

PART II.

The Great Charters, Forest Charters and Some
Other Laws.

LAWS OF EDWARD THE CONFESSOR.

THE following collection of laws is given in Ingulph's Chronicle of the Abbey of Croyland beginning at page 176 (Bohn). Just what faith and credence, and what reliance to place upon them, is very hard to decide. There seems to be no doubt at all, in the minds of historians and antiquarians that the whole of the chronicle reputed to have been written by Ingulph was a forgery of the fourteenth century. The argument advanced by those persons who have closely studied into this matter, is so convincing, that to attempt to dispute it would be futile. The fact that the chronicle is spurious, must be accepted, however regretfully. But even with that fact before us, it would not be advisable to totally cast aside the whole of the chronicle as useless and valueless, for there is much in it that is true and a help to the study of the trying times of

which it speaks. It was written near to the time which it purports to describe, and the facts therein contained may in some measure have been in the possession of the writer; at least it might have been so in the case of these laws, for as to them, there could have been little gain in forging. I have thought it proper, under all the circumstances, not to accept these laws as fact, and yet not to discard them altogether, but to place them before the reader, for what they may be worth. To some extent at least they may depict the conditions they attempt to perfect, at the time they were supposed to be written, and in operation. To omit them altogether from this work I think would be as great an error, as to rely implicitly upon them.

1. Of the right of asylum, and of ecclesiastical protection.

The protection of our Holy Church we have hereby granted. For any offence whatever, of which a person may have been guilty, if he takes refuge with the Holy Church, he shall have protection for life and limb. And if any one shall lay hands on him who has so sought the protection of Mother Church, if the same is a cathedral church, or an abbey, or a church of the religious

orders, let him restore him whom he has so taken, and pay one hundred shillings as a fine; if it is the mother church of a parish, twenty shillings; and if a chapel, ten shillings. Also, he who breaks the king's peace in the parts subject to the laws of the Mercians, shall pay a fine of one hundred shillings; and so in like manner as to compensation for homicide, and lying in wait of malice aforethought.

2. Of the King's protection.

These pleas pertain to the crown of the king. If any sheriff or any provost shall injure any men belonging to his jurisdiction, and shall be attained thereof by the king's justice, his penalty shall be double that which another would have had to pay.

3. Of the violation of the public peace.

He who, in places subject to the Danish laws, shall break the king's peace, shall pay a penalty of one hundred and forty-four pounds; and the king's fines, which belong to the sheriff, in places subject to the Mercian laws are forty shillings; and in places subject to the laws of Wessex, fifty shillings. And as to a free man who has right of Sach¹

¹ When any person accuses another of an offence and it is denied, on which the fine levied, if there is one, belongs to the lord.

and Soch,¹ and Tol,² and Tem,³ and Infang-thefe,⁴ and shall be accused thereof, and be condemned to pay a penalty in the court of the county, he shall forfeit to the use of the sheriff forty oras,⁵ in places subject to the Danish laws: and any other man who does not enjoy the same liberties, shall pay thirty-two oras. Of these thirty-two oras, the sheriff shall have to the use of the king ten oras; and he who has accused him shall have, for his redress against him, twelve oras; and the lord in whose fee he shall reside, shall have the remaining ten oras. This, in places subject to the Danish laws.

4. Of accusations of Larceny, and of the sureties.

This is the custom in places subject to the laws of Mercia: If any person shall be accused of larceny or of robbery, and shall have given pledge to appear in court, and shall take to flight in the meantime, his surety shall have a month, and a day to seek him; and if he shall find him within that time, he shall deliver him to justice; and if

¹ The right to search for stolen articles on another's lands, which, if found, belongs to the real owner.

² Privilege to buy and sell on his own lands.

³ The claiming of one's property which is in the possession of another.

⁴ The right to take cognizance of robbery in his own court.

⁵ Danish silver coin ten shillings in value.

he cannot find him, he shall swear with eleven others, himself being the twelfth, that, at the hour at which he became surety for him, he was not aware that he was the thief, that it has not been through him that he has made his escape, and that he has not been able to take him. Then he shall restore the chattel for which he was arrested, and twenty shillings for his head, fourpence to the keeper of the prison, one obol for the spade, and twenty shillings to the king. In places subject to the laws of Wessex, one hundred shillings on the hue and cry for his head, and four pounds to the king. In places subject to the laws of the Danes, the penalty is one hundred shillings; twenty shillings on the hue and cry for his head, and seven pounds to the king. And if he shall be able within a year and a day to find the thief and bring him to justice, there shall be restored to him the twenty shillings which shall have been so taken, and justice shall be done on the thief.

