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THE PEOPLES OF BRITAIN AND IRELAND 1100–1400
III. LAWS AND CUSTOMS

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EDWARD I and his judges delivered some of the most resounding *obiter dicta* on the nature of law and justice in the medieval period; but on occasion they found themselves at the receiving end of such pontificating practices. One such occasion took place at Oswestry in January 1279. Walter de Hopton and his fellow justices were ambling their way through the interminable dispute between Llywelyn ap Gruffudd, prince of Wales, and Gruffudd ap Gwenwynwyn, lord of Powys and client of the English king. In rotund phrases, at once deeply flattering and profoundly challenging to Edward I, Llywelyn delivered himself of a grand declaration about the relationship of law, people and political power:

> Each province under the empire of the lord King has its own laws and customs according to the habit and usage of the parts in which it is situated—for example, the Gascons in Gascony, the Scots in Scotland, the Irish in Ireland and the English in England. This indeed exalts rather than diminishes the crown of the lord King. The Prince accordingly requests that he likewise should have his Welsh law and should proceed according to it. He has all the more reason for making this request since the King, of his own free will, in the recent peace treaty concluded between them, granted to Llywelyn and all Welshmen the right to have their own law. By natural justice (*de jure communi*) he ought to have Welsh law and custom, just as other peoples (*naciones*) under the empire of the lord

> King have their laws and customs according to their language, or ethnic affiliation (*secundum linguam suam*).[1]

Llywelyn's statement, resonant as it may have been, was in fact as *parti pris* as many of Edward I's own self-confident declarations; but his viewpoint was by no means personal to him. His words were directly echoed by those of his ambitious brother, Dafydd ap Gruffudd;[2] and they were even more pointedly and bitterly echoed by Maredudd ab Owain, one of the native rulers of south-west Wales:

> All Christians have their laws in their own lands. Even the Jews have their laws among the English. They (i.e. the Welsh of northern Ceredigion) and their ancestors had their own immutable laws and customs until the English deprived them of their laws after the recent war (i.e. of 1276–7).[3]

In what turned out to be the last desperate struggle to retain a measure of political independence, the Welsh had clearly decided to use the identity of their own laws and customs as an issue around which they could unite and as an ideological platform on which to base their case.[4] The Scots would certainly have accepted the validity of the Welsh argument. When it came to be their turn to try to resist the suffocating demands of the English king's claim to superior lordship over them, they likewise based their case in part—though never, it is true, as exclusively as did the Welsh, for they had other strings to their bow—on the defence of their 'rights, laws, liberties and customs', whether it be in the relatively trusting days of the treaty of Birgham in summer 1290 or, in the aftermath of the long struggle for independence, during the peace negotiations of 1323.[5]

There was, of course, nothing insular, or peninsular, about the arguments advanced by the Welsh and the Scots. The assumptions that laws and customs helped to define a people and that the right to enjoy their own laws and customs was an universal privilege of all peoples,

[1] *Welsh Assize Roll 1277–84*, ed. J. Conway Davies (Cardiff, 1940), 266.

[2] *Calendar of Ancient Correspondence concerning Wales*, ed. J.G. Edwards (Cardiff, 1935), 73 (1281–2).

[3] *Registrum Epistolarum fratris Johannis Peckham*, ed. C.T. Martin (Rolls Series, 1882–5), II, 454.

[4] R.R. Davies, 'Law and National Identity in Thirteenth Century Wales', in *Welsh Society and Nationhood. Historical Essays Presented to Glanmor Williams*, ed. R.R. Davies *et al.* (Cardiff, 1984), 51–69.

