[32] An emphasis on the diversity of aristocratic interests would help to

[29] The literature on both topics is vast. However, for the politics of succession especial note should be taken of G. Garnett, ' "Ducal" Succession in Early Normandy', in *Law and Government in Medieval England*, ed. G. Garnett and J. Hudson, Cambridge 1994, 80–110; J. Martindale, 'Succession and Politics in the Romance-speaking World c. 1000–1140', in her *Status, Authority and Regional Power: Aquitaine and France, 9th to 12th Centuries*, Aldershot 1997, 19–41. On the concepts of the 'Feudal Revolution' see T. N. Bisson, 'The "Feudal Revolution" ', *Past and Present* 142, 1994, 6–42. The interplay of aristocratic violence and social change has proved controversial: see D. Barthélemy, S. D. White, T. Reuter, C. Wickham and T. N. Bisson, 'Debate: The "Feudal Revolution" ', *Past and Present* 152, 1996, 196–223; 155, 1997, 177–225. The wider literature of *La mutation de l'an mil* is vast. Of particular relevance in this context is, D. Barthélemy, *La société dans le comté de Vendôme de l'an mil au XIVe siècle*, Paris 1993; *idem, La mutation de l'an mil: a-t-elle eu lieu? Servage et chevalerie dans la France des X et XIe siècles*, Paris 1997; P. A. Stafford, ' "La mutation familiale": a Suitable Case for Caution', in J. Hill and M. Swan, eds, *The Community, the Family and the Saint*, Turnhout 1998, 103–25. An overview of the existing literature and debate can be found in D. Bates, 'England and the "Feudal Revolution" ', *Il Feudalesimo nell'Alto Medioevo*, Spoleto 2000, 611–49.
[30] The major commentaries on the treaty of Rouen can be found in David, *Curthose*, 59–63; Barlow, *Rufus*, 281–6. For the treaty of Winchester see Le Patourel, *Norman Empire*, 199–200; Hollister, *Henry I*, 141–5; David, *Curthose*, 133–7. More generally, see J. A. Green, 'Robert Curthose Reassessed', *ANS* 22, 1999 (2000), 110–12. See also Freeman, *William Rufus* ii, 522–8, 688–91. The terms of the treaty of Rouen can be found in *ASC*, E, 1091; *Orderic* iv, 236, v, 252; *Gesta Regum* i, 548; *John of Worcester* iii, 58. On the veracity of John's statement regarding Mont St Michel see Barlow, *Rufus*, 282 n. 84; Hollister, *Henry I*, 78 n. 216. On the nomenclature of the respective treaties see Barlow, *Rufus*, 281 n. 77; Hollister, *Henry I*, 141.
[31] In general see Barlow, *Rufus*, 263–88; see further my forthcoming thesis.
[32] The literature on this topic stands as a testament to the stimulus given to Anglo-Norman history by the work of both John Le Patourel and Warren Hollister. Criticisms of the centripetal nature of the relationship between England and Normandy and of the notion of a homogeneous aristocracy can be found in D. Bates, 'Normandy and England after 1066', *EHR* 104, 1989, 851–80; J. A. Green, 'Unity and Disunity in the

explain the continued support given to Rufus and Henry by those individuals and families whose interests were predominately based on England, and in particular, those who had prospered in royal service. The historiography of many of these individuals, men such as Hugh de Port, Haimo *dapifer*, Urse d'Abetôt, Durand des Pîtres and many others, is well established and certain general traits can be discerned. Many of the sheriffs who are identifiable as office holders in both 1088 and 1101 started their careers as tenants of those closest to the centre of power in pre-1066 Normandy, to whom they found themselves in opposition in 1088 and again in 1101.[33] The development of extensive cross-Channel estates often facilitated their introduction into England as tenants of their Norman lords. However, the opportunity for royal service in England acted as a counter weight to these ties, and gave these men an independent power base from which they were able to construct careers of local importance.[34] For men such as these the core issue in 1087 and again in 1101 was the harsh reality of the continuity of career across a change of regime. As their careers demonstrate, acting as the king's representative in the localities was a potent source of power and influence, both in articulating royal authority and in manipulating it to their own advantage. The prospect of a Curthose kingship and a return of former lords and patrons would have been distinctly unappealing.

There are, however, several crucially important aspects to this situation. In a society where social mobility was marked and alternative forms of patronage and power can be seen to complement one another, none of these issues were new. The revolt of 1075 and the arrest of Odo of Bayeux in 1082 had raised these issues for many individuals, though admittedly on a much reduced scale. By 1087, let alone 1101, the careers and backgrounds of many sheriffs had given them experience in negotiating precisely the sort of problems evident after 1087. Moreover, consideration of these issues suggests that the division of the aristocracy into curial and non-curial magnates is somewhat artificial. Most of the visible sheriffs and royal officials in the thirty or so years after the Conquest were clearly well known to the ruling elite and often utilised existing relationships with the elite to advance their careers, or

Anglo-Norman State', *Historical Research* 63, 1989, 115; *eadem*, 'Lords of the Norman Vexin', in *War and Government in the Middle Ages: Essays in Honour of J. O. Prestwich*, ed. J. C. Holt and J. Gillingham, Woodbridge 1984, 47–61; *eadem*, 'King Henry I and the Aristocracy of Normandy', in *La France anglaise au moyen âge, Actes du IIIe congrès national des sociétés savants*, Poitiers 1986, 161–73. The wider corpus of literature produced in the 1990s saw further erosion of the notion of homogeneity through detailed individual studies of the aristocracy and the diversity of aristocratic experience. In particular see D. Crouch, 'Normans and Anglo-Normans: A Divided Aristocracy?', in *England and Normandy in the Middle Ages*, ed. D. Bates and A. Curry, London 1994, 51–67; E. Cownie, 'Religious Patronage and Lordship: the Debate on the Nature of the Honor', in *Family Trees and the Roots of Politics*, ed. Keats-Rohan, 133–46; B. Golding, 'Anglo-Norman Knightly Burials', in *The Ideals and Practice of Medieval Knighthood*, I, Woodbridge 1986, 35–48; J. C. Holt, 'What's in a Name? Family Nomenclature and the Norman Conquest', in his *Colonial England 1066–1215*, London 1997, 179–97; P. Stafford, 'Women and the Norman Conquest', *TRHS* 6th ser. 4, 1994, 221–49; Green, *Aristocracy*, 126–40.

