

Chapter 3

A Profession of Ignorance: an Insight into Domesday Procedure in an Early Reference to the Inquest¹

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References to claims and disputes in *Domesday Book* have always figured large in accounts of the political and social history of late eleventh-century England. In a source that is frequently a litany of dry statistics, not the least of their attractions is that they provide human interest. Who can fail to be beguiled by the following?

William de Chernet claims this land [in Fordingbridge Hundred], saying that it belongs to the manor of South Charford, [in] Hugh de Port's fief, through inheritance from his predecessor; and he has brought as his testimony to this the better men and the old men of the whole shire and hundred; and Picot has brought against it as his testimony villans and common people and reeves, who are willing to maintain by oath, or by the judgement of God, that he who held the land was a free man, and could go with his land where he would. But the witnesses of William refuse to accept [any] law except that of King Edward until it be determined by the king. It was worth 15s.; and afterwards 8s.; now 10s.²

Such passages have an intrinsic appeal. They also shine a powerful light on the inner workings of Anglo-Norman society. Without them, our knowledge of the Conqueror's England would be so much the poorer.³ It should come as

¹ I am grateful to Katharine Keats-Rohan for drawing my attention to the reference to the Domesday inquest in the *Historia* of St Peter's, Gloucester, that is the subject of this paper. Thanks are also due to the Principal and Fellows of Linacre College, Oxford, for electing me as a visiting senior member for the Michaelmas term 2011, which provided me with the time and space to write.

² *Great Domesday Book: Library Edition*, ed. A. Williams and R.W.H. Erskine (London, 1986–92), hereafter *GDB*, fol. 44v. This is entry Hants, 23,3 in *Domesday Book*, ed. J. Morris and others (34 vols, Chichester, 1974–86).

³ They are collected in R. Fleming, *Domesday Book and the Law: Society and Legal Custom in Early Medieval England* (Cambridge, 1998).

no surprise, then, that disputes have often commanded a central place in the understanding of the Domesday process. Individual cases have, of course, been variously interpreted and reinterpreted, but the phenomenon itself was, until recently, never perceived as a particular problem. According to Richard FitzNigel, writing c. 1179 in the *Dialogue of the Exchequer*, Domesday was a book of judgements.⁴ To all appearances, the text does not disappoint in that regard. In folio after folio we hear of lords claiming this and jurors of the hundred and the shire declaring that. This is to all appearances the language of lawsuits and judgement. Debate there has been over the progress of such cases, but it has generally been accepted that the determination of title was an integral part of the Domesday process.⁵

And yet there is a problem. In the first systematic study of what he termed Domesday ‘lawsuits’, Patrick Wormald found that the distribution of cases throughout *Domesday Book* was remarkably uneven.⁶ Discounting the *invasiones* of *Little Domesday Book* (*LDB*) and the *terre occupate* of the *Liber Exoniensis* (*Exon*), he found that Lincolnshire was apparently the most litigious county with 126 cases, closely followed by Yorkshire with 41. In Leicestershire, by contrast, there are none at all. Other counties are of varying amounts but none in the order of the two northern counties. This skewed distribution, however, is as nothing compared with the results of the lawsuits. Despite frequent unequivocal decisions in favour of the plaintiff, the land in question was enrolled in the breve of the aggressor in the vast majority of cases. Wormald was frankly baffled by the contradictory evidence.

The present author subsequently revisited the issue in a wider reassessment of the Domesday process.⁷ The *clamores* of the South Riding of the parts of Lindsey in Lincolnshire, enrolled in a schedule of disputes for the whole of the county appended to the end of *Great Domesday Book* (*GDB*), are explicitly said to be judgements: the title of the section reads ‘Disputes in the South Riding of Lincoln and their settlement by the men who swore (*clamores que sunt in Sudtreeding Lincolnie et concordie eorum per homines qui iuraverunt*)’⁸ Judgements of this kind elsewhere were indeed no such thing since they were

⁴ *Dialogus de Scaccario, the Course of the Exchequer, and Constitutio Domus Regis, the King’s Household*, ed. C. Johnson (London, 1950), p. 64.

⁵ For a review of the emergence of a consensus, and an opposing view, see D.R. Roffe, *Decoding Domesday* (Woodbridge, 2007), pp. 273–9.

⁶ P. Wormald, ‘Domesday Lawsuits: A Provisional List and Preliminary Comments’, in C. Hicks (ed.), *England in the Eleventh Century*, Harlaxton Medieval Studies, 2 (Stamford, 1992), pp. 61–102.

⁷ D.R. Roffe, *Domesday: The Inquest and the Book* (Oxford, 2000), pp. 165–8; idem, *Decoding Domesday*, pp. 273–8.

⁸ *GDB*, fol. 375: Lincs, CS.

referred to the king for determination.⁹ More to the point, however, was that the sessions were subsequent to the drafting of the body of the Lincolnshire text.¹⁰ The declarations of jurors there, frequently referring to the same cases as the *clamores*, were clearly simple presentments, the provision of evidence, rather than recognitions. Just how integral were claims to the Domesday inquest? Light on the matter is cast by a contemporary reference to a claim in Gloucestershire which has previously been overlooked.