[5] *Documents Illustrative of the History of Scotland 1286–1306*, ed. J. Stevenson (Edinburgh, 1870), I, 162–73; G.W.S. Barrow, 'A Kingdom in Crisis: Scotland and the Maid of Norway', *Scottish Historical Review*, LXIX (1990), 120–41 (Treaty of Birgham); *Anglo-Scottish Relations 1174–1328: Some Select Documents*, ed. E.L.G. Stones (Oxford, 1965), 155 (1323). For another example: G.W.S. Barrow, *Robert Bruce and the Community of the Realm of Scotland* (3rd edn, Edinburgh, 1988), 130.

or at least of all Christian peoples, were among the commonplaces of medieval thought. Indeed law was commonly defined in the early middle ages in terms of peoples (such as Lombards or Visigoths) rather than of rulers, kingdoms or territories. A territorial concept of law, it is true, came to establish itself alongside, and perhaps increasingly instead of, such an ethnic view of law; but in the borderlands of Europe in particular, in societies where two or more peoples co-existed and intermingled, a strong sense that each people had its own distinctive laws persisted, and with it the conviction that within such mixed societies each individual and each ethnic group should enjoy his or its own laws and customs.[6] Wales and Ireland remained throughout the medieval period such societies; law and customs defined in good measure what it meant to be Welsh or Irish in what were otherwise politically fragmented and partially, or completely, conquered societies.

Such views were not the prerogative of peripheral or archaic societies; they would have been regarded as unexceptionable in the highest scholarly circles of medieval England and Europe. 'Different peoples differ from one another', so Regino of Prüm observed around the year 900, 'in descent, manners, language, and laws'; more than two centuries later Bernard, the first Norman bishop of St Davids, concurred entirely and concluded that by such a definition the Welsh were certainly a distinct people.[7] Much at the same time William of Malmesbury was composing his history of the English and revealing that he likewise subscribed, at least historically, to the same assumption. When he described how Egbert of Wessex forged the kingdoms of England into one empire under a single lord, he also added that each constituent part of Egbert's empire was allowed to retain its own laws.[8] It was precisely the same point as the one which Llywelyn ap Gruffudd's spokesman made in January 1279.

Nor did more hard-headed politicians and lawyers necessarily challenge such a view. The English may have found the laws of the Irish, Scots and Welsh bizarre and sometimes utterly objectionable; but they did not in general challenge the right of these peoples to enjoy their own laws, even under English rule. In Wales, for example, in the thirteenth century over-zealous royal officials were recurrently reminded to treat the Welsh 'according to Welsh law and custom' or 'according to the laws and custom of those parts'; it was only mischief-making *provocateurs* who put about the false rumour that the king wished to

[6] Cf. Robert Bartlett, *The Making of Europe. Conquest, Colonization and Cultural Change* (1993), 204–11.

[7] Regino of Prüm quoted in S. Reynolds, *Kingdoms and Communities in Western Europe 900–1300* (Oxford, 1984), 259; Bishop Bernard: Giraldus Cambrensis, 'De Invectionibus', ed. W.S. Davies, *Y Cymmrodor*, XXX (1920), 141–2.

[8] William of Malmesbury, *Gesta Regum*, ed. W. Stubbs (Rolls Series, 1887–9), I, 101–2.

abolish Welsh law.[9] Lords and chroniclers sometimes boasted how the Normans and the English had imposed their rule and laws on the Welsh; but even such braggarts were sensitive enough to concede that ethnic divisions and sensibilities had been respected. The earl of Warwick, for example, claimed in 1358 that his ancestor, Roger, had conquered Gower and established the law there at his will; but he was prudent enough to add 'one (law) for the Welsh, and one for the English'.[10] He could hardly do otherwise for in the Gower of his day, as indeed in almost every part of Wales, the existence of two separate peoples with two distinct laws was fully recognised in a pattern of English courts on the one hand and Welsh courts of the other, each with its own distinctive procedures and substantive laws.[11] And much the same was true of Ireland, or such parts of Ireland as were within the ambit of English rule. There could be no more practical recognition of the fact that law defined a people and that a people was defined by law.