[33] On the role of the post-Conquest sheriffs in general see J. A. Green, 'The Sheriffs of William the Conqueror', *ANS* 5, 1982 (1983),129–45; *eadem, English Sheriffs to 1154*, PRO, London 1990; R. Abels, 'Sheriffs, Lord-Seeking, and the Norman Settlement of the South-East Midlands', *ANS* 19, 1996 (1997), 19–50. For individual sheriffs see K. S. B. Keats-Rohan, *Domesday People: A Prosopography of Persons Occurring in English Documents, 1066–1166: I. Domesday Book*, Woodbridge 1998. For Urse d'Abetôt's background and early career see E. Mason, 'Magnates, Curiales and the Wheel of Fortune:1066–1154', *ANS* 2, 1979 (1980), 136. For Durand des Pîtres see D. Walker, 'The "Honour" of the Earls of Hereford in the Twelfth Century', *Transactions of the Bristol and Gloucestershire Archaeological Society* 79, 1960, 178; Green, 'Sheriffs', 136. For Haimo *dapifer* see the introduction to *Domesday Monachorum of Christ Church, Canterbury*, ed. D. C. Douglas, Royal Historical Society 1944.

[34] See the comments on Hugh de Port in D. Bates, 'Kingship, Government and Political Life to c. 1160', in *The Twelfth and Thirteenth Centuries, 1066–c.1280*, ed. B. Harvey, Oxford 2000, 79.

used family connections to access the royal or ducal households.[35] Quite clearly these men were able to move and make careers for themselves in a world of serious political power. Service to the English king was an engine of social change and advancement, as indeed had been service to the Norman duke, though the scale of the process was radically different by the twelfth century. Nor should it be forgotten that much of this discussion relates to a world that was essentially local in its outlook. There is no evidence in the sources that might lead one to view the events of 1101 as a civil war essentially fought out between royal servants and great magnates. In the list given by Orderic of Henry's most prominent supporters, only Roger Bigod had a career based upon royal service, while Robert fitz Hamon came from a family with a history of ducal service.[36] However, the participation of these men stands as testament to their rapid scaling of the social ladder. More generally, the noun used by Orderic to describe the men who surrounded Henry and gave him support in 1101 was *optimates*, and Henry's chief counsellors in 1101 were the Beaumont brothers.[37]

Orderic's comments reveal that common threads of lifestyle, aspirations and outlook bound a king and the aristocracy together, and provided the mechanisms to facilitate complex relationships. One such relationship, that between Robert de Bellême and Rufus, is a case in point.[38] Within the aristocracy as a whole there existed a degree of respect for the legitimacy of a king, even when in opposition to him. Examples of a complete breakdown of relationships are relatively few and far between, the most obvious being that between Rufus and Robert de Mowbray in 1095. Yet even here, the evidence of the sources suggests that the reasons behind this breakdown were well known and understood.[39] Significantly, many of those involved in de Mowbray's revolt found enough common ground with Rufus to be received back into royal favour once regicide found its way on to the agenda.[40] No source suggests that regicide was a factor in 1088 or 1101, except for a dubious comment by Eadmer who suggested Henry feared for his life and had to be calmed by Anselm.[41] Indeed most sources stress the opposite and focus upon the respective rights of each brother's claim to the throne. Orderic stated that the English supported Henry because they did not recognise the rights of Curthose. He did not state that Curthose was acting in a tyrannical manner in attempting to usurp the throne.[42]

[35] For example, the means of Urse d'Abetôt's introduction to royal service is not clear. However, his elder brother, Robert the Dispenser, made a notable career in the royal household, *Orderic* iv, 172. Urse and his brother appear to have co-operated closely throughout their careers, with Urse eventually inheriting his brother's lands, Mason, 'Magnates', 136. Durand des Pîtres' brother, Roger, had been settled in England as a follower of William fitz Osbern, and was sheriff of Gloucester by 1071. Though Roger was dead by 1086, when Durand was listed as sheriff, it is possible that Durand was sheriff before this or alternated the office with his brother. See Bates, *Regesta*, nos 4, 135; *Domesday Book* i, 169a; Green, 'Sheriffs', 136; *eadem, Aristocracy*, 61. Durand's son, Roger, continued the family tradition of royal service until killed at the siege of Falaise, *Orderic* vi, 80.

[36] For a general survey of the Bigod family see A. Wareham, 'The Motives and Politics of the Bigod Family, c. 1066–1177', *ANS* 17, 1993 (1994), 223–42. See also Bates, 'Kingship', 79; Barlow, *Rufus*, 61–2.

[37] *Orderic* v, 316, 'Universi optimates Henrico regi assistentes verba consulis collaudaverunt, et regem ut monitis eius obsecundaret cohortati sunt.'

[38] Orderic noted that Robert surpassed all others in ingenuity and devotion to Rufus while he had custody of Normandy: Orderic v, 214, 'Rodbertus Belesmensis princips militiae huius erat cuius favor erga regem et calliditas prae ceteris uigebat.' See also K. Thompson, 'Robert de Bellême Reconsidered', *ANS* 13, 1990 (1991), 263–86.

[39] *Orderic* iv, 278–86.

[40] *Orderic* iv, 280–2.

[41] Eadmer *HN*, 127.

[42] *Orderic* v, 314.