5. Of the apprehension of a thief.

He who shall apprehend a thief without pursuit, and without outcry raised on the part of the person to whom the robber has done the injury, and shall keep him without delivering him up, shall pay

ten shillings for Hengwite,¹ and justice shall be done on the prisoner at first view of frank-pledge; and if he shall pass over the sitting without leave of court, then the penalty shall be forty shillings.

6. Of the redemption of animals. .

In the case of him who shall redeem horses, or oxen, or cows, or pigs, or sheep, which the English call by the name of *forfengen*, he who shall claim the same shall give to the reeve for a sheep one penny, for a pig four pence, and for an ox or a horse four pence, and he shall not give more than eight pence, whatever be the number of the beasts. He shall also give security, and shall find sureties, that if any person shall come to make proof, and demand the beast within a year and a day, he will produce in court that which he has so received.

7. Of things that are found by chance.

As to beasts going astray, and other things that are found: Let the property so found be shown to three-fourths of the vicinage, that the same may bear testimony to the finding thereof. If any person shall come to make proof, and to claim the thing as his own, let him give security and find pledges that he will, in case any person

¹ A fine for letting a thief escape.

shall claim the beast, within a year and a day, produce in court what he has so found.

8. Of homicide, and of the price of the head and the Were.

If any person shall kill another, or be privy thereto, and shall be bound to make amends for the same, he shall pay his Were,¹ as well as Manbote² to the lord; for a freeman ten shillings, and for a serf twenty shillings. The Were of a thane is twenty pounds in places subject to the laws of the Mercians, and twenty-five pounds in those under the laws of the West Saxons. The Were of a villein is one hundred shillings in places subject to the laws of the Mercians, as also to those of the West Saxons.

9. To whom the Were is to be paid.

Of the Were to be paid for the shedding of blood, there shall be first paid to the widow ten shillings; and the orphans and relatives shall divide the surplus among themselves.

10. The valuation of certain animals in the payment of the Were.

In the payment of Were, each person shall be at liberty to pay a horse, not a gelding, as being

¹ Sum paid by murderer for the loss of the subject killed.

² Payment to the lord for loss of a vassal.

twenty shillings, a bull as being ten shillings, and a boar-pig as being five shillings.

11. Of one who inflicts a wound upon another.

If one man shall wound another, and shall be in duty bound to make amends for the same, in the first place he shall pay him all his expenses incurred; and then the wounded person shall swear upon the relics of the saints that he was not able to be cured for a less sum than that demanded, and that it was not for hatred that he incurred more than a moderate expense.

12. Of Sarbote, or payment for pain of wounds inflicted.

If a wound is inflicted on the face uncovered, then the penalty is to be, for every inch seen, eight pence; but if the party shall have the head or other part covered, then the penalty shall be, for every inch, four pence; and for as many bones as they shall extract from the wound, the penalty for each bone shall be four pence. For the purpose of reconciliation, the person offending shall do due honour to the other, and shall swear that, if the other had done to him what he himself has done, he would have accepted from him what he himself now offers,

had the other intended to make such offer, and if his friends had advised him so to do.

13. The valuation of the limbs.

If it shall happen that any person shall cut off the hand or foot of another, he shall pay him half of the Were according to his station in life. But for the thumb, he shall pay the moiety of the penalty for the hand; for the finger next to the thumb fifteen shillings English, of such as are styled shillings of four pence; for the middle finger, sixteen shillings, for the next or ring finger, seventeen shillings; and for the little finger five shillings. If any one shall cut off the nail of the thumb, he shall pay five shillings English money, and for the nail of the little finger four pence.

14. Of adultery.

He who shall defile the wife of another shall forfeit his Were unto the lord.

15. Of corrupt Judges.

He who shall give a false judgment, shall lose his Were, unless he can prove, upon the relics of the Saints that it was not in his power to give a better judgment.