In a late fourteenth- or early fifteenth-century calendar of donors appended to a history of the church of St Peter, Gloucester, there is a record of the confirmation of the abbey's tenure of Nympsfield by William the Conqueror. Subsequently, however, there appears the following entry: 'In 1087 Roger of Berkeley senior, in the survey of the whole of England, had Nympsfield assessed to the farm of the king without Abbot Serlo's knowledge (Anno millesimo octogesimo septimo, Rogerus senior de Berkelee, in descriptione totius Anglie, fecit Nymdesfeld describi ad mensam regis, abbate Serlone nesciente).'¹¹ The editor of the *Historia*, W.H. Hart, was somewhat perturbed by the implications of this comment. He pointed out that throughout the Middle Ages the test of tenure in ancient demesne was enrolment in the *terra regis* in *Domesday Book*. So, here was positive proof that *Domesday Book* could mislead: Nympsfield duly appears in the land of the king even though it rightly belonged to St Peter of Gloucester.¹² The conclusion was startling in the late nineteenth century and proved far too much for Sir Henry Barkly.¹³ In an essay in *Domesday Studies*, the proceedings of the conference held to celebrate the octocentenary of the

⁹ See, for example, *GDB*, fol. 377v: Lincs, CK50.

¹⁰ The cases themselves overlap with presentments preserved in the body of the text, but there is no exact correlation; disputes are found in the one that are not noticed in the other and vice versa. Nevertheless, it is clear that they were heard independently of the presentments in the text and almost certainly on a later occasion, for the twelve-carucate hundred, the northern equivalent of the vill, ubiquitous in the text, is absent in the *clamores*. The vill, of course, took no part in recognitions.

¹¹ Queen's College, Oxford, MS 367, BL, Cotton, Domitian viii, nos 21–2, printed in *Historia et Cartularium Monasterii Sancti Petri Gloucestriae*, ed. W.H. Hart, Rolls Series (3 vols, London, 1863–67), vol. 1, p. 101. *Mensa* is literally 'table'. The term is found only once in *Domesday Book*: in Raveningham Ketil Friday held 7 acres of land that were said to be 'mensa eiusdem manerii' (*Little Domesday Book: Library Edition*, eds A. Williams and G.H. Martin (London, 2000), hereafter *LDB*, fol. 273v. This is entry Norf, 65, 17 in *Domesday Book*, eds Morris and others. Since Ketil was a free man, the implication must be that he owed a food rent to the lord of the manor. By extension, the word could also refer to demesne land. The meaning of the word here is discussed below.

¹² *Historia et Cartularium*, vol. 3, pp. xxi–xxii.

¹³ H. Barkly, 'On an Alleged Instance of the Fallibility of Domesday in Regard to Ancient Demesne', in P. Dover (ed.), *Domesday Studies* (2 vols, London, 1888), vol. 2, pp. 471–83.

Domesday inquest in 1886, he took Hart to task for impugning the integrity of the document ‘from which no appeal can be made’. First, he asserted that the charter of William the Conqueror purportedly granting the manor was a forgery since Nympsfield does not appear in what he considered an authentic general charter of confirmation of 1086. Although there is a record of eighth- and ninth-century grants that indicates that St Peter had the estate at some time in the distant past, it was clearly in the hands of the king by the reign of Edward the Confessor. Land in Nympsfield was recovered by the church in the reign of William Rufus, again recorded in the calendar, but it was not the manor. Eustace of Berkeley restored only the chapel of Kinley and a virgate of land within the parish. Barkly sniffily concluded that the claim to the whole of Nympsfield was got up by the monks of Gloucester in the fifteenth century. In a brief commentary at the end of the article, J.H. Round shared Barkly’s horror at the thought of Domesday misleading, but, typically for him, took the opportunity, even more sniffily, to correct Barkly’s errors of interpretation. In particular, he asserted that the description of the Domesday inquest as the ‘descriptio totius Anglie’ clearly indicated that the entry in the cartulary drew on early evidence and that the fact that Abbot Serlo did not know what had happened was ‘of some interest.’¹⁴ There the matter has rested. Nympsfield has not figured in the discussion of *Domesday Book* since.¹⁵ In this paper the issue is reopened. If indeed this is an authentic reference to the Domesday inquest, it is of considerable interest to an understanding of the procedure of the survey and the place of disputes within it.

At the outset it is clear that Round’s intuition was sound. The calendar, it is true, is carelessly written, with many errors of fact and chronology.¹⁶ Nevertheless, from time to time it records material that cannot have been invented in the fifteenth century when it was compiled. The reference to the survey of the whole of England is a prime example. The name *Domesday Book* first appears in official sources in 1221 and its use soon became universal.¹⁷ Exactly when it came to be so called is not known. Richard FitzNigel, again writing in the *Dialogue of the Exchequer* in c. 1179, tells us that it was accorded the name by the English, ‘not because it contains decisions, but because those things that it does contain

¹⁴ J.H. Round, ‘Discussion’, *ibid.*, p. 483.

¹⁵ C. Flight, *The Survey of the Whole of England: Studies of the Documentation Resulting from the Survey Conducted in 1086*, British Archaeological Reports, British Series, 405 (Oxford, 2006), p. 122n, notes the reference but does not comment on it.

¹⁶ Barkly, ‘Alleged Instance of the Fallibility of Domesday’, p. 474 and n; D. Bates, ‘The Building of a Great Church: The Abbey of St Peter’s, Gloucester, and its Early Norman Benefactors’, *Transactions of the Bristol and Gloucestershire Archaeological Society*, 102 (1984): pp. 129–32.

¹⁷ *Curia Regis Rolls* (London, 1923–), vol. 10, p. 68; E.M. Hallam, *Domesday Book Through Nine Centuries* (London, 1986), p. 35.

cannot be changed'.¹⁸ What is clear, though, is that early on it had various names in written sources. Most clearly it was 'the king's book' or 'the book of Winchester'.¹⁹ Other references to *carte*, 'charters', *breves*, 'breves', and the like may refer to the Book or to other documents produced in the course of the survey.²⁰ The inquest itself, by contrast, was consistently called a *descriptio*.²¹ The term appears in *Domesday Book* in five passages,²² while in retrospect the inquest was called 'the survey of the whole of England (*descriptio totius Angiae*). That phrase first appears in a writ of William the Conqueror of 1086, a contemporary account of the survey penned by Robert of Losinga, bishop of Hereford, and in a St Paul's, London, source shortly thereafter.²³ It is used by Heming, in the variant form *descriptioes totius Anglie*, in the Worcester Cartulary in about 1100, and by Orderic Vitalis in his *Ecclesiastical History* in the 1120s.²⁴ Thereafter, it does not seem to appear.²⁵ By the early twelfth century attention had begun to move away from the inquest to the book.