In truth, the whole weight of Hollister's concept of a civil war rested upon the statistical analysis of the witness lists to surviving royal *acta* for Rufus, calendared in the first volume of the *Regesta Regum Anglo-Normannorum*, and the *errata* and *addenda* of volume two.[43] In the context of the late 1080s and 1090s, issues of documentary loss, the overwhelmingly decentralised nature of the production of writs and the preservation policies of religious institutions, makes statistical analysis essentially meaningless. The temptation is to read the texts in a way that confuses form with function, and in the context of witness lists, to confuse those entrusted with supplying documentary authority to a text, with those who may be thought to have exercised an influence on the direction of royal policy.[44] Diplomatic scholarship now stresses the social, political and legal context in which texts were produced. There is recognition of the value of reading these texts as narratives, and for the barriers between them and other sources to be broken down.[45]

Within this framework, it appears as though the beneficiaries of writs in the 1090s valued them as supplying a form of warranty in the preservation of lands, rights and privileges. Many of the concessions granted or confirmed to institutions were extremely minor, and would hardly have come to the attention of the royal administration had it not been for the efforts of the beneficiaries themselves.[46] If read as a narrative on the social conditions prevalent in England in the 1090s they reveal a society still struggling to come to terms with the trauma of defeat and conquest. The historiography on the gradual expansion of royal involvement in local affairs and the link between the Domesday inquest, writs and royal administration is well established.[47] However, the language of many of the writs suggests a cultural shift in the perceptions of their beneficiaries' *vis à vis* royal administration, stimulated by the Domesday inquest itself.

The abbey of Bury St Edmunds provides the clearest example. Bury had a tradition of obtaining confirmatory writs on the accession of each new abbot or king, and two writs early on in Rufus's reign confirmed Abbot Baldwin in his lands with sake and soke.[48] The difference from previous writs, however, lay in the language of the injunction that the abbot was to have his lands as they were on the day when the king's father was alive and dead, a reflection of the linguistic formula used in the Domesday Book.[49] Nor are the Bury St Edmunds writs exceptional. Other Bury St Edmunds charters display the influence of Domesday in their drafting, particularly in the use of the clause *tempore patris mei*.[50] This undoubtedly reflected a conceptual link to the use of *tempore regis Edwardi* and *tempore regis Willelmi* within

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[43] *Regesta Regum Anglo-Normannorum* i, ed. H. W. C Davis, Oxford 1913; ii, ed. H. A. Cronne and C. Johnstone, Oxford 1956.

[44] Barlow, *Rufus*, 211.

[45] D. Bates, *Re-ordering the Past and Negotiating the Present in Stenton's First Century*, Reading 2000, 4.

[46] R. Fleming, *Domesday Book and the Law: Society and Legal Custom in Early Medieval England*, Cambridge 1998, 33.

[47] For example see Fleming, *Domesday Book*, 68–83; D. Bates, 'Two Ramsey Abbey Writs and the Domesday Survey', *Historical Research* 63, 1990, 337–9; D. Roffe, *Domesday: The Inquest and the Book*, Oxford 2000.

[48] *Feudal Documents from the Abbey of Bury St Edmunds*, ed. D. C. Douglas, The British Academy, Records of the Social and Economic History of England and Wales 8, London 1932, nos 12, 13; calendared, *Regesta* i, nos 291, 293. Cf. Bates, *Regesta*, no. 34; F. E. Harmer, *Anglo-Saxon Writs*, Manchester 1952, repr. Stamford 1989, nos 8, 11, 12.

[49] *Feudal Docs.*, nos 12, 13, '. . . die qua pater meus vivus et mortus'; *Regesta* i, nos 291, 293.

[50] *Feudal Docs.*, no. 15, '. . . et omnes illos hominess quos habuit in tempore regis Eadwardi aut in tempore regis patris mei . . .'; *Regesti*, no. 294.

Domesday, and is often used in conjunction with these and similar clauses in the Bury texts.[51] Moreover, this language can be found in writs drawn up at other institutions. Three writs preserved at Abingdon abbey used the same expressions as Bury St Edmunds to refer to the time of William the Conqueror and Edward the Confessor.[52] Writs drafted at Lincoln, Ramsey, Westminster and Thorney Abbey use similar terms.[53] The adoption of this language also appears to have been used to express episcopal authority. A writ to Bishop Robert Bloet excused him from pleading for any churches or lands that Bishop Remegius had been in possession of on the day when he was alive and dead.[54]

Undoubtedly this is much more than simply the adoption of a new administrative *lingua franca*. The language used in the writs emphasised a continuum of legitimacy across the Conquest and two changes of regime. As such, institutions that appear to have had a policy of record keeping under the Conqueror continued to keep records under Rufus and may have increased their rates of preservation.[55] In some instances it is possible to link the preservation of texts with evidence of sophisticated archival practices.[56] The practice of witnessing writs by prominent members of the king's entourage had developed slowly over the Conqueror's reign to convey the impression that the writ in question reflected the king's will.[57] Moreover, these writs were drafted in order to be read out in local assemblies and courts, and thus presented a means to articulate increasing royal involvement in a local world, whose structures of law and government were still dominated by great magnates, but also open to abuse by the sheriffs and other royal officials.[58]

In this context it is possible to explain why the majority of royal *acta* that survive

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[51] *Feudal Docs.*, no. 15, '. . . sicuti Ædwardus rex et post eum Willelmus rex pater meus sibi concessit'; *Regesta* i, nos 294, 392.

[52] J. Hudson, *Historia Ecclesie Abbendonensis*, 2 vols, Oxford 2002, ii, nos 19, 31, 51, '. . . tempore regis Eadwardi et patris mei . . .'; calendared *Regesta* i, nos 289, 359, 390.