16. Of the clearing of him who is accused of Theft.

If one person shall accuse another of larceny, and he is a free man, and can give true testimony

as to his having hitherto acted lawfully, he shall fully clear himself by his own oath. But if a person has been previously accused thereof, then he shall clear himself by the oath of persons named; that is to say, upon the oaths of fourteen lawful men named, if he can find them; and if he cannot find them, then he may clear himself by the oaths of twelve. But if he cannot find them, then he must defend himself by the judgment. The accuser shall make oath by mouth of seven men by name, that he has not made the accusation for malice, or for any other reason than the prosecution of his rights.

17. Of him who breaks into a church or a house.

If any person shall be accused of breaking into a monastery or into a chamber, and shall not have been previously accused of such a crime, he shall clear himself upon the oaths of twelve lawful men named, himself being the twelfth; and if he has been previously accused thereof, he shall clear himself by three times that number, himself being the thirty-sixth. And if he cannot find them, then he must have recourse to the three-fold judgment; in the case where the oaths of a triple number should have been taken. If he has previously been guilty of larceny, then he must be tried by judgment of water.

18. Of fines.

In places subject to the laws of the Mercians, an Archbishop is to have, out of all fines, forty shillings, a Bishop twenty shillings, an Earl twenty shillings, a Baron ten shillings, and a villein forty pence.

19. Of Saint Peter's Pence.

A freeman, who has possession of lands, to the value of thirty pence, shall give one penny to Saint Peter. The lord, for the one penny which he shall give, shall render his bordars, herdsmen, and servants free from payment. A burghar, if he has chattels of his own to the value of half a mark, shall give one penny to Saint Peter. In places subject to the Danish laws, a free man who shall have cattle in the fields, to the value of half a mark, shall give one penny to Saint Peter; and by the penny of the lord, all shall be acquitted who live in his demesne. He who withholds the penny of Saint Peter, shall be compelled by ecclesiastical censure to pay the same, and thirty pence as well by way of fine. If pleas thereon shall come before the king's justices the king shall have forty shillings for a fine and the Bishop thirty pence.

20. Of those who use violence against Women.

If a man shall ravish a woman by force, he shall be punished by loss of limb. If a man

shall throw a woman upon the ground for the purpose of committing violence, he shall pay to the lord ten shillings.

21. Of putting out an eye.

If any person shall, in any way whatever, put out the eye of another person he shall pay to him a penalty of seventy shillings, English ; but if the sight shall be restored, then he shall pay half that sum.

22. Of reliefs.

The relief of an Earl to the king consists of eight horses, of which four shall be saddled and bridled ; and with them four coats of mail, four helmets, four lances, four bucklers, and four swords ; the other four horses are to be palfreys and post-horses, with bridles and head stalls. The relief of a baron is four horses, two of which shall be saddled and bridled ; and with them two coats of mail, two bucklers, two helmets, two lances and two swords. Of the other two horses, one shall be a palfrey, the other a post-horse, with bridles and head stalls. The relief of a vavassour to his liege lord, is a horse, such as was in possession of his father at the day of his death, a coat of mail, a helmet, a buckler, a lance and a sword. If perchance he shall not possess the same, and shall be unable to pay the same by

reason of having neither horse nor arms, then he shall be exempted on payment of one hundred shillings. The relief of a villein is the best beast of burden that he has, whether a horse, an ox or a cow; the same shall belong to his lord. In the case of him who holds land at a yearly rent, his relief shall be the amount of one year's rent.

23. Of producing Warranty.

If any person shall lay claim to any live cattle as having been stolen from him, and shall give security and find sureties that he will prosecute his claim, then the person who has the property in his possession must produce his warranty. If he cannot do this, then he must produce his Heuvelborh¹ and his witnesses. If he can produce neither warranty nor Heuvelborh, but has witnesses that he bought it in the king's market, though neither warranty nor pledge whether it was alive or dead, then he shall lose the chattel so claimed; and by the simple oath of his witnesses and of himself he shall clear himself. But if he shall find neither warranty, pledge nor witnesses, then besides the matter claimed he shall pay his Were to his lord. This is the universal law in all places, whether subject to the

¹The one who guarantees.

laws of the Mercians, the Danes, or the West Saxons. No one shall be compelled to produce his warranty before the claimant shall have produced his pledge on the oaths of six men. In places under the Danish law, the property shall be placed in the hands of a third party, until the matter shall be decided. If the party can prove by three-fourths of his vicinage that the animal has been reared by himself, it shall be adjudged to him. From and after the time that, on this oath, the property has been adjudged to him, it cannot be withdrawn by him on trial in England.