¹⁸ *Dialogus de Scaccario*, p. 64.

¹⁹ V.H. Galbraith, 'Royal Charters to Winchester', *EHR*, 35 (1920): pp. 383–400 at p. 389; *GDB*, fol. 332v: Yorks, 31,1. The Domesday reference appears in the Bruis fee at the end of the Yorkshire folios of *GDB*; it is an addition added c.1120.

²⁰ For the various references, see Hallam, *Domesday Through Nine Centuries*, pp. 32–51.

²¹ *The Domesday Monachorum of Christ Church, Canterbury*, ed. D.C. Douglas (Oxford, 1944), pp. 23–4; C. Thorn and F. Thorn, 'The Writing of Great Domesday Book', in E. Hallam and D. Bates (eds), *Domesday Book* (Stroud, 2001), pp. 37–73 at p. 69 and n. 109. The term means 'a writing down', but in Domesday it is used of the process of collecting the evidence. In the notes appended to Salop C12 in the electronic edition of the Morris text (<http://www.esds.ac.uk/findingdata/snDescription.asp?sn=5694>, accessed 31 December 2012), it is asserted that *descriptio* refers to 'the Enquiry resulting in Great Domesday including the actual writing of it', but this formulation begs the question of the date of Domesday Book and its relationship to the inquest. For its association of the term with taxation and service, see J.O. Prestwich, 'Mistranslations and Misinterpretations in Medieval English History', *Peritia*, 10 (1996): pp. 322–40 at pp. 330–33.

²² *GDB*, fols 3, 164, 252, 269: Kent, 2,2; Gloucs, 1,63; Salop, C12; Ches, FT2,19; *LDB*, fol. 450: Suff, 77.4.

²³ *Regesta Regum Anglo-Normanorum: The Acta of William I 1066–1087*, ed. D. Bates (Oxford, 1998), no. 326; W.H. Stevenson, 'A Contemporary Description of the Domesday Survey', *EHR*, 22 (1907): pp. 72–84 at p. 74; *Historical MSS Commission Ninth Report* (2 vols, London, 1883), vol. 1, p. 65b. *Regesta*, no. 398 was probably copied from *Regesta*, no. 326 in the early twelfth century.

²⁴ *Hemingi Chartularium Ecclesiae Wigorniensis*, ed. T. Hearne (2 vols, Oxford, 1723), vol. 1, pp. 287–8; *OV*, vol. 2, p. 267.

²⁵ Pace V.H. Galbraith in *The Herefordshire Domesday*, ed. V.H. Galbraith and J. Tait, Pipe Roll Society, new series, 25 (1950), p. xxv. The Winchester chroniclers use the verb *describere*; FitzNigel's *descriptio terrarum* may have an echo of the earlier phrase.

The use of the descriptor in the St Peter's donors' calendar would seem to indicate that the record is indeed of an early date. We must take seriously the assertion that land was assigned to the king without the knowledge of Abbot Serlo. What, then, are we to make of this statement? That St Peter's held land in Nympsfield is witnessed by its tenure of the chapel of Kinley and its appurtenances in the later Middle Ages.²⁶ The fact disposes us to believe that the calendar's record of its restitution, as the presumably synecdochic 'Nympsfield', by Eustace of Berkeley in 1093 is also authentic.²⁷ The manor of Nympsfield itself, the major part of the vill, was not held by the church. It was in the possession of the Berkeley family throughout much of the twelfth century and thereafter remained in lay hands.²⁸ However, it is likely, as Round intimated, that St Peter's claimed title to the whole estate in the eleventh century. The *Historia* sets the scene. A benefactors' list therein records that in the late eighth-century Ealdred, under-king of the Hwicci, gave, inter alia, to the nuns of St Peter in Gloucester, three *manentes* in Nympsfield. According to the same source, this gift was regranted or confirmed by Burgred of Mercia in the same terms in 852.²⁹ *Manens*, probably incomprehensible in the fifteenth century, stood in for *hida* in pre-Conquest charters, and so an early transaction is not intrinsically unlikely.³⁰ The record of confirmation supposedly by William the Conqueror brings the story up to the late eleventh century. The authenticity of this last *actum* is unverifiable. It is clear, though, that Barkly's dismissal cannot be sustained since the charter of confirmation of 1086 on which he relied is itself manifestly a later compilation.³¹ We cannot be certain that St Peter's held Nympsfield before the Domesday inquest, but it certainly had a claim on it. The tenor of the complaint in the calendar is that the church had been unjustly dispossessed by the actions of Roger of Berkeley or had been unable to register its claim on the same account.

The case is not obviously the usual one of naked aggression. The emphasis is on the abbot's ignorance: there is something of the inadvertent in the story. It is

²⁶ *Historia et Cartularium*, vol. 2, pp. 41–2.

²⁷ A subsequent entry records that Roger II de Berkeley took it away again in the following year. Is this a memory of the original appropriation by his father? According to T. Tanner, *Notitia Monastica* (Oxford, 1695), p. 145, William Rufus restored the estate in 1093.

²⁸ *Liber Feodorum. The Book of Fees commonly called Testa de Nevill*. ed. H.C. Maxwell Lyte (3 vols, London, 1920–31), vol. 1, pp. 439, 443; Barkly, 'Alleged Instance of the Fallibility of Domesday', pp. 476–7.

