The Evolution of the Genre of Canadian Acts: Sentence Structure and Complexity

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This article is an introductory survey of the language of acts from Old English to the present. From the relatively simple decrees of pre-Norman English Kings, we see a development to greater legal and linguistic complexity in later years as the writers include more options, choices, conditions and exceptions, thus posing a significant challenge to the plain language movement. In this analysis, emphasis is placed on the structures and complexities within clauses and sentences.

Plain Language—Recognizing the Need

PERHAPS THE GREATEST CHALLENGE to the plain language movement is to present legislation in forms that those affected by them (including the general public) can understand. Although great strides have been made in improving the readability of contracts, bank agreements, and other documents, acts still need extensive work to make them suitable for the general public while still retaining their essential legal expression and clarity. As part of work towards achieving this aim, this paper provides an introductory basis for understanding the way acts in English have developed from quite simple structures in early times into the often difficult, complex structures we now find in modern acts.

Complexity in legal writing has not always been a problem. Indeed, as noted by Mellinkoff (1963), the need for legal language to be written in a style that is readable by those affected by it was perhaps first noted by Thomas More writing from the security of the mythical *Utopia* (1516 in Latin, 1551 in English):

> ...for they think it an unreasonable thing to oblige men to obey a body of laws that are both of such bulk, and so dark as not to be read and

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understood by every one of the subjects.

This was echoed by Jonathan Swift in 1725, writing from the security of another mythical land *Brobdingnag*:

> No Law of that Country must exceed in Words the Number of Letters in their Alphabet; which consists only of two and twenty. But, indeed, few of them extended even to that Length. They are expressed in the most plain and simple Terms, wherein those people are not Mercurial enough to discover above one interpretation.

We have yet to achieve Utopia in legal writing, and no doubt most current legal writing would be a capital offence in Brobdingnag. However, improvements have recently been made in the writing of many types of legal documents, and we must now seek to make similar improvements in the writing of acts.

This historical review traces the evolution of many of the legal complexities now found in acts, and provides some perspective to recent work aimed at improving the readability of acts. In doing this, we will realize that, although the need for plain legal writing may not have been articulated before More and Swift, some of the complexities are apparent in laws of England written in Latin before the Norman invasion. They may not have been significant enough then to cause great concern, but the roots of the complexities we now have to grapple with have been apparent for many centuries.

Plain Language Background

The plain language movement in America in the 1960s and 1970s grew out of earlier efforts to protect consumers by requiring disclosure of details for financial transactions. Felsenfeld (1981-1982) claims his Citibank's (New York) 1975 initiative in writing their promissory notes in plain English as the major element leading to the passing of the first plain language act, in New York State in 1978 (AMERICA). President Carter's early 1978 Executive Order may also have been a factor: "...all major regulations [be] written in plain English and [be] understandable to those who must comply with them." The New York legislation and acts of other American states now require that contracts and other legal agreements be written in a form understandable by the general public. For a detailed history of the movement, see Felsenfeld (1981-1982), Hathaway (1983), Mellinkoff (1982), and Redish (1985). Some

comments on the history of the plain language movement in Canada can be found in Fingerhut (1981-1982) and Dykstra (1986). Dykstra recommends Blake et al. (1986), but this unpublished work is not available. A more detailed survey of the Plain Language Movement can be found in Jordan, 1995; and a brief survey of advice offered in the literature to improve the comprehension of legal writing (including acts) is included in Jordan, 1994.

In spite of the considerable interest in making financial and contractual documents more readable, there has been much less emphasis on the language of legislative acts. This is a little surprising as acts are the very centre of all legal discussion and decision, and they significantly affect important aspects of everyone's lives. Pollock and Maitland's (1898) detailed review of legal issues and language emphasises legal systems and principles, while Mellinkoff's (1973) more scholarly and detailed analysis traces the evolution of legal written English from the earliest Old English days with emphasis on lexical uses in law and their origins. Both provide extensive details of the influences of Latin and French on legal writing in English, and they also discuss the growth of the legal systems and related complexities common in legal writing in English today. In addition, the evolution of the authority, punctuation, and legal effects of the earlier acts in England and Wales has been well documented by Holdsworth (1922-1923).