[53] The list is far from exhaustive. For Lincoln see *Registrum Antiquissimum of the Cathedral Church of Lincoln*, ed. C. W. Foster, 12 vols, Lincoln Record Society, Lincoln 1932, i, nos 12, 8, 9; calendared *Regesta* i, nos 406, 305, 467; Ramsey, *Cartularium Monasterii de Rameseia*, ed. W. H. Hart and P. A. Lyon, 3 vols, RS 1884, nos 146, 148; calendared *Regesta* i, nos 295, 296; Westminster, J. Armitage Robinson, *Gilbert Crispin, Abbot of Westminster*, Cambridge 1911, 137 no. 10, 140 no. 17; calendared *Westminster Abbey Charters 1066–c.1214*, ed. E. Mason, London Record Society, London 1988, nos 49, 50; *Regesta* i, nos 306, 436.

[54] *Registrum Antiquissimum*, no. 9; *Regesta* i, no. 467, '. . . de quibus Remigius episcopis saisitus fuit de qua vivvus et mortuus fuit'.

[55] For example, Ramsey abbey has two surviving writs for the Conqueror, while this figure jumps dramatically to nineteen under Rufus. Bates, *Regesta*, nos 221, 222; *Regesta* i, nos 295, 296, 321, 322, 329, 330, 331, 332, 354, 373, 383, 413, 419, 447, 448, 449, 461, 462, 469.

[56] Bury St Edmunds was an abbey with an incentive to keep good records in the years after 1066 given the scale of encroachments on its estates. See E. Cownie, *Religious Patronage in Anglo-Norman England*, Woodbridge 1998, 66–79. Bury appears to have had an active preservation policy across the regimes of both the Conqueror and Rufus. Five Latin and four Old English writs were preserved from the Conqueror's reign, and seven writs for Rufus, Bates, *Regesta*, nos 35, 36, 37, 38, 40, 41, 42, 43, 54; *Feudal Docs.*, nos 12, 13, 14, 15, 16, 17, 19; calendared *Regesta* i, nos 291, 293, 392, 294, 393, 395, 394. The abbey preserved a writ of the Conqueror on the grounds that it confirmed a bilingual diploma that upheld the monastery's rejection of the claims by Bishop Arfast for the abbey to be his see. According to the narrative of the diploma, Arfast lost his claim because he could not produce documents or witnesses in support. This sophisticated bureaucracy continued into Rufus's reign, with one writ granting sake and soke and all the customs of the abbey. It was drafted with explicit reference to the same grants that were contained in previous writs of Edward the Confessor, William the Conqueror and Rufus, Bates, *Regesta*, nos 39, 40; *Feudal Docs.*, no. 18; calendared *Regesta* i, 292.

[57] Bates, 'Prosopographical Study', 100.

[58] Abels, 'Sheriffs, Lord-Seeking', 19–50.

for Rufus are in the form of writs, which in itself means that the witnesses to these texts have to be seen not only in the context of the diplomatic form of the texts, but also in the context of a local world where religious institutions were vulnerable to infringements from great magnates and royal officials alike, and whose response to the Domesday inquest was to adopt its concepts as the means to give added emphasis and impact to an existing policy of seeking writs as a form of warranty. Great magnates attested fewer documents under Rufus, not because they were being systematically excluded from power, but because a far higher number of documents were preserved that would not have ordinarily required their attestation. These preliminary observations suggest that the aristocracy may have been divided in 1101, but it was not along the lines of curial and non-curial magnates.

The conflicting claims of Henry and Curthose to the English kingship, and the choices made by the aristocracy in deciding whom to support belonged to a different world. Henry's actions in 1100 presented many of the writers who dealt with this issue, and who were also admirers of Henry, with some tricky problems. Henry's actions caused many of the issues that had been so prominent in 1087 to resurface. His dash to Winchester on the death of Rufus and seizure of the treasury split the aristocracy. William de Breteuil, who maintained that an oath of loyalty had been taken to Robert Curthose, and by right it ought to be maintained, immediately opposed Henry.[59] The nature and date of this oath is uncertain. In contrast, Henry's claim was that of the heir who was on the spot. The importance of being in the right place at the right time is shown by Henry's so called 'election' by supporters who were with him at Winchester. This, together with his hurried coronation only three days later, had all the characteristics of a palace *coup*, and was regarded as such by Robert Curthose.[60]

A legal argument to bolster Henry's actions was found in the doctrine of porphyrogeniture. This had not been a factor in 1087 and must be regarded as a retrospective justification. Curthose's claim to the English kingship was discussed within the context of his position as the eldest son of the Conqueror. Much of the recent historiography has seen the whole issue of succession and division within the wider framework of developing aristocratic inheritance practices, where land could be apportioned on the basis of the distinction between acquisitions and patrimonies.[61] The implication of this wider discourse is to see the events of 1101 within this framework: the claims of an elder son against those of a younger son to their father's acquisition. On this point it appears that Hollister acknowledged the historiography that had developed since the 1970s and juxtaposed primogeniture and porphyrogeniture to assess the relative strengths of each brother's claim to the throne.[62]

Yet in a very real sense much of the existing historiography's preoccupation with aristocratic inheritance practice is something of a red herring in the context of 1100. As the concerns of Orderic, William of Malmesbury and many other writers clearly show, what concerned contemporaries most were the politics of succession and the criteria used in selecting a king. Nor was this anything new. Majorie Chibnall has demonstrated how William of Poitiers constructed a detailed legal argument in the

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[59] *Orderic* v, 290.

[60] *Jumièges* ii, 220; *Orderic* v, 300, 306–8.

[61] See especially E. Z. Tabuteau, 'The Role of Law in the Succession to Normandy and England, 1087', *HSJ* 3, 1991, 141–69; Garnett, ' "Ducal" Succession', 110. At an earlier stage George Garnett was apparently more sceptical of the application of *acquêts* and *propres* to the circumstances of 1087, G. Garnett, 'Coronation and Propaganda: Some Implications of the Norman Claim to the Throne of England in 1066', *TRHS* 5th ser. 36, 1986, 115; cf. Barlow, *Rufus*, 47–9.