²⁹ *Historia et Cartularium*, vol. 1, p. 122. The grant is also noticed in the body of the *Historia* (*ibid.*, p. 4).

³⁰ The list uses various pre-Conquest synonyms for hide – *hida*, *manens*, *cassatus*, *tributarius* – in the early part of the list, suggesting that the scribe copied faithfully from his source or sources.

³¹ *Regesta*, no. 156.

possible, then, that lack of communication, for example, lies at the root of the issue. Several entries in the Gloucestershire folios hint that there were indeed some exceptional problems in the collection of data in the shire. In the account of Woodchester it is recorded that ‘no one gave any account (rationem) of this manor to the king’s commissioners, nor did any of them come to this inquest (descriptionem)’.³² The men of Woodchester were not the only ones who stayed at home. Earl Hugh held two manors of four hides in Longtree Hundred which two of his men held, but ‘there has been no one to answer (responderet) for these lands, and they are valued by the men of the shire at £8’.³³ Again, Roger son of Ralph had a manor in Swinehead Hundred and ‘there has been no one to answer (responderet) for this land’.³⁴ Such references are rare elsewhere and it is thus possible that there were some local procedural glitches in the conduct of the inquest in Gloucestershire.

It is unlikely, however, that St Peter’s lost Nympsfield on that account. Failure to provide information, it is true, could lead to forfeiture. In North Barningham in Norfolk there were two commended men held by Ansketil FitzUnspac, but ‘there was no one who could render the account (reddideret comptum)’ and in consequence the land was in the hands of the king.³⁵ This, though, was not the experience of the Gloucestershire cases. The first two are definitely postscriptal, and the third may also be so,³⁶ and it looks as if the scribe may have waited for the relevant information or, at least, searched for it in another source. When it was not forthcoming, he nevertheless enrolled the land in the breve of the lord who claimed it. Woodchester, of course, was entered into the *terra regis* since, return or no return, it was the king’s. But the lands in Longtree and Swinehead Hundreds were assigned to Earl Hugh and Roger son of Ralph respectively.

Inquest procedure probably lies at the heart of the distinction between the Gloucestershire and Norfolk cases. There was more than one occasion on which data might not be provided. The vast majority of the presentments which are recorded in *Domesday Book* were those of the hundred and shire, but the matters on which they pronounced are largely confined to geld assessment and title.³⁷ The bulk of the data came from other sources. Local juries were not competent to pronounce on much of the business of the survey and it is clear that the minutiae of manorial structure and stocking were supplied by lords in their own

³² *GDB*, fol. 164: Gloucs, 1,63.

³³ *GDB*, fol. 166v: Gloucs, 28,7.

³⁴ *GDB*, fol. 170: Gloucs, 75,3.

³⁵ *LDB*, fol. 279v: Norf, 66,99.

³⁶ *Domesday Book: Gloucestershire*, ed. J.S. Moore (Chichester, 1982), 75, nn. 2–3 suggests that the two entries are different tenants-in-chief. The blank line and rustic capitals of the account support this contention, but there are only very slight differences in the hand that may merely indicate that the scribe consulted a separate source.

³⁷ Roffe, *Decoding Domesday*, p. 81.

detailed returns.³⁸ Only one Domesday passage refers to the process directly: in the Norfolk folios reference is made to the day on which Robert Malet's land was enrolled (*inbreviatus*).³⁹ A late eleventh-century reference to lands 'which the commissioners swore to [the canons of St Paul's, London] in the inquest of the whole of England' probably refers to the same process.⁴⁰ Nevertheless, variations in content and expression from chapter to chapter indicate that seigneurial returns, whether written or delivered verbally, were the norm. Compliance seems to have been high, but failure to provide data does not seem to have necessarily had an adverse effect on tenure. So, it is reported in the Herefordshire folios that there were 300 hides of land in the bishopric of Hereford, 'although of 33 hides the bishop's men have given no account (rationem)'.⁴¹ Whether the 300 hides were confined to Herefordshire or included all of the bishop's lands, is unclear. However, 33 hides are not obviously missing and all are said to belong to the bishopric.

It is most likely, then, that the three cases in Gloucestershire in which there was no account relate to a failure to provide a return of stock. All three, indeed, provide only the barest details of the estates. The Norfolk case seems to have been somewhat different and may be more relevant to Nympsfield. At some early stage in the survey estates had to be in some way 'claimed' by their lord.⁴² Bishop Osbern of Exeter, for example, produced before the commissioners charters to demonstrate his right to the manor of Crediton in Devon.⁴³ Failure to claim land in this way led to forfeiture. In Yorkshire the *clamores* records that there were two manors in Belby which had belonged to Orm and Basinc in 1066. The bishop of Durham held them up to the inquest, 'but no one claims (clamat) them now, neither the sheriff nor the bishop'. The land was duly enrolled in a schedule of waste or unoccupied lands in the king's breve.⁴⁴ Again in Essex, it is said of the land of Tuold in Alresford that 'the Hundred does not know how he had this land and since neither an officer nor any other man came on his behalf to prove his right to this land, it has been taken into the king's hands'.⁴⁵ References to writs or delivery, albeit usually in the context of

³⁸ *Ibid.*, pp. 85–7.

³⁹ *LDB*, fol. 276v: Norf, 66,61. See also *LDB*, fol. 277v: Norf, 66,81, for a reference to Roger Bigod's return (*breve*). Here, as in other notices of *breve*, it is not clear whether the scribe is referring to a chapter in the work in hand, that is, *LDB*, or a separate document.

⁴⁰ *Historical MSS Commission Ninth Report*, vol. 1, p. 65b. See also, land 'inbreviata' in a charter of St Benet Hulme of the 1090s (*English Historical Documents, 1042–1189*, eds D.C. Douglas and G.E. Greenaway (London, 1953), no. 200).