Related Linguistic Work

In a wide-ranging review of anthologies by Levi and Walker (1990) and Rieber and Stewart (1990), Tiersma (1993) supports Mellinkoff's contention regarding the paucity of linguistic work dealing with acts: "The substantive law [the legal rules themselves] have received little attention from linguists." He notes, however, the recent use of speech act theory (Searle, 1969 and others) in statutory interpretation by Solan (1990), Miller (1990), and Sinclair (1985).

Bowers (1980) has explained the important changes in legal drafting during the Victorian era. His later work (1989) provides a sound basis for analyzing legal language from the anthropological perspective provided by Malinowski (1935) as developed by Halliday (1978, 1980) and others within a systemic framework. In this book Bowers discusses—among many other concepts—word order and theme (the sentence—initial constituent) in legal writing. He also discusses some of the complexities of compounding and multiple modifications in his chapter on sentence structure and legislative expression. These complexities have also been addressed, for example, by

Dickerson (1981), Driedger (1982), Danet (1980), and others.

In this paper, the emphasis is on sentence length and complexities within the clause and sentence: the ways sentences have been structured through the centuries in the continuing evolution of the genre of acts in English to the present day. To do this, we will be studying some extracts from some of the earliest English acts, written in Old English, followed by some translated extracts (from Latin) in Middle English, and Early Modern English from acts passed in England from the 13th and 16th centuries.

We then move to Canada, studying the evolution of legal language complexity in acts passed in the 18th, 19th, and 20th centuries in Nova Scotia, Upper Canada (now Ontario), and Alberta. Finally we will briefly examine some of the complexities of current acts in an extract from an act of the Province of Manitoba in 1992. Throughout the analysis of the growing complexity of the language, suggestions are made as to how we might learn from the simpler forms of writing, and how we might more fully understand the task of making acts easier to read.

Acts in Old English

According to Pollock and Maitland (1898), the Old English decrees of King Aethelberht, probably written about AD 597–616, are thought to be the first Germanic laws written in a Germanic language. A small sample, in Old English, of perhaps the first decree is given as Appendix A, together with a translation (from Attenborough, 1922).

The language is extremely simple and repetitive in structure, based essentially on the condition-consequence binary pairing with some conditions being simple coordinated pairs. There are no other conditions, exceptions, mitigations, or other complications that would make the decree more difficult to understand: the language is unarguably "plain." This plainness of language structure presumably reflects the simplicity of laws and penalties at the time. There could have been little need for discussion or legal debate or argument—if someone had committed a crime as specified, the penalty was clear.

One of the principles of law at that time was that some people were more equal than others. This hierarchy leads to the need for the complex list which we find in the translation of Item 1, thus maintaining extreme simplicity of sentence structure. However, the original, in Old English, is shown as having separate sentences. Like modern-day acts, the separate items are given separate paragraphs and are numbered for easy identdification.

Nearly three centuries later, we see that little had changed. Appendix B, an extract of an act in the reign of King Alfred, is an example of Anglo-Saxon law, again in Old English with modern translation (Attenborough, 1922). However, we do see the start of complications, not just because of the law relating to the status of the person (as in Item 10), but because of the circumstances given as conditionals in the five paragraphs of Item 11. These are the sorts of complications that, in current acts, tend to lead to complex sentence structures; in this act, however, we find a large amount of repetition and parallelity between these five paragraphs.

These characteristics make the writing undeniably "plain" and easy to follow—and in marked contrast with the style we now expect from current legislative language. Thus in seeking principles of plain language in acts, we might usefully start by recognizing the linguistic techniques used in these ancient decrees, and perhaps applying them as circumstances permit to modern acts.

Translations from Latin

Real linguistic complications in the writing of acts in England can be traced to the period when they were written in Latin, which became common around 900 AD and held sway, later with French, for many decades. Shelley (1921) reports that, of the 487 writs and charters in the reigns of William I and II (1066–1100), only 19 were in English and a further nine in English and Latin; the rest were in Latin. None were in French in that period, in spite of the strong French influence from the monarchs, aristocracy, and the church at the time. Indeed Mellinkoff (1963) notes that it was not until the 13th century that French was used in official documents in England.