[62] Hollister, *Henry I*, 105.

Gesta Guillelmi to support the Conqueror's claim to the English kingship in 1066, which had to be proved right and just 'by every law known to be learned'.[63] It seems inescapable that in 1087 and especially in 1100, there was a similar need to legitimise the succession of one of the Conqueror's sons to the English throne.

The observations in many of the sources on Curthose's status as eldest son of the Conqueror undoubtedly reflect the legal and political ties that existed between Curthose and many members of the cross-Channel aristocracy. They had done homage to him for their Norman lands. He had been invested with the duchy of Normandy before 1087, and as Orderic has the Conqueror say, once the 'honor' had been granted it could not be taken away.[64] In 1087 substantial sections of the cross-Channel aristocracy quite clearly favoured the maintenance of union between England and Normandy under Curthose, and it would appear as though a growing recognition of the benefits of maintaining a union had emerged in the years leading up to 1087. During his rebellion against his father in the late 1070s and 1080s, Curthose was able to attract a coterie of youthful supporters from some very influential families, many with substantial cross-Channel links, who would retain a loyalty to him after 1087.[65] Crucially, the advice of these supporters as recorded by Orderic, was for Curthose to claim a 'share' of England from his father, who was denying him the riches of his inheritance.[66] William of Malmesbury commented that as a result of the dispute, Curthose forfeited both his father's blessing and his inheritance, failing to secure England and only just retaining Normandy.[67] These passages do not necessarily mean that Curthose had been designated as the heir to England, but must be read as passages indicating that he was one possible heir, and on occasion may have been considered as the obvious candidate for the throne, at least by the cross-Channel aristocracy. This almost certainly explains Robert of Torigni's use of the verb *restituere* in the context of 1087, when Curthose was urged by his supporters to re-conquer the kingdom of England.[68]

It is likely that the implications of Curthose's relationship to the aristocracy was recognised fairly quickly after 1066. The conflict between contemporary political imperatives and longstanding obligations had been thrown into sharp relief by the Conqueror's own experience of Edward the Confessor's deathbed bequest to Harold in 1066.[69] There is sufficient evidence to suggest that fairly rapidly after 1066 the Conqueror acted in a manner which suggests that he may have had doubts over the feasibility of one individual being both duke of Normandy and king of England. The division of the fitz Osbern inheritance in 1071 is often taken as evidence of the development of aristocratic inheritance practices based upon acquisitions and patrimo-

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[63] M. Chibnall, ' "Clio's Legal Cosmetics": Law and Custom in the Work of Medieval Historians', *ANS* 20, 1998 (1999), 36.

[64] *Orderic* iv, 92, 'Ducatum Normanniae antequam in epitimio Senlac contra Heraldum certassem Roberto filio meo concessi, cui quia primogenitus est et hominium pene omnium huius patriae baronium iam recepit concessus honor nequit abstrahi.'

[65] *Orderic* iii, 96–100. See also W. M. Aird, 'Frustrated Masculinity: the Relationship between William the Conqueror and his Eldest Son', in *Masculinity in Medieval Europe*, ed. D. M. Hadley, London 1999, 39–54.

[66] *Orderic* iii, 96, 'Eia viriliter exurge, a genitore tuo partem regni Albionis exige, aut saltem ducatum reposce Normanniae, quem tibi iam dudum concessit coram optimatum qui ad huc praesto sunt agmire.'

[67] *Gesta Regum* i, 503.

[68] *Jumièges* ii, 204, 'Cumque sui fideles eum exhortarentur ut regnum Anglie sibi a fratre prereptum velocius armis sibimet retitueret . . .'.

[69] See H. E.J. Cowdrey, 'Death-bed Testaments', in *Fälschungen im Mittelalter, MGH Schriften*, vol. 33, iv, Hanover 1998, 716–24.

nies.[70] But William's action in dividing the family into Norman and English branches could equally be thought to be a reflection of his own attitudes towards the possible shape that the future would take.

The very process of elevating the Conqueror to the English kingship had created tensions throughout the body politic, which made the continuation of a cross-Channel political complex open to question. In one of Orderic's rhetorical set pieces Earl Roger of Hereford outlined his reasons for the participating in the revolt of 1075. The attitude of some Normans towards the kingship appears to have been to treat it as an office that could be assumed or discarded.[71] Crucially, Rufus's attitude towards his kingship initially appeared to have echoed this perception. William of Malmesbury recorded a scene during the revolt of 1088 where Rufus declared that he would gladly resign the crown if it were thought to be the right course of action by the advisors appointed by his father.[72] The revolt of 1075, the arrest of Odo of Bayeux in 1082, and the aristocratic dismay at Rufus's apparent willingness to contemplate the hanging of the rebels besieged in Rochester in 1088 are but three examples which suggest that the potential and limitations of royal power were being consciously worked out after 1066, and resulted in a few aristocratic casualties along the way.[73]

Unsurprisingly perhaps, the question of who would succeed the Conqueror is likely to have assumed increasing importance as time went by. If the pro-Curthose views of the senior members of the cross-Channel aristocracy were known before 1087, then there seems little doubt that the Conqueror looked beyond the aristocracy to find the means to facilitate the succession of one of his other sons to the English throne. The evidence of the Conqueror's deathbed speech would suggest that he had doubts over the means by which he could transmit the English kingship to his preferred choice. He recognised that he had won his crown through military violence, that being a king was a completely new departure for the Norman ducal family, and crucially that the transmission of the kingship through hereditary right was not possible.[74] This is in direct opposition to the arguments presented by William of Poitiers who emphasised that the Conqueror's coronation ensured that his children would succeed him by 'lawful succession'.[75]