⁴¹ *GDB*, fol. 182v: Heref, 2,57.

⁴² Roffe, *Domesday: The Inquest and the Book*, pp. 136–8.

⁴³ *GDB*, fol. 101v: Devon, 2,1.

⁴⁴ *GDB*, fols 301, 373: Yorks, 1E2.CE, 12.

⁴⁵ *LDB*, fol. 25v: Essex, 18,44.

claims, are common throughout *Domesday Book*. A number of documents in the Domesday corpus, notably Evesham A, have been tentatively identified as schedules, or collections of schedules, drawn up by tenants-in-chief to register their tenure, if not title, in the inquest in this way.⁴⁶

The defining characteristic of these sources is that they are cursory lists of estates and their assessments that deviate from the hundredal order of the Domesday texts. As such they have usually been identified as strictly pre-inquest sources. The public forum in which evidence was witnessed was the courts of hundred and shire, in the case of the Domesday inquest, meeting in joint sessions. It was their verdicts that gave the distinctive order of hundreds that is evident in chapter after chapter throughout much of *Domesday Book*. Domesday-type texts that do not exhibit this order must therefore be earlier. Evesham A, and documents like it, have thus been seen as marking the beginning of the Domesday process.⁴⁷ Within this scenario it is difficult to comprehend the Nympsfield reference. If tenants-in-chief were invited to lay claim to their lands at the beginning of the enterprise, why did the abbot of St Peter's not register Nympsfield? Oversight or incompetence could explain the omission – it is unlikely that any religious house would admit to such a lapse – but that seems hardly credible given the importance of the business in hand. Indeed, there is evidence that Abbot Serlo was fully aware of the procedure: the Domesday entry for St Peter's manor of Duntisbourne Abbots apparently quotes the charter by which William the Conqueror confirmed its grant by Emmilina, wife of Walter de Lacy.⁴⁸ Oversight can be discounted. Rather it would seem that the abbot was claiming that Roger of Berkeley registered the land off his own bat.

How this might have happened suggests an entirely different view of Domesday procedure. The assumption that Evesham A and the like represent the first stage in the Domesday process depends on a pre-conceived notion of its purpose. It is a notion that has a long history. By far the most substantial and impressive product of the inquest is *Domesday Book* itself and from the late twelfth century it has dominated the understanding of the inquest. According to Richard FitzNigel, it was designed to bring the English 'under the rule of written law', so that 'every man may be content with his own rights, and not encroach

⁴⁶ P.H. Sawyer, 'Evesham A, a Domesday Text', *Miscellany 1*, Worcestershire Historical Society (1960), pp. 2–36 at pp. 9–10. Other texts of the kind possibly include the Descriptio Terrarum of Peterborough Abbey, Domesday Monachorum A of Christchurch, Canterbury, Evesham F, and Worcester A (Roffe, *Domesday: The Inquest and the Book*, pp. 137–8).

⁴⁷ H.B. Clarke, 'The Domesday Satellites', in P.H. Sawyer (ed.), *Domesday Book: A Reassessment* (London, 1985), pp. 50–70 at pp. 60–62.

⁴⁸ The 'Uxor Walteri de Laci concessu regis Willelmi dedit Sancto Petro pro anima viri sui Dunteshorne' of the Domesday entry reflects 'Emmelina uxor Walterii de Laci dedit Petro de Gloucestre pro redemptione anime viri sui unam villam quinque hydarum, scilicet Dunteshorne' of the charter of 1085 (*GDB*, fol. 165v: Gloucs, 10,13; *Regesta*, no. 156).

unpunished on those of others.⁴⁹ Richard attributes this understanding to Henry of Blois, bishop of Winchester and treasurer (d. 1171), but it is a formulation, one must suspect, that owes as much to contemporary concerns as any eleventh-century reality. After the anarchy of King Stephen's reign, Henry II's most pressing problem was to effect a settlement by restoring lands to their rightful holders. The means were novel legal instruments which were to form the basis of English Common Law.⁵⁰ Richard was promoting *Domesday Book* as both a precedent and potent icon of the process. The centrality of *Domesday Book* is the product of late twelfth-century spin. Nevertheless, the notion has dominated Domesday scholarship ever since.

There is nothing inherent in the Domesday corpus of documents that necessarily supports it. *Domesday Book* does not stand alone as a witness to the Domesday process. The most substantial survival is *Exon*. It is an account of fees on a regional basis but, unlike *Domesday Book*, it is not compiled to a set format; it is simply a collection of seigneurial breves, in effect little more than an office file. The *Inquisitio Comitatus Cantabrigiensis* (*ICC*) is a full Domesday-like account of Cambridgeshire, less the lands of the king, but is geographically arranged by hundred and vill. The *Inquisitio Eliensis* (*IE*), predominantly an account of the lands of Ely Abbey, appears to have been derived from similar sources, at least in so far as its East Anglian estates are concerned. The other fragmentary documents are variously both seigneurially and geographically arranged sources.⁵¹ Only the so-called articles of enquiry in the prologue to the *IE* may seem to pre-figure *Domesday Book*, but closer inspection reveals that they could have as easily informed the compilation of the *ICC* as a feudally arranged source and are anyway probably a post-Domesday production.⁵² Attempts have been made to shoehorn these disparate sources into a single taxonomy,⁵³ but there is nothing inherent in the documents themselves that suggests a single activity. If *Domesday Book* was intended from the start of the enterprise, why was so much effort put into drafting geographical recensions for much of England?

The geld inquest, records of which are bound up with *Exon*, is evidence that 1086 saw a number of different activities.⁵⁴ So different was this from the business of the production of *Domesday Book* that attempts have been made to relegate

⁴⁹ *Dialogus de Scaccario*, p. 63.

⁵⁰ J. Hudson, *The Formation of the English Common Law* (London, 1997), pp. 127, 139.