The English likewise subscribed to the view that law was the property and one of the characteristics of a people. We are so used to defining the English common law in territorial terms as the law of England, *lex Anglie* or *consuetudo regni*—and indeed are encouraged to do so by the regnal and territorial language of contemporary law books[12]—that we forget that such a view of law is actually constricting. The common law was the law of the English rather than the law of England.[13] The large English communities in Wales and Ireland were adamant on that point; they, as much as the people who lived in England, were among the beneficiaries of English law. The kings of England and the English lords in Wales fully endorsed their claim. Nor was this more rhetoric. Some of the most distinctive procedures and devices of English law—such as possessory assizes or the final concord—were freely available to the English communities in south Wales soon after they were introduced in England.[14] By the fourteenth century, and probably well

[9] *Cal. Patent Rolls 1232–47*, 430; *Close Rolls 1247–51*, 113, 236, 408, 541, 555; *1251–3*, 185, 419, 465, 467, 483, 511; *Welsh Assize Roll*, 286.

[10] C.A. Seyler, 'The Early Charters of Swansea and Gower', *Archaeologia Cambrensis*, 7th series, IV (1924), 77.

[11] R.R. Davies, *Lordship and Society in the March of Wales 1282–1400* (Oxford, 1978), 310–12.

[12] A. Harding, 'Legislators, Lawyers and Law-Books', in *Lawyers and Laymen. Studies Presented to Dafydd Jenkins*, ed. T.M. Charles Edwards *et al.* (Cardiff, 1986), 237–8.

[13] Cf. the comment in Roger Howden's chronicle: 'by his [Glanvill's] wisdom the laws which we call English were established' in *Tractatus de Legibus et Consuetudinibus Regni Anglie qui Glanvilla vocatur*, ed. G.D.G. Hall (Oxford, 1965), xxxi.

[14] R.R. Davies, 'The Law of the March', *Welsh History Review*, V (1970–1), 1–30, esp. 19–23. For examples of final concords and possessory assizes in Glamorgan *c.* 1200, *Cartae ... de Glamorgancia*, ed. G.T. Clark (6 vols., Cardiff, 1910), II, nos. 225 (1197), 291 (1205).

before then, the general assumption was that English settlers in Wales and indeed even Welshmen who came to hold by English tenure or secured a grant of English liberty would normally plead by English law.[15] English communities in Wales could indeed demand that they be prosecuted by 'the common law, as enjoyed by all (the king's) liege subjects'.[16] They were Englishmen living in Wales; the privilege of using English law was part of their identity and ethnic birthright.

What was true of English settlers in Wales was even more true of their colleagues in Ireland. The English settlement of Ireland was at its peak in the fifty or so years after 1170, in the very period when the English laws were being codified by 'Glanvill' and 'Bracton' and when the practice of the king's court came to be equated with the common law of England. The orthodoxy in Ireland, or rather in English Ireland, from an early date, was that 'the laws and customs of the realm of England be kept in that land'.[17] It was an orthodoxy to which the English settlers in Ireland readily subscribed; for them indeed it was a triumphant affirmation of their own Englishness, of their sense of belonging to a greater English community. As Edward III put it in 1357, what bound the English born in Ireland and the English born in England and dwelling in Ireland together as 'true English' was that they shared 'the same laws, rights and customs'.[18] True Englishness and the common law already went hand in hand in a way which would have warmed the cockles of Sir Edward Coke's heart.

Such ethnic and legal triumphalism can, of course, have a negative dimension. It can easily beget a mentality of exclusiveness, especially in societies where one ethnic group is militarily and politically a dominant minority. So it was in medieval Wales and Ireland. Respect for the laws and customs of the Welsh and Irish may be said to reveal an attitude of magnanimous pluralism on the part of the English rulers; but it could be accompanied by a mean-minded exclusiveness and a tendency to regard the tolerated different as the culturally and ethnically inferior. Thus in Wales the attempts of the Welsh community to share in some of the benefits of English law, especially on the vexed questions of the succession to and the alienation of land, were regularly met by the pious but disingenuous response that 'the king is not minded to abolish the ancient customs of Wales'.[19] But it was in Ireland that an

[15] Davies, *Lordship and Society*, 449–56.

