

The Origin of Common Law

(in *America's Providential History* by Mark Beliles & Stephen McDowell p.39-41)

Christianity was introduced in Britain in the first century, possibly by Joseph of Arimathea. As the Celts were converted they established decentralized churches, unlike those that developed in the Roman and Byzantine Empires. By A.D. 150 the Pastors of the Celtic Churches preached in the common language from interlinear Bible translations called glosses.

The greatest of the pastors was Patrick who left England and went to evangelize Ireland. King Loeghaire was converted and made Patrick his counselor (termed "Annchara") and thus Biblical Law began to be introduced into the civil realm. In 432 Patrick wrote *Liber Ex Lege Moisi* (*Book of the Law of Moses*), which was applied by local chieftains or kings throughout Ireland (as yet not a united political arrangement, only a Biblical/religious unity). Patrick greatly influenced government through writing the *Book of the Law of Moses*. It emphasized the rule of law and local self government.

The Anglo-Saxons first came to Britain around 428 A.D. when two brothers, Hengist and Horsa, were invited to bring their relatives and help the king of Kent fight off his enemies. They stayed in Britain, and after some time eventually took the island over and named it Anglo-land, or Engel-land (today England).

Initially the Anglo-Saxons turned on the Celts, killing many of them. One time they killed 1,200 Celtic Pastors in prayer. However, while the Saxons conquered the Celts militarily, the Celts conquered the Saxons spiritually. The Saxons were thus converted to Celtic Christianity. Catholicism did not come to Britain until 597. After its introduction the church in Britain, due to the Celtic influence, still emphasized the Bible above Papal authority.

Around 565 a follower of Patrick, named Columba, left his Ireland and evangelized the king of the Picts (who lived in what is today Scotland). Columba also translated *Liber* in the Scottish language.

The first king who was revered enough to unite all of England into one nation was known as Alfred the Great, who ruled from 871 to 899. Just before Alfred became king, most of England had been conquered by the Vikings from Denmark through a long series of fierce battles. Wessex, in the southwest portion of England, was the only region that remained for Alfred to rule. Almost immediately, and for years to follow, Alfred found himself in the thick battle with the Danes. David Chilton writes of this struggle:

In 876 the Danish chieftain Guthrum attacked Wessex in earnest with a powerful host, aiming to break Alfred's hold on the country once and for all. The Vikings succeeded: in the winter of early 878 Guthrum pushed Alfred into the marshes, where the king and a small group of loyal followers were forced to hide out on the Isle of Athelney. Historians have called this time of testing Alfred's "Valley Forge," where he had to bide his time while virtually all England was overrun with pagan enemies of the faith who sacked churches and monasteries, wiping out the tattered remains of a Christian past. The legends

say, however, that the bold and daring Alfred entered the Viking camp disguised as a minstrel and actually performed for Guthrum and his chiefs—getting a chance to listen to their plans and plotting his own strategy. When spring came, Alfred rallied the English army for a final push against the invader’s vastly superior forces. This time Alfred was victorious. As the Anglo-Saxon Chronicle puts it, “he fought against the entire host, and put it to flight.” The Vikings agreed never to attack Wessex again, and they submitted to the terms of peace.

Alfred did not banish Guthrum and his men. He didn’t have them executed, either. His solution to the problem of the Vikings seems incredible to us, but it worked. The peace treaty he imposed on them included this provision: that Guthrum and “thirty of the most honorable men in the host” become Christians! Guthrum accepted the conditions, and he was baptized into the Christian faith, Alfred standing as his godfather. At the conclusion of the ceremony, Alfred embraced his newborn brother in Christ and threw a twelve-day feast for him and his men. And then, as if this weren’t enough already, Alfred made the strangest political move of all. He said to Guthrum, in effect: “My brother, this land is much too big for me to rule all by myself; and the important thing isn’t who’s in charge. The real issue is a Christian England. So don’t go back to Denmark. Stay here and rule this land with me, under the lordship of Jesus Christ.”

With the coming of peace, Alfred instituted Christian reform in many areas including establishing a government that served the people. Alfred was taught how to read the Celtic Christian scholar known as Asser, and studied Patrick’s Liber and thus established the Ten Commandments as the basis of law and adopted many other patterns of government from the Hebrew Republic. The nation organized themselves into units of tens, fifties, hundreds and thousands and had an elected assembly known as the “Witen.” These representatives were called respectively: a tighingman (over ten families), a vilman (over 50), a hundredman, and an earl. The earl’s territory which he oversaw was called a “shire,” and his assistant called the “shire-reef,” where we get our word “Sheriff” today. The Witen also had an unelected House made up of the nobleman, but the king was elected; he was not a hereditary king. Their laws were establish by their consent. Alfred’s uniform code of Laws was the origin of common law, trial by jury, and habeas corpus. Alfred’s code was derived from Mosaic law and Jesus’ golden rule.

Thomas Jefferson said that the Anglo-Saxon laws were “...the sources of the Common Law...[and] the wisest and most perfect ever yet devised by the wit of man, as it stood before the 8th century;...” The National Seal proposed by Jefferson in 1776 was to have on one side “the children of Israel in the wilderness, led by a cloud by day, and a pillar of fire by the night.” But on the other side Jefferson proposed images of “Hengist and Horsa, the Saxon chiefs... whose political principles and form of government we have assumed.” This is true because of the Saxons’ contact with the Celtic Christians (British natives), but the Saxon culture in Germany from which they originated provided no constitutionalism whatsoever. In the 800’s the clergy began to serve as judges in England and build common law on the Bible.