The reality of the situation in which the Conqueror found himself in 1087 is betrayed by his actions. He may not have been sure of the legalities of the situation, but there was no doubt that in Rufus he had identified the son he wanted to succeed him and was well aware of the strength of opposition Rufus was likely to meet. Fearing that a rebellion would break out once news of his death was known, the Conqueror ensured that Rufus left Normandy before his death, carrying a letter to Archbishop Lanfranc.[76] William of Malmesbury described Lanfranc as the 'moving

spirit' in Rufus's coronation.[77] The *Acta Lanfranci* is more explicit. It noted that Lanfranc chose Rufus to succeed as king as his father had desired.[78] As a churchman, Lanfranc naturally looked to canon law for the means to enact the Conqueror's wishes. As George Garnett has pointed out, Lanfranc's own copy of the Pseudo-Isidorian Decretals, brought from Bec to Canterbury and now in Trinity College Cambridge, contains a mark in the margin beside canon 75 from the Fourth Council of Toledo in 633, which lays out the mechanisms by which 'the bishops and the head men of the people' would decide who should succeed to a kingdom.[79] The inviolability of the king was reinforced by the stress placed upon the effects of anointing by the primate. The canon goes on to threaten with excommunication anyone who disrupts the process through a tyrannical presumption.[80] Another marginal mark appears in the manuscript beside a section from the first canon from the Seventh Council of Toledo, which states that anyone speaking or conspiring against a king would be liable to excommunication.[81]

These marks could have been made at any time after 1075, when the manuscript was certainly at Canterbury, and possibly as early as 1070.[82] However, the appropriateness of these two canons to the circumstances of 1087 seems more than coincidental. The two-week delay between Rufus arriving in England in September 1087 and his coronation by Lanfranc undoubtedly involved the English bishops and the 'head men of the people' in negotiations.[83] Just who might be thought to comprise 'the head men of the people' in the circumstances of 1087 is open to question. Crucially, the Conqueror's half brothers and uncles to Rufus were in Normandy at this point. In 1101, a similar situation presented itself. Henry had been 'elected' and crowned before the news of Rufus's death reached Hugh, earl of Chester, Robert de Bellême and 'many other magnates', all of whom, according to Orderic, were in Normandy at the time, most probably awaiting the imminent return of Robert Curthose.[84]

A crucial point connecting the successions of 1087 and 1100 is that on both occasions many members of the senior aristocracy who were most affected by the decision were unable to express their views and preferences. The exclusion from this process of some of the most important members of the aristocracy created doubts that hung over the legality of the kingship of both Rufus and Henry. The fact that in both 1088 and 1101 opposition to Rufus and Henry did not incur the penalty of excommunication suggests that contemporaries recognised that those who opposed Rufus and Henry were not attempting to disrupt the process through a 'tyrannical presumption'

[70] *Orderic* ii, 282–4; cf. Tabuteau, 'Law in the Succession', 157–8.

[71] *Orderic* ii, 310–22, esp. 314, 'Unus ex nobis sit rex et duo duces; et sic nobis tribus omnes Anglia subicientur honores.'

[72] *Gesta Regum* i, 546, 'Seorsum enim ducto magnam ingessit invidiam, dicens libenter se imperio cessurum si illi et aliis videatur quos pater tutores reliquerat.'

[73] *Orderic* iv, 132. See also J. L. Nelson, 'The Rites of the Conqueror', in her *Politics and Rituals in Early Medieval Europe*, London 1986, 400–1.

[74] *Orderic* iv, 90–4.

[75] *Gesta Guillelmi*, 150.

[76] *Orderic* iv, 96, '. . . epistolam de constituendo rege fecit Lanfranco archiepiscopo . . .'. The translation by Chibnall as 'a letter to secure the recognition of the new king addressed to Archbishop Lanfranc' should be compared to the translation by Douglas and Greenaway as 'a letter . . . on the appointment of a successor to the throne', *EHD* ii, 312.

[77] *Gesta Regum* i, 542–4.

[78] *EHD* ii, 679; cf. Eadmer *HN*, 24. Eadmer described Lanfranc as a 'vir divinae simul et humanae legis peritissimus', whose advice the Conqueror always relied upon.

[79] Trinity College MS B.16.44, 328: 'primatus totius gentis cum sacerdotibus successorum regni concilio communi constituant . . .'; *Decretals Pseudo-Isidorianae et Capitula Angilramni*, ed. P. Hinschius, Leipzig 1863, 373–4; Garnett, 'Coronation and Propaganda', 91–116. See also M. Philpott, 'Lanfranc's Canonical Collection and "the Law of the Church"', in *Lanfranco di Pavia e l'Europa del secolo XI*, ed. G. D'Onofrio, Rome 1993, 131–47.

[80] Garnett, 'Some Implications', 108–9; Trinity MS B.16.44, 328: '. . . aut praesumptione tyrannica regni fastigium usurpaverit, anathema sit in conspectu dei patris et angelorum, atque ab ecclesia catholica quam perjurio profanaverit efficiatur extraneus et ab omni coetu christianorum alienus . . .'.

[81] Trinity MS B.16.44, 336.

[82] M. Gullick, 'The English Owned Manuscripts of the Collectio Lanfranci (s.xi/xii)', in *The Legacy of M. R. James: Papers from the 1995 Cambridge Symposium*, ed. L. Dennison, Donnington 2001, 101.

[83] For the chronology of events see Barlow, *Rufus*, 55–7.