⁵¹ Roffe, *Decoding Domesday*, pp. 29–61.

⁵² *Ibid.*, pp. 114–17.

⁵³ Clarke, 'The Domesday Satellites', pp. 50–70; A. Freason, 'Domesday Book: The Evidence Reviewed', *History*, 71 (1986): pp. 375–93.

⁵⁴ *Libri Censualis, vocati Domesday Book, Additamenta ex Codic. Antiquiss. Exon Domesday; Inquisitio Eliensis; Liber Winton; Boldon Book*, ed. H. Ellis (London, 1816), hereafter *Exon*, fols 1–10, 13–24.

it to an earlier date or at least a contemporary but independent enterprise.⁵⁵ Nevertheless, contemporary evidence places it firmly in 1086 as one of a number of separate but interrelated activities. The E version of the *Anglo-Saxon Chronicle* is a particularly eloquent witness. It records that the king had much thought and deep discussion with his council at Gloucester about England, 'about how it was occupied or with what sort of people. Then he sent his men all over England into every shire and had them find out how many hundred hides there were in the shire, or what land and cattle the king himself had in the country, or what dues he ought to have in twelve months from the shire'.⁵⁶ Here a survey of royal estates is linked to an *inquisitio geldii* in what must have been a through-going audit of regalia. The documentation that the process produced was not confined to the geld records preserved in *Exon*, but also included extended accounts of the *terra regis*, probably substantially like those in *Domesday Book*, reference to which is found in the *ICC* as the king's breves, along with summaries of the issues of the shires from customs, pleas and the like.⁵⁷ Further activities ensued. The *Anglo-Saxon Chronicle* continues: 'Also he had a record made of how much land his archbishops had, and his bishops and his abbots and his earls – and though I relate it at too great a length – what or how much everyone had who was occupying land in England'.⁵⁸ The outcome was documents like *Exon* and the *ICC*.

To what extent the survey of royal estates and regalia, the *inquisitio geldii*, and the further survey of baronial lands were conceived as a single enterprise is unclear. They were to come together, to a degree, with the compilation of *Domesday Book* in so far as it contains account of both royal and seigneurial lands, but that is not to say that *Domesday Book* was intended from the start. Indeed, as an abbreviation, it was most probably an afterthought. In the later Middle Ages the scope and conduct of inquests tended to change as early returns threw into relief the extent of the problem in hand and the types of information needed to meet the occasion. The Domesday inquest may have been no different.⁵⁹ What is clear, however, is a change in venue and personnel between the early and later stages. The decisive evidence here comes from a second contemporary source. Writing within a year of the inquest, Robert of

⁵⁵ R.W. Eyton, *Domesday Studies: An Analysis and Digest of the Somerset Survey and of the Somerset Gheld Inquest of AD 1084* (2 vols, London, 1880), vol. 1, pp. 87–93; R.W. Eyton, *A Key to Domesday: The Dorset Survey* (Dorchester, 1878), pp. 4–5, 109; V.H. Galbraith, *The Making of Domesday Book* (Oxford, 1961), pp. 87–101, especially at p. 92; S.P.J. Harvey, 'Domesday Book and its Predecessors', *EHR*, 86 (1971): pp. 753–73 at pp. 768–9.

⁵⁶ *The Anglo-Saxon Chronicle: A Revised Translation*, eds D. Whitelock, D.C. Douglas and S.I. Tucker (2nd edn, London, 1963), pp. 161–2.

⁵⁷ Roffe, *Decoding Domesday*, pp. 74–82.

⁵⁸ *Anglo-Saxon Chronicle*, pp. 161–2.

⁵⁹ Roffe, *Decoding Domesday*, pp. 62–108.

Losinga, bishop of Hereford, recorded that there was a survey of the whole of England in 1086 and went on to say ‘Other investigators followed the first and were sent to counties that they did not know, and where they themselves were unknown, to check the first description and to denounce any wrongdoers to the king.’⁶⁰ It is clear from this account that the initial survey was conducted by local officials and so was presumably supervised by the sheriff and other royal officials in the shire. By contrast, special commissioners, referred to as *legati* or *barones* in *Domesday Book*, were appointed to groups of counties to oversee the second stage. It was to those appointed to the West Country shires that the bishop of Exeter showed his charters for Crediton and it was from their sessions that the regionally arranged breves of *Exon* emanate. In abbreviation, it would seem, was the business of the second stage of the Domesday inquest.

The survey of regalia and the *inquisitio geldii* were confined to proceedings in the shire. Evesham A, then, and similar documents do not have to stand at the very beginning of the Domesday process: claims to land were a precursor to the second stage of the inquest. Abbot Serlo’s complaint that Roger of Berkeley enrolled Nympsfield without his knowledge begins to make more sense in this context. In 1086 the land is entered in the *terra regis* as one of the 21 berewicks of the manor of Berkeley.⁶¹ In substance, the whole extended estate seems to have been the endowment of the abbey of Berkeley which is first noticed in the historical record in the early ninth century. By 1066 the abbey had been dissolved, according to twelfth-century tradition forcibly by Earl Godwine, or at least was much reduced, and its lands were in the hands of Edward the Confessor.⁶² Roger of Berkeley had probably become the king’s reeve thereafter and farmed the estate at the time of the inquest.⁶³ As such, he would have provided the account of Berkeley substantially as it appears in *Domesday Book* in the first stage of the inquest. He evidently considered Nympsfield an integral part of the estate and felt no need to consult any other party in what was a survey of the royal demesne alone.