[16] *Calendar of Ancient Petitions relating to Wales*, ed. W. Rees (Cardiff, 1975), no. 1092.

[17] Roger of Wendover, *Flores Historiarum*, ed. H.O. Coxe (English Historical Society, 1841–4), III, 233–4; *Statutes and Ordinances and Acts of the Parliament of Ireland, King John to Henry V*, ed. H.F. Berry (Dublin, 1907), 23–4. For comment see esp. Paul Brand, 'Ireland and the Literature of the early Common Law', *Irish Jurist*, XVI (1981), 95–113.

[18] *Statutes ... of Ireland*, ed. Berry, 417–18.

[19] For example *Calendar of Ancient Petitions*, ed. Rees, no. 3179. For comment: J.B. Smith, 'Crown and Community in the Principality of North Wales in the Reign of Henry

increasingly intolerant legal exclusiveness[20] on the part of the English did most to harm the relationship between peoples, be it in the appearance of the notorious 'exception of Irishry' (which in effect discriminated in favour of the English in their disputes with the Irish), in the recurrent failure of the attempts from the 1270s to make English law available to the Irish, and in the insistence that no Englishman should use the laws and customs of the Irish.[21] Nowhere in short was a people more clearly, and sometimes offensively, defined by its law than in ethnically composite societies, such as medieval Ireland and Wales.

To acknowledge as much is to recognise that law occupies a crucial role in the mythology and ideology of a people. Scholars of early medieval written law-collections have reminded us of late that such collections are 'ideological rather than practical in origin'; they are, as Alan Harding has put it, works of political theology.[22] Part of their function also is surely to create and promote collective solidarity, to underwrite, as it were, the notion that a people's identity may be expressed in, and fortified by, its laws. Law continued to occupy this function, at least to a measure, among the peoples of the British Isles throughout the medieval period.

One way in which law could play its part in the ideology of collective identity was by emphasising the antiquity of people's law and the role of a Solon-like figure in codifying it. England provides the classic, but by no means unique, example. The notion of the immemorial law of England is no invention of the legal polemicists of the seventeenth century; men such as Andrew Horn in the early fourteenth century or Chief Justice Fortescue in the fifteenth had already veiled the origins

Tudor', *Welsh History Review*, III (1966–7), esp. 146–9; idem, 'Edward II and the Allegiance of Wales', ibid., VIII (1976–7), esp. 144, 150–1; R.R. Davies, *The Age of Conquest. Wales 1063–1415* (Oxford, 1991), 433.

[20] Matters may have been different in the early thirteenth century, as suggested by K. Nicholls, 'Anglo-French Ireland and After', *Peritia*, I (1992), esp. 375; cf. Robin Frame, '"Les Engleys née en Irlande": The English Political Identity in Medieval Ireland', *ante*, 6th ser., 3 (1993), esp. 87–9.

[21] See generally G.J. Hand, *English Law in Ireland 1290–1324* (Cambridge, 1967), and Robin Frame, *Colonial Ireland 1169–1369*) (Dublin, 1981), esp. 105–10 and the references given there.

[22] P. Wormald, '*Lex Scripta* and *Verbum Regis*: Legislation and Germanic Kingship, from Euric to Cnut', in *Early Medieval Kingship*, ed. P.H. Sawyer and I.N. Wood (Leeds, 1977), at 125; Alan Harding, 'Regiam Majestatem amongst Medieval Law-Books', *The Juridical Review*, XXIX (1984), at 110. On this issue see most recently Robin C. Stacey, 'Law and Order in the Very Old West: England and Ireland in the Early Middle Ages' in *Crossed Paths. Methodological Approaches to the Celtic Aspect of the European Middle Ages*, ed. Benjamin Hudson and Vickie Ziegler (1991), 39–61.