An extract of an early example of an English act written in Latin appears as Appendix C, written during the reign of King Aethelstan, around AD 925–939 (Attenborough, 1922). There is a striking difference between the legal and linguistic complexities of this extract and those we have seen from Old English. From the rather simplistic "Aethelberht" style:

> If a man robs another, he shall pay back ten fold.

we might envisage an "Alfred" style much like:

1. If a man steals a cow, he shall pay back ten fold.

2. If a man steals and eats a cow, he shall pay back twentyfold.

3. If a man steals a cow and breeds calves with it, he shall pay back twentyfold and calves. etc....

But now, in the "Aethelstan" style, we find the start of real complexity in both the legal niceties of the requirements of the law and, related to this, real linguistic complexities in the way the refinements are expressed. This is no longer "plain" language in the sense that most of its advocates would recognize; it certainly takes more time and skill to read and interpret it.

The Aethelstan excerpt is structured in much the same way as the other two we have studied, in that they are all essentially of the condition-consequence structure; but now the conditional clauses are much larger and more complex. Although we do find simple coordination in the conditions of Appendix A (Æthelberht), we find coordination and both restrictive and non-restrictive clauses in Appendix C (Aethelstan). In Item 1, for example, the conditional clause is over three lines in length, and we find within it three restrictive relative clauses dominated by "who," "whom," and again "whom." The verbless clause "within...border" is signalled by the punctuation as a non-restrictive clause in the translation though not in the Latin original, and we would probably assume it to be meant as a non-restrictive broadening of the scope of the law. A further complication is that there are two consequences, given in two separate clauses of Item 1.

The use of "hominem" is presumably intended to apply to women as well as men, and in this we perhaps see the start of the current difficulties in using gender-neutral language in acts. In Item 6, we see, in the translation, how the thief is initially perceived to be a man, yet the conditions given later show that the law is also intended to apply to women thieves.

The broadening of the scope of the act is extensive in Item 6. The requirement is essentially described in the first three lines ending with "worthy of life." The remainder of the requirement makes it clear that that ruling is to apply under all circumstances specified. These are expressed in a complex chain of broadening pairs (using "neither...nor" and "whether...or") with the final broadening having a final complicating condition of proof by other means.

Ironically these additions could lead to a, presumably unintentional, lessening of the effect of the law. Using the legal dictum *expressio unius est exclusio alterius* (specifying some excludes others), a woman commoner for

example might claim exemption from the law on the grounds that her specific case was not mentioned and should therefore be excluded!

A sample of writing translated from Latin in the Middle English period is given in Appendix D. This is part of the Magna Carta, which, although dated officially as 1225, may have been a little later as there were several versions and modifications. The translation in Appendix D is of the 13th century as printed, with minor (unspecified) variations, in Ruffhead, 1762. Note that, until the 19th century, the "long *s*" (indicated as *f* here) was in current practice in writing. Note also the—largely idiolectic—capitalization of nouns in early acts, following the tradition in German, to which English is closely related.

In the Latin original and the translation of the excerpt from the Magna Carta (Appendix D), there are only two sentences although, in the translation, the huge first sentence is numbered to indicate identifiable parts. This numbering helps the reader to understand the individual requirements, and could also facilitate oral reference—both signs, perhaps, that the linguistic needs of readers were being considered. The first two numbered components are coordinated by "and," and the third by "and" and substitution ("fhe"), whereas Items 4 and 5 are grammatically and semantically independent although still coordinated by "and."

The Magna Carta, an "act" from the world's first embryonic parliamentary oligarchy, was legally still quite simple and naive. The extract is rather vague in parts—note the vagueness of "without any Difficulty," the "competent houfe," and the "reasonable eftovers"—and there appears to have been a loophole with the exception at the Church-door. The final right to remarry in the second sentence has a totally subjective condition dependent on the personal approval of the crown or Lord. It is, however, much more complete legally than the rather simplistic rules of earlier centuries.