24. Of Murder.

If any person shall kill a Frank by birth and the men of the hundred shall not take the murderer within a week, and bring him to justice to shew why he did so, they shall pay for the murder forty-seven marks.

25. If a person lays claim to land against his lord.

If any person shall wish to disprove any covenant as to the holding of any land against his lord, he shall be bound to disprove the same by his peers who hold by the same tenure, as by strangers he cannot possibly do so.

26. If a person denies that he has said in Court that which is imputed to him.

In every court, except in the king's presence, if it is imputed to any one that on trial he has said such and such a thing, and he denies that he has said so, if he cannot, by two intelligent men, who either heard or saw the same, disprove that he so said, he shall be bound by his word.

27. Of the four royal roads.

On the four royal roads, that is to say, Watelingstrete,¹ Ermingstrete,² Fosse,³ and Ikeneldstrete,⁴ whoever shall slay a man passing through the country, or shall commit an assault on him, the same is a breaker of the king's peace.

28. If the thing stolen is found with the thief.

On the land of whomsoever the thief is found with the thing stolen, the lord of the land, and the wife of the thief, shall have a moiety of the goods of the thief, and the claimant shall have his property stolen if he shall find it, besides the other moiety of the goods; unless the thief be found on the lands of a person who has right of

¹ From Devonshire to Chester.

² South of England to Carlisle.

³ From Caithness in Scotland.

⁴ From St. David's in Wales, to Tynemouth in Northumberland.

Sach and Soch, in which case the wife shall lose her share, and the lord shall have the same.

29. Of the keepers of the roads.

For every hide in the hundred, four men shall be provided for street ward, from the feast of Saint Michael to the feast of Saint Martin. And the Guardereve, that is the head of the keepers, shall have thirty hides as compensation for his labour. If beasts shall trespass upon the places committed to their care, and they cannot show that they were driven thither by force or by shouts, they shall deliver up the same.

30. Of cultivators of the land.

Cultivators and tillers of the land must not be harassed beyond what is due and lawful; and lords are not to be allowed to remove the husbandmen from off the lands so long as they are able to render their due services.

31. Of Serfs.

Serfs must not depart from their lands, nor seek excuses by which to deprive their lords of their due services. If any one shall so depart, no person shall receive him, or his chattels; nor shall he withhold him, but he shall make him return to his lord to whom his services are due.

32. Of cultivating the land.

If the lords of the land shall not find fit and proper cultivators for their lands, then the justices shall do so.

33. That no one shall withdraw his just services from his lord.

No one shall withdraw his due services from his lord, on the ground of any remission which has been previously made gratuitously by the lord.

34. That a pregnant woman shall not undergo punishment of death.

If a woman shall be adjudged to die or to suffer mutilation of her limbs, and shall prove pregnant, execution of the sentence shall be deferred till she has been delivered.

35. Of those who die Intestate.

If any man shall happen to die without making a will, in such case his children shall divide their paternal inheritance between them.

36. If a father finds his daughter in the act of adultery, or a son his father's wife.

If a father finds his married daughter in his own house, or in that of his son-in-law, in the act of adultery, he is at liberty to slay the adulterer. In like manner, if a son finds his mother

in the act of adultery, during the life of his father, he is at liberty to slay the adulterer.

37. Of poisoning.

If a man shall poison another he shall either be put to death, or sent into perpetual banishment.

38. Of throwing goods overboard through fear of death.

If any person in peril of the sea shall, through fear of death, throw the property of another into the sea for the purpose of lightening the ship, he shall clear himself by oath that he did the same for no other reason than fear of death. The property that remains in the ship shall be divided among all, according to the chattels of each. If any person shall act otherwise then he shall make good the property lost.

39. No one shall suffer prejudice through the fault of another.

If two or more shall be parceners of a property, and one of them shall, without the other or others, be impleaded, and shall by his folly or for any other reason lose the same, then the parceners shall not be damaged thereby; because a matter that has been decided among other persons, ought not to prejudice others, especially if they were not present.