of the English law in a venerable, even aboriginal, antiquity.[23] For those whose chronological register in this respect was more modest there remained, nevertheless, a determination to emphasise the pre-Conquest foundations of English law and to convert Edward the Confessor into a Solon-like figure. The *laga Edwardi* became a central feature of the Normans' determination to repair their bridges with England's pre-Conquest legacy. Already in the opening decades of the twelfth century when—as Sir Richard Southern showed in a memorable presidential address to this Society—a remarkable group of historians evoked the sense of the Anglo-Saxon past, other scholars were busy at work, familiarising themselves with, and putting order on, the corpus of Anglo-Saxon legal lore.[24] Of course, with the passage of the generations and with the momentous changes in the character and administration of the law from the twelfth century onwards, pride in law assumed a variety of new forms; but what that pride emphasised, ever more defiantly and stridently, was the distinctively English quality and the venerable antiquity of the laws of the English.

Nor were the Scots and the Welsh slow in following suit. Scottish chroniclers in their more immodest moments, and provoked no doubt by some of the extravagances spawned by Geoffrey of Monmouth, might be tempted to claim that their laws were derived from those given by Gaythelos, Scota's husband, to their ancestors in Spain;[25] but on the whole they, like their English confrères, preferred to find their law-givers in the historic period. Three in particular were given this status: the first was the ninth-century Kenneth MacAlpin, of whom it was later remarked that 'he was called the first king, not because he was the first, but because he first established the Scottish laws, which they call the Laws of Mac-Alpin'; the second was Malcolm Mackenneth, an early eleventh-century king whose 'laws' in their present form were assembled more than three centuries later; the third was good King

[23] Jeremy Catto, 'Law and History in Fourteenth-Century England', in *The Writings of History in the Middle Ages: Essays Presented to R.W Southern*, ed. R.H.C. Davis and J.M. Wallace-Hadrill (Oxford, 1981), 367–93; Sir John Fortescue, *De Laudibus Legum Anglie*, ed. S.B. Chrimes (Cambridge, 1942), 38–41.

[24] R.W. Southern, 'Aspects of the European Tradition of Historical Writing: 4. The Sense of the Past', *ante*, 5th ser., 23 (1973), 243–65; J.C. Holt, *Magna Carta and Medieval Government* (1985), esp. chap. 1; P. Wormald, 'Quadripartitus', in *Law and Government in Medieval England and Normandy: Essqays in Honour of Sir James Holt*, ed. G. Garnett and J. Hudson (Cambridge, 1994), 111–72, esp. 140–7; idem, '*Laga Edwardi*: The *Textus Roffensis* and its Context', *Anglo-Norman Studies*, XVII (1995), 243–66. For respect for the laws of Cnut see John Hudson, 'Administration, Family and Perceptions of the Past in Late-Twelfth-Century England: Richard FitzNigel and the Dialogue of the Exchequer', in *The Perception of the Past in Twelfth-Century Europe*, ed. Paul Magdalino (1992), 75–98, esp. 94–8.

[25] John of Fordun, *Chronica Gentis Scotorum*, ed. W. F. Skene (Edinburgh, 1871–2), I, 18; II, 17.

David, David I, whose laws came to be regarded, both within Scotland and beyond, as the base-line of the Scottish legal tradition in the middle ages.[26] If the Welsh were to compete in this world they must likewise find a monarchical law-giver to whom the shaping of their distinctive legal tradition could be ascribed. They found him, but possibly not before the thirteenth century, in Hywel Dda, the Good (d. 949/50); henceforth Welsh law would frequently be known as the law of Hywel, *cyfraith Hywel*. The prologues to the Welsh law-texts provide a further insight into the role of law, and specifically written law, in the ideology of peoples. They explain how Hywel summoned six men from each *cantref* of Wales to an assembly to review and amend the laws; king and people are thereby linked as sources of authority for law.[27] Law was one of the crucial bonding agents between them; it was the law of a people but issued by a king. Law thereby sanctioned both monarchical authority *and* the corporate individuality of a people.