⁶⁰ Stevenson, ‘Contemporary Description of the Domesday Survey’, p. 74. This passage is echoed in a copy of Marianus’ History probably from Worcester (BL, Cotton MS, Nero C v). It reads: ‘William, king of the English, ordered all of the possessions of the whole of England to be described, in fields, in men, in all animals, in all manors from the greatest to the smallest, and in all payments which could be rendered from the land of all. And the land was vexed with much violence proceeding therefrom’ (Stevenson, ‘Contemporary Description of the Domesday Survey’, p. 77).

⁶¹ *GDB*, fol. 163: Gloucs, 1,15.

⁶² A. Williams, ‘An Introduction to the Gloucestershire Domesday’, in *The Gloucestershire Domesday*, eds A. Williams and R.W.H. Erskine (London, 1989), pp. 1–39 at pp. 32–3.

⁶³ *GDB*, fol. 163: Gloucs, 1,17.

Abbot Serlo's ignorance, then, becomes comprehensible. Nympsfield was enrolled in a survey of the royal fisc in which he had no right of audience and took no part. If Roger in his official capacity acted mistakenly or fraudulently, the question then becomes why the abbot's claim was not subsequently made and recorded in *Domesday Book*. In 1880 A.S. Ellis viewed the matter as one of perspective. He suggested that the issue turned upon the payment of farm rather than the tenure of land.⁶⁴ Despite Barkly's dismissal, the idea does have some substance. An estate might owe customs to the king but would otherwise be freely held. Thus, it is recorded in the Berkeley entry itself that 'in this manor TRE 2 brothers held 5 hides in Cromhall ... these 2 brothers could turn where they would with their land.'⁶⁵ Nympsfield, then, could well have been in the tenure of the abbot but, like the land in Cromhall, was entered in the *terra regis* because it rendered farm to the king. The abbot's complaint in the calendar would effectively be that Nympsfield should be held in free alms.

The solution is an attractive one, but not entirely convincing. In the normal course of events where dues from land were reserved, an estate was entered in the tenant-in-chief's chapter as well as the *terra regis*. Kemerton and Boddington, held by Westminster Abbey, are local examples.⁶⁶ Nympsfield is, of course, not obviously represented in St Peter's breve.⁶⁷ Furthermore, the subsequent restitution of Kinley suggests that tenure was the problem.

Roger of Berkeley would indeed seem to have held Nympsfield, either on behalf of the king or on his own account. Whether he held rightly or wrongly, within the remit of the inquest it was therefore appropriate that it should appear in the *terra regis* in Gloucestershire. As a matter of course lands claimed by the crown were taken into the king's hands in the survey of royal demesne.⁶⁸ Presumably the aim was to maximize royal income. The same concern informed the *inquisitio geldii*. The surviving accounts suggest that one aim was to collect outstanding taxes from the geld of 1084; a new geld was probably also contemplated. From a royal perspective right to land was immaterial. By contrast, it was anything but for the tenant-in-chief and his tenants. To geld in the broadest sense, that is to render all the taxes, services and dues that were owed by land, defined freedom and title.⁶⁹ The principle is implicit in the Anglo-Saxon law codes and is articulated in *Domesday Book* itself: in Berkshire it is

⁶⁴ A.S. Ellis, 'Domesday Tenants of Gloucestershire', *Transactions of the Bristol and Gloucestershire Archaeological Society*, 4 (1879–80): pp. 86–198 at p. 145.

⁶⁵ The entry goes on to say that William FitzOsbern commended the men to the reeve of Berkeley so that he might have their service. Commendation, however, did not bring land into a manor.

⁶⁶ *GDB*, fols 163v, 166: Gloucs, 1,19; 19,2.

⁶⁷ *GDB*, fol. 165v: Gloucs, 10.

⁶⁸ Roffe, *Domesday: The Inquest and the Book*, pp. 136–9.

⁶⁹ Roffe, *Decoding Domesday*, pp. 190–97.

recorded that those who did not perform military service forfeited their lands to the king.⁷⁰ The failure to geld jeopardized tenure. It was therefore inevitable that any audit of the geld would bring forth claims to land. By necessity, the documentation that came out of the *inquisitio geldii* included references to disputes.

They were destined never to take centre stage. Whether the schedules produced by the tenants-in-chief were presented at this time or later is not clear. What is evident is that a list of the lands held by each tenant-in-chief was drawn up to inform the second stage of the inquest from the documentation of the first. Thus, in some areas there is compelling evidence that it was geld accounts that structured Domesday entries as opposed to manorial structure,⁷¹ while Bath A, the closest we have to a seigneurial return in the Domesday corpus, already exhibits the hundredal order of *Domesday Book*.⁷² What estates the lord presented for inbreviation were evidently determined by an official rather than a private schedule of lands.⁷³ The type is perhaps represented by extant sources like Abingdon A, the Crowland Domesday, and the Excerpta of St Augustine's, Canterbury.⁷⁴ So it was that disputed estates were entered in the chapter of the existing sitting tenant. At the same time, however, or possibly later, schedules of disputes were drawn up for separate consideration. Reference is made to these sources in the *IE* and *Ely D* is probably an example, while the *invasiones* sections of *LDB* and the *terre occupate* of *Exon*, supplemented by the details of stock, are derived from them.⁷⁵ Most did not find their way into *GDB*. When the main scribe began his work with the writing of the account of the northern shires of Circuit VI, he included similar lists for Yorkshire and Lincolnshire in an appendix, and subsequently noted further *clamores* for Huntingdonshire.⁷⁶

⁷⁰ *GDB*, fol. 56v: Berks, B10.

⁷¹ D.R. Roffe, 'Place-Naming in Domesday Book: Settlements, Estates, and Communities', *Nomina*, 14 (1990–91): pp. 47–60.

⁷² *Two Chartularies of the Priory of St Peter at Bath*, ed. W. Hunt, Somerset Record Society, 7 (1893), pp. 67–8.

⁷³ Roffe, *Decoding Domesday*, pp. 82–5.