[84] Orderic v, 298, 'Hugo Cestrensis comes et Rodbertus Belemensis ac alii optimates qui erant in Normannia . . .'.

as stated in the Pseudo-Isidorian decretals. This stands in direct contrast to the action of Lanfranc in 1075 when he excommunicated earl Roger of Hereford and his supporters.[85] The nearest one comes to evidence of ecclesiastical sanctions is with Eadmer, who records that Anselm impressed on the Henry's supporters that any desertion of the king would incur God's curse.[86] Moreover, and although this can only be a speculation, the support given to Curthose by Bishop Geoffrey of Coutances in 1088 may not be totally unconnected with the role he played in the Conqueror's coronation, where he presided over a joint ceremony with Archbishop Ealdred of York, ensuring that when the Conqueror was presented to the assembly within the abbey, both French and English speakers could acclaim the new king.[87]

In these circumstances the concerns expressed by many of the chroniclers were perfectly understandable. Robert of Torigni said that Curthose's first words on hearing of his brother's coronation in 1087 reflected his 'usual simplicity', speaking 'almost as a fool'. ' "By the angels of God, if I were in Alexandria, the English would have waited for me and they would never have dared to make him king before my arrival. Even my brother William, whom you say has dared to aspire to the kingship, would never risk his head without my permission." '[88] Torigni's version of Curthose's response is clearly a rhetorical device, but makes the point that expected avenues of consultation were not being followed. In 1101, according to Torigni Curthose's response was merely one of anger at Henry's seizure of the kingdom.[89]

Nor was he the only writer to concern himself with these issues. Orderic drew a comparison between the situation in 1087 and the division that befell the Israelites under Rehoboam, Solomon's son and designated successor as king of a united kingdom of Israel.[90] In the Old Testament account, Rehoboam had travelled to Shechem to be confirmed as king. Before this could happen, delegates from the Ten Tribes of Israel demanded an end to the levy of forced labour as a condition of accepting Rehoboam. Rehoboam sought advice from the 'old men', as the counsellors who had served his father are described, and from the youths he had grown up with. He rejected the advice given to him by his father's advisers to end the levy, in favour of the advice of the youths who advocated more oppression. On hearing of Rehoboam's decision, nine of the Ten Tribes of Israel rose in rebellion and elected Jeroboam, one of Solomon's generals, as their king, with the result that the nation of Israel divided in two, with only the tribe of Judah maintaining its loyalty to the Davidic dynasty.[91]

The suspicion has to be that Orderic was attempting more than a simple biblical comparison. Rehoboam's fate and that of the united kingdom of Israel had been sealed by Solomon's own transgression of God's law, for which God had judged that he would 'tear the kingdom . . . out of the hand of your son'.[92] Rehoboam's decision

not to follow the advice of his father's counsellors resulted in the prophesied split, yet as chapter 12 verse 15 states, 'for it was a turn of affairs brought about by the Lord that he might fulfil his word'.[93] It would appear as though Rehoboam is as much a victim of his father's choices, as he is of his own. Rehoboam's mistake in listening to 'youthful counsels' had compounded his father's mistakes in transgressing God's law by rejecting the advice of those mature counsellors who could foresee the dangers ahead. The implication here is that Orderic felt the Conqueror had made a mistake in dividing England from Normandy by not listening to those who wanted to maintain a union. As part of his rhetorical set piece explaining aristocratic motives in 1088, Orderic has members of the cross-Channel aristocracy form an inviolable league to oppose Rufus and avoid being destroyed by 'youthful counsels'.[94] In 1101, Henry avoids 'youthful counsels' by adhering to the advice of his mature counsellors, especially Robert, count of Meulan.[95] The emphasis Orderic placed on avoiding making a bad decision worse, suggests that he looked to the upper echelons of the aristocracy to deal with the consequences of the Conqueror's decision and work for a cross-Channel union. With Henry as king, support from members of the cross-Channel aristocracy for Curthose was something of an embarrassment that it had not been under Rufus. However, those members of the aristocracy who supported Henry were still regarded by Orderic as working to mitigate the effects of the Conqueror's decision.

Though less rhetorical than Orderic, William of Malmesbury was equally concerned with the problems caused by division. Though the Conqueror's decision was at odds with the preferences of most of the senior members of the aristocracy, it appears as though some sort of framework was established to oversee the transfer of power. William describes Roger de Montgomery as a *tutor* to Rufus, appointed by the Conqueror to advise him. References to a tutor in the narrative sources usually occur in the context of a ducal minority, clearly not applicable to Rufus in 1087. A quality associated with being a tutor is a wider role in the care and development of the duke, indicating a degree of 'wisdom' on the part of the tutor.[96] This framework might also account for William's statement that Odo confirmed Curthose in possession of Normandy once he had been released from prison following the Conqueror's death.[97] The evidence would point towards a situation where the initial role of some of the senior members of the aristocracy following the Conqueror's death was in helping to implement a decision that they were not a party to and did not agree with.

85 *Lanfranc's Letters*, 33A.
86 Eadmer *HN*, 127–8.
87 *Gesta Guillemi*, 150.
88 *Jumièges* ii, 204, 'Cumque sui fideles eum exhortarentur ut regnum Anglie sibi a fratre prereptum velocius armis sibimet retitueret, simplicitate solita et, ut ita dicam, imprudentie proxima, repondisse fertur: "Per angelos Dei, si ego essem in Alexandria, expectarent me Angli, nec ante adventum meum regem sibi facere auderent. Ipse etiam Willelmus, frater meus, quod eum presumpisse dictis, pro capite suo sine mea permissione minime attenaret." '
89 *Jumièges* ii, 218.
90 *Orderic* iv, 122. See also E. Mégier, '*Divina Pagina* and the Narration of History in Orderic Vitalis' *Historia Ecclesiastica*', *Revue Bénédictine* 110, 2000, 106–23.
91 I Kings 12, 1–15.
92 I Kings 11, 11–13.