40. Of Judgments and Judges.

Judges are to use the utmost care and diligence that they so judge their neighbour, as they wish themselves to be judged by God when they say, "forgive us our debts, even as we forgive the same to our debtors." He who shall give false judgment, or shall encourage injustice through hatred, love, or money, shall pay a penalty of forty shillings to the king, unless he can excuse himself on the ground that he knew not how to give a better judgment; and he shall lose his liberty as well, unless he shall redeem the same from the king. In places under the Danish law he shall pay his Lagslite.¹

41. That no one shall be condemned to death for a trifling offence.

We do forbid that a person shall be condemned to death for a trifling offence. But for the correction of the multitude, extreme punishment shall be inflicted according to the nature and extent of the offence. For that ought not for a trifling matter to be destroyed which God has made after His own image, and has redeemed with the price of His own blood.

42. Christians are not to be sold out of the country or to Pagans.

We do also forbid that any one shall sell a

¹ Punishment inflicted for breaking the law.

Christian into a foreign country, and especially among the infidels. For the greatest care ought to be taken that souls are not sold into damnation, for which Christ gave His life.

43. Of those who refuse to take their trial.

He who refuses to submit to just laws and a just trial, shall pay a penalty to him to whom the same shall rightfully belong. If it is against the king, he shall pay six pounds; if against an earl, forty shillings; if it is in a hundred or in the court of any one who by virtue of his privilege holds the same, then thirty shillings English. In places under the Danish law, he who shall refuse to abide a just trial, shall pay the penalty of his lagslite.

44. That no one shall lay a complaint before the king, unless there is a default in the hundred or county.

No one shall lay a complaint before the king, unless there has been a miscarriage of justice in the court of the hundred or the county.

45. That no one shall rashly make distraint.

No one shall take a distress in a county or out of it unless he shall have three times demanded satisfaction in the court of the hundred or county. If on making the third demand he shall receive no answer, he may have recourse to the court of

the county, which shall name for him a fourth day. If even then satisfaction shall not be made to him, he shall receive license to levy distress for himself, far and near.

46. That no one shall buy anything without witnesses.

No one shall buy anything, whether alive or dead, to the value of fourpence, without four witnesses either from a borough or a vill in the country. If claim shall afterward be made by any person, and he shall have neither witnesses nor warranty, then he shall restore the property, and pay a penalty to the person to whom by right it belongs. If he has witnesses, they are to view the property three times, and on the fourth occasion he is either to disprove the claim or to lose the property.

47. Of proof against witnesses.

It seems absurd and contrary to law that proof should be made against witnesses, who know the property claimed; and proof shall not be admitted before a stated time, the sixth month from the time since the thing claimed has been stolen.

48. Of a person charged, who does not appear when summoned.

If any person of bad character, and charged with breaking the laws, shall not make his ap-

pearance after being three times summoned, on the fourth day the summoners shall shew his three defaults, and he shall once more have a summons to find sureties and obey justice. If even then he shall not appear, he shall be judged, whether living or dead, and there shall be taken whatever he has, and after the chattels are restored to the claimants, the lord and the hundred shall equally divide the residue between themselves. And if any one of his friends shall offer to use force against the execution of this enactment he shall pay a penalty of six pounds to the king. The thief shall also be caught, and no one shall have power to harbour him, or to guarantee to him his life; nor shall he any longer be enabled to recover anything by trial in court.

49. That no one shall entertain a stranger for more than three nights.

No one shall entertain a stranger for more than three nights, unless a person who is his friend shall have given him a recommendation; and no one shall permit a person, after he is accused, to leave his home.

50. That no one shall allow a thief to escape.

If a person meets a thief, and, without outcry raised, lets him escape, he shall pay a penalty

according to the value set on the thief, unless he shall prove on oath that he did not know him to be a thief.

51. Of those who do not pursue on hue and cry raised.

He who, on hearing hue and cry raised, shall neglect to pursue, shall, for his neglect, pay a fine to the king, unless he can clear himself by oath.

52. Of one accused in the court of the hundred.

If a person shall be accused in the hundred court, and charged by four men, he shall clear himself on the oaths of twelve men.

53. That the lord shall hold his servants in Frank-pledge.

All lords who have servants are to be their sureties, that if they are accused they will produce them for trial in the hundred court; and if any person, after being accused, shall take to flight, the lord shall pay his Were, and if it shall be charged that through him he made his escape he shall either clear himself on the oaths of six men, or pay a penalty to the king; and the person who has so taken to flight shall be outlawed.