It also performed a second, if associated, key function: it was, both ideologically and practically, one of the most potent instruments for bonding diverse peoples into a single nation. A people, as was observed in the first of these addresses, is a most evanescent and elusive concept; it lacks fixed form and geographical definition. This is precisely where law could be helpful: it helped to establish the identity of a people in its own eyes and those of others. The English arguably stood less in need of this stiffening quality of law than did other peoples, since their unity had been substantially forged already in pre-Conquest days from a whole variety of directions. Nevertheless, as Patrick Wormald has observed, 'Anglo-Saxon law was an essential ingredient in the personality of the English state',[28] and pride in the legal unity and singularity of England and in the essential Englishness of English law became an increasingly and raucously evident feature of English political postures and practice as the middle ages progressed. The English may have come early to the knowledge and practice of the fact that they were, in spite of differences in regional and local customs, a single

[26] *Early Sources of Scottish History A.D. 500 to 1286*, ed. A.O. Anderson (Edinburgh, 1922), I, 270; A. A. M. Duncan, 'The "Laws of Malcolm Mackenneth" ', in *Medieval Scotland, Crown, Lordship and Community. Essays Presented to G.W.S. Barrow*, ed. A. Grant and K.J. Stringer (Edinburgh, 1993), 239–74; Hector MacQueen, 'Scots Law under Alexander III', in *Scotland in the Reign of Alexander III 1249–1286*, ed. N.H. Reid (Edinburgh, 1990), esp. 84–5, 87–8; idem., *Common Law and Feudal Society in Medieval Scotland, (Edinburgh, 1993), esp. 85–8.*

[27] J.G. Edwards, *Hywel Dda and the Welsh Lawbooks* (Bangor, 1929); H. Pryce, 'The Prologues to the Welsh Lawbooks', *Bulletin of the Board of Celtic Studies*, XXXIII (1986), 151–87. I am not aware of any clear pre-thirteenth-century evidence which ascribes the law to Hywel Dda, though this may, of course, reflect the lateness of the manuscript tradition of Welsh law.

[28] Wormald, 'Quadripartitus', at 147.

people in terms of law; the Scots had a much longer road to travel. The Scots were, after all, a fairly recent amalgam of four or five different peoples, each of which doubtless had its own laws and customs. The Gallovidians, for example, defended their 'liberties' and their 'law of Galloway' well into the fourteenth century;[29] while Scottish legal historians have of late emphasised anew the powerful, but often underrated, contribution that Celtic law may have made substantively to later Scottish law and practice.[30] Yet if the Scottish people were to be welded into one people under one king, it was important that such legal pluralism be modestly concealed beneath a facade of unity. And so it was. References to 'the common law of Scotland' and to 'usage throughout our kingdom of Scotland according to ancient approved custom and by the common law' multiply from the mid-thirteenth century onwards;[31] by the time of the political crises of the 1290s 'the laws and customs of Scotland' were one of the crucial elements which defined the identity of Scotland.[32] In reality, and particularly at the local level, matters are very unlikely to have been that simple; but one of the crucial functions of law was to manufacture the image of the unity of a realm and a people in the service of its independence.

If that was true of England how much more true was it of Wales and Ireland? Both of them were countries which lacked the structure and institutions of political unity; in both English domination and settlement introduced a further fissure into the country and posed an extra challenge to the sense of the unity of the native peoples. In such a context it was crucial to cling on to, and if need be to manufacture, an ideology of legal unity as a practical basis to its claim to be, and to be treated as, a single people. The Welsh applied themselves to the task with enthusiasm: their legal texts proclaimed that the great lawgiver, Hywel Dda, was 'prince of the whole of Wales' and that the curse of 'the whole of Wales' was to be visited on anyone who failed to observe those laws 'in Wales'.[33] Thirteenth-century princes took up

[29] See, for example, the reference to 'the ancient laws of Galloway', *Registrum Magni Sigilli Regum Scottorum* (Edinburgh, 1882–1914), I, Appendix 1, no. 59. For the whole subject Hector MacQueen in *Galloway, Land and Lordship*, ed. R.D. Oram and G.P. Stell (Edinburgh, 1991), 131–43. Cf. A.A.M. Duncan, *Scotland. The Making of the Kingdom* (Edinburgh, 1975), 546.