⁷⁴ D.C. Douglas, 'Some Early Surveys from the Abbey of Abingdon', *EHR*, 44 (1929): pp. 618–25 at p. 623; *Rerum Anglicarum Scriptores Veteres*, ed. W. Fulman (Oxford, 1684), pp. 80–82; *An Eleventh-Century Inquisition of St Augustine's, Canterbury*, ed. A. Ballard, Records of the Social and Economic History of England, 4 (London, 1920), pp. 1–33.

⁷⁵ *Inquisitio Comitatus Cantabrigiensis*, ed. N.E.S.A. Hamilton (London, 1876), pp. 127, 184–9; *LDB*, fols 99–104, 273v–80, 447–50: Essex, 90; Norfolk, 66; Suffolk, 76–7; *Exon*, fols 495–512.

⁷⁶ *GDB*, fols 208–208v, 373–77v: Hunts, D; Yorks, CN, CE, CW; Lincs, CS, CN, CW, CK. For the order of writing of *GDB*, see Roffe, *Domesday: The Inquest and the Book*, pp. 191–210. Thorn and Thorn, 'Writing of Great Domesday', pp. 42–6, assert that the *Clamores* section was written at the very end of the process because the quire exhibits ruling

Thereafter he dispensed with the data and progressively dropped references to disputes as his work progressed. Gloucestershire, written some half way through, is one of the counties in which the data were largely omitted.⁷⁷

We can see at last, then, that Abbot Serlo's complaint had most likely been entered on a separate schedule and was simply edited out of *GDB*. However, it would be misleading to characterize Serlo as a victim of an editorial whim. The *GDB* scribe decided at an early stage that claims to land were irrelevant to his purpose. A record of tenure was good enough for him. Nevertheless, this does not mean that matters of title were of no moment in the inquest. Further proceedings were clearly planned. The *invasiones* record judicial preliminaries such as pledging and the like, and the Lincolnshire *clamores* are said to be *concordiae*, 'settlements', although the reality is that most were not.⁷⁸ A claim first made in the Domesday inquest in Huntingdonshire was subsequently settled in the county court⁷⁹ and this was probably the planned course of events for most pleas. Whether all reached court is unlikely – the majority of disputed lands remained in the hands of the successors of the Domesday tenants – but the intention probably remained to see pleas through to a determination in due course. Resolution of contentious issues was not central to the business of 1086, but it remained an aspiration, not the least since it promised further profit for the king. It is not impossible that the restitution of Kinley to St Peter's in 1093 was a consequence of a claim made in 1086.

The Domesday inquest was a royal enterprise. The king demanded information under certain heads and he put in motion the machinery of local government to collect it. Put thus, the inquest looks like a simple exercise of the royal prerogative. But that is to misunderstand the context and the realities of power. There was a national emergency. The realm of England was threatened with invasion by King Cnut of Denmark and English resources had not proved sufficient to meet the threat. I have argued elsewhere that it was this background that frames the various activities of the inquest.⁸⁰ William needed cash to pay for the mercenaries that he had hired and also sought a review of service to obviate the need in future. Title was not a pressing issue for William. But, in so far as he had to enlist the support of his subjects through consultation before and negotiation after, it became so for his subjects. Taxation and service – and the more so new imposts – legitimized tenure. A demand was created, if not

pattern 2, only otherwise found in Circuit III. However, as they themselves suggest, the change in format – an increase in the number of horizontal lines – was probably a function of subject matter.

⁷⁷ Wormald, 'Domesday Lawsuits'.

⁷⁸ *GDB*, fol. 375: Lincs, CS.

⁷⁹ D. Bates, 'Two Ramsey Writs and the Domesday Survey', *Historical Research*, 63 (1990): pp. 337–9.

⁸⁰ For the following, see Roffe, *Domesday: The Inquest and the Book*, pp. 227–42.

to determine, then to air disputed tenure. The result was the special procedure introduced to record disputes which left the commissioners free to carry out the main business of the inquest. Abbot Serlo's profession of ignorance shows just how easy it was for individual concerns to get lost in a process that had not been designed to meet them.

His experience, then, is of more than 'some interest'. Most immediately it tells us something about the business of the Domesday inquest. It seems impossible to interpret if the Domesday inquest and the production of *Domesday Book* are seen as a single monolithic process. Serlo's ignorance speaks of a procedure to which the tenant-in-chief was not privy. It has been suggested here that that procedure was an essentially private review of the royal fisc. Whether this review was originally intended to stand on its own is not known. What is clear is that the data were subsequently used to inform the survey of seigneurial estates which followed. More directly, the reference illuminates the way in which disputed tenure bubbled up in a series of enterprises in which they had no place. The airing of questions of title was a by-product which was to prove of little interest to the *GDB* scribe and were apparently peripheral to the main business of the inquest. Yet it was a matter that dared to speak its name and in so doing the Domesday inquest came to serve subject, however imperfectly, as well as sovereign.

In this way the process incidentally saw the meeting of government with the governed. It nicely illustrates an aspect of the inquest that was to characterize the instrument of government throughout the Middle Ages.⁸¹ The great inquiries of the twelfth and thirteenth century were all primarily concerned with royal income. Insofar as the crown was dependent on local communities for information, however, it had to recognize their concerns. Sometimes communal issues were addressed directly as in 1258 and 1275. More often they were peripheral to the matters in hand. Nevertheless, *querelae*, the complaints of individuals, are common to all. Perforce the inquest was a mechanism of negotiation before the advent of parliaments in the second half of the thirteenth century. In using it to defend his own interests, Serlo placed himself in what was to prove a long tradition of pragmatic accountability in English government.

⁸¹ D.R. Roffe, 'Inquests in Medieval England', *The Haskins Society Journal Japan*, 4 (2011): pp. 18–24.