93 I Kings 12, 15.
94 *Orderic* iv, 122, '. . . prudenter precauere ne per consilium iuuenile pereamus'.
95 *Orderic* v, 298.
96 *Gesta Regum* i, 546. William of Jumièges uses the term when commenting on the Conqueror's minority: 'Is itaque *dux* in puerilibus annis patre orbatus, sagaci tutorum providential liberalium morum instituebatur ad incrementa.' William also noted that Duke Robert entrusted his son to his tutors and guardians: '. . . dux sub tutoribus et actoribus sapienta uigentibus illum adusque legitimam etatem subegit . . .', *Jumièges* ii, 92, 80. William's guardians are listed by Orderic as Count Alan III of Brittany, Gilbert of Brionne and Osbern the steward, *Orderic* iii, 86; iv, 82. The tutors mentioned are Turold, Ralph the monk and Master William, Fauroux, nos 220, 259, 262. Orderic also mentions a Thurkill as *nutricium* to William, *Orderic* iv, 82. The use of two separate terms by William of Jumièges suggests a division in responsibilities, with *actors* fulfilling a more public role in the exercise of power and *tutors* exercising a more pastoral role. However, set against this is Orderic's statement that William selected Ralph de Gacé as his *tutor* and commander of his forces on Count Gilbert's death: *Jumièges* ii, 98, 'Rodulfum de Wacceio ex consultu maiorum sibi tutorem eligit, et principiem militie Normannorum constituit.'
97 *Gesta Regum* i, 545, 'Namque cum ille, ut dixi, solutus a uinculis Rotbertum nepotem in comitatu Normanniae confirmasset . . .'.

In this context, unsurprisingly perhaps, the senior members of the aristocracy felt that recourse to violence offered the chance to overturn the Conqueror's settlement, a sentiment expressed once more in 1101. However, the crucial difference in 1101 was that the lessons of the failure of 1088 had been learnt, and the ability of the aristocracy to cope with a divided lordship during the intervening years had created a platform for a negotiated settlement. Recourse to violence and the threat of violence were clearly limited in what they could achieve, and the dangers were obvious. Within this framework the peace settlement drawn up between Henry and Curthose can be reassessed.

The text of the treaty of Winchester has not survived and only its main terms can be discerned in the narrative sources.[98] Henry was to give up all of his possessions in Normandy except for the town and castle of Domfront and was to pay three thousand marks of silver annually to Curthose, who in turn gave up his claim to England. All those who had suffered forfeiture on account of Curthose were to have their lands restored. Each brother pledged to assist the other to recover all the lands of their father. Finally, provision was made for each brother to succeed the other in the event of one of them dying, unless the deceased had an heir from a lawful marriage. The agreement was guaranteed by oaths from twelve magnates on each side. Orderic alone added a further provision: anyone working to stir up discord was to be punished.[99] After the treaty had been concluded Curthose remained in England for some time, during which he issued a separate confirmation of a grant by Henry of the city of Bath to Bishop John.[100]

Both Warren Hollister and Judith Green have noted some of the difficulties and contradictory provisions within the treaty.[101] Yet the importance of the treaty lies in its recognition that both Henry and Curthose had claims to the English throne, which needed to be separated and settled. The crucial clause here is not so much Curthose's renunciation of his claim to the English throne, but the provision that related to future succession. Christopher Holdsworth has suggested that this 'represented no very significant concession' for either brother.[102] Yet Henry's wife was approaching her fourth month of pregnancy at the time the treaty was negotiated, and Curthose had been married for a year and could probably expect to produce a child in the near future.[103] It seems incredible that the negotiators would insert this particular provision, and in these circumstances, unless their intention had been to achieve what the Conqueror had attempted to do in 1087, and had been attempted once more in 1091; namely establish the future means to transmit the English crown as smoothly as possible. As with the treaty of Rouen in 1091, the double confirmation from the period immediately after the treaty, suggests that both treaties were regarded as settling the issues at stake, with each brother being assigned their respective rights and responsibilities.[104] That this settlement ultimately failed was due to the fact that many members of the aristocracy had seriously underestimated Henry's desire and ability to reconstitute his father's cross-Channel dominions.

The paradox that emerges from this discussion is that Hollister's labelling the events of 1101 as a civil war is very nearly correct, if it is remembered that the aristocracy was split as a result of Henry's actions, though not on the basis of curial and non-curial factions. There is no evidence to suggest that Rufus enjoyed relations with his magnates that were any worse than those enjoyed by the Conqueror. Underneath the high politics of succession disputes the concerns of a local world continued. The texts that survive from this world need to be seen in this context, and as evidence of wider cultural change. Henry's actions, and those of his supporters who initially chose him as king, represented another turn in a longstanding discourse on succession and legitimacy that for generations had been, and would long continue to be, a feature of political life. Nor was any of this unique to the Anglo-Norman world. The issues that so concerned Orderic and William of Malmesbury also concerned many other writers in Europe, in particular Abbot Suger of St Denis.[105] The real and consistent nature of the support given to Rufus, Henry and Curthose, related to the way in which the ambitions of the Conqueror and his sons were at odds or in tune with the political preferences of a heterogeneous aristocracy. Any reassessment of the aristocracy's response to Curthose's challenge to Henry's kingship must acknowledge that contemporaries recognised that both brothers had a right to the throne and that in consequence, realising the limitations of violence as a means of effecting long-term change, they preferred to search for a negotiated settlement that would open the way to co-existence, and a permanent solution to the problem of divided lordship.

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[98] *Orderic* v, 318–20; *John of Worcester* iii, 90; *Huntingdon*, 450; *ASC* E, 1101.

[99] *Orderic* v, 320.

[100] D. Bates, 'A Neglected English Charter of Robert Curthose, Duke of Normandy', *BIHR* 59, 1986, 121–4.

[101] Hollister, 'Anglo-Norman Civil War', 92–3; Green, 'Robert Curthose Reassessed', 112.

[102] Holdsworth, 'Peace Making', 3.

[103] Hollister, *Henry I*, 142.

[104] After concluding the treaty of Rouen, Rufus and Curthose issued double confirmations of an exchange between the abbot of Saint Etienne and William de Tournebu: Caen, Bibliothèque de l'Université, fonds normand, Cartulaire de Saint-Etienne de Caen, fol. 50; Bates, 'A Neglected Charter', 123.

[105] See Martindale, 'Succession and Politics', 19–22.