[30] W.D.H. Sellar, 'Celtic Law and Scots Law. Survival and Integration', *Scottish Studies*, XXIX (1989), 1–27. Cf. the comments of R. Nicholson, *Scotland. The Later Middle Ages* (Edinburgh, 1974), 24.

[31] References are conveniently assembled in W. David H. Sellar, 'The Common Law of Scotland and the Common Law of England', in *The British Isles 1100–1500. Comparisons, Contrasts and Connections*, ed. R.R. Davies (Edinburgh, 1988), 86–7.

[32] Treaty of Birgham as above, n. 5; *Edward I and the Throne of Scotland 1290–1296*, ed. E.L.G. Stones and G.G. Simpson (Oxford, 1978), II, 140.

[33] *Llyfr Iorwerth*, ed. A.R. Wiliam (Cardiff, 1960), §1.

the campaign declaring that Welsh law was the birthright of all Welshmen, while a jury in 1278 echoed the same refrain in proclaiming that Welsh law 'prevailed throughout Wales and the Marches, as far as the power of the Welsh extends'.[34] Such protestations clearly protest far too much; but their frequent reiteration manifested how central their law, or rather their appeal to their law, was to the identity and the unity of the Welsh as a people. The same was doubtless true of the Irish, for in spite of the fissiparousness and intense and murderous competitiveness of Irish political life, the assumption that 'Irish law ... regards itself as valid for all the Irish' was one of the features which helped to sustain and foster a sense of ethnic and cultural Irish unity, aided as it was both by the deliberate exclusion of the native Irish from the benefits and privileges of English law and by the role of the brehons, as a hereditary class of jurists, in teaching and preserving Irish law.[35]

Law not only helped to give a people a sense of unity; it also served as one of the crucial bulwarks of its national identity. The English were not short of such bulwarks, but even for them their law remained a potent and cherished symbol of their identity. It was as Gaimar said in the mid-twelfth century 'the law of us English' and it was as a corpus of English laws (*leges anglicanas*) that 'Glanvill' set about to impose order upon it, or at least the royal practice of it.[36] Thereafter the patriotic chorus rang out in repeated refrains such as 'We refuse to change the laws of England'; or 'the magnates are unwilling to be judged by examples used in foreign countries'; it reached its magnificent coda in Fortescue's famous assertion that 'the customs of the English are not only good but the best'.[37] It is difficult to compete with John Bull when he is in such an expansively self-confident mood; but for the other peoples of the British Isles likewise the defence of their laws was a crucial aspect of their credibility and identity as distinctive peoples. Much of Scottish law derived its content and form from the custom and writs of Angevin England; but this made Scots not one whit less proud of it as their law. That is why they insisted in 1290 that their 'laws, liberties and customs ... (should) be preserved' in every respect, and asserted in 1320 that Robert I's title to the Scottish throne was grounded in 'our laws and customs which we shall maintain to the

[34] *Welsh Assize Roll*, 255, 266, 269; *Cal. of Inquisitions Miscellaneous 1219–1307*, no. 1109.

[35] D.Ó. Corráin, 'Nationality and Kingship in Pre-Norman Ireland', *Historical Studies* (Dublin), XI (1978), at 7; K. Simms, 'The Brehons of Later Medieval Ireland', in *Brehons, Serjeants and Attorneys*, ed. D. Hogan and W.N. Osborough (Dublin, 1990), 51–76.

[36] Geoffrei Gaimar, *L'Estoire des Engleis*, ed. A. Bell (Anglo-Norman Text Society, 1960), l. 4991; *Glanvill, Tractatus*, 2 (leges autem anglicanas ...).

[37] F. Pollock and F.W. Maitland, *History of English Law before the Time of Edward I* (1968 edn), I, 184, 188–9; Fortescue, *De Laudibus Legum Anglie*, 41.