We still see the strong role played by the conditionals in Items 3 and 4 and the exceptions and conditionals in Items 5 and 6. But now we see the more prominent role played by the verbless clauses in the (unnumbered) Item 1, this time without the complications of the broadening clauses of Appendix C. Adverbial clauses of time are important elements in this extract.

The Early Modern English Period

After several centuries of development, laws in the 16th century had become more specific and inclusive, as we see in the contemporary transla-

tion (again from Latin) of an act dated 1597 in the reign of Elizabeth I (Appendix E). It had become customary to include an introductory statement giving the reasons and justification for the passing of the law, which we see in the very long "Whereas"-dominated clauses containing the lists of reasons. It had also become customary to include the authority that passed the law. As Ruffhead (1762) points out in his Preface, many early "laws" were passed by various Lords and Barons—or by the Crown and a few friendly Lords—and thus did not have the required combined authority of the Crown, the Lords, and the Commons. This law clearly does have that combined authority.

We also see the reference to an earlier act, and the recognized deficiency of that act—in that it allowed those guilty of unlawful woman-napping to have the benefit of clergy before being executed. This act removes that privilege by another act to replace the first one. At that time, acts were known by their general (often very long) titles and the year of enactment in the reign of the current monarch, a cumbersome reference system which was only possible because there were relatively few acts. The supremacy of this act over any others to the contrary is clearly stated in the "notwithftanding" clause, a meaning of great importance in current Canadian constitutional law.

This act, like many of that era (and indeed many other legal documents until quite recently), is composed of a single sentence, a phenomenon discussed in some detail by Crystal and Davy (1969, Chapter 8). The introductory adverbial clause has two components: (1) the nature and effects of the offence, and (2) the fact that it *is* an offence, and a perceived defect with the old act. Although it is linguistically quite complex and takes up nearly nine lines, it has little legal value as it merely introduces the new legislation that follows.

The grammatical subject of the sentence is the anticipatory *it* within the subjunctive expression "Be it therefore enacted....That," and within this is the authoritative agentive clause. The substance of the act follows in the dependent "That" clause before the "notwithftanding" clause near the end. The final orthographic "sentence" (labelled *II*) is not grammatically a sentence at all as it is grammatically a dependent clause of exception. It is interesting, though, that it was given a separate number as a way of making the text a little easier to follow.

The requirement itself involves considerable complexity in the coordination by "and" and "or," and the different conditions leading to the removal of clergy are not easy to follow on first reading. A list of conditions here would have been helpful in making the act clearer, but that would presum-

ably not have been linguistically acceptable at that time. This act could quite easily be made much more readable by separation of the preamble from the requirement of the act, and also by separation of the requirements and the main exception at the end.

The Eighteenth Century

By the time pioneers were passing new laws in what was to become Canada, the language was essentially that of today. The Lord's Day Observance Act of Nova Scotia, dated 1761 (Appendix F), is identified by its title, date, and the year of reign of the monarch at that time (George III), but it also specifies the session and assembly, as we see in modern laws.

The reason for the law is stated in a very brief clause dominated by "in order that" in the first line, which also includes the brief authority for the enactment of the law. This act, although less serious than the one of womannapping discussed earlier, is much more detailed, and we see here the current approach of trying to cover all eventualities and conditions relating to this crime. The lists we saw in the Magna Carta and the 1597 act have become even longer in this act, and there are many more options to cover possible loopholes for forbidden activities.

The act has five sections with clearly distinguishable contents: the authority, purpose, basic law forbidding sale, and exceptions for necessity; extension to cover non-religious activities; extension to a cover selling and consumption of alcohol; methods of enforcement; and extension to cover failure to attend church. The repetitive introductions to Sections II–V are agentless subjunctive passives, the implicit agent being the all important authority for the act. The overall structure and parallelity are not perfect, as the penalty for selling goods on the sabbath is not stated; all other sections have their penalties included, but this one does not. Later laws separate the requirements and exceptions from enforcement and penalties.

We now see the introduction of law-enforcing parties as well as those who run afoul of the law and those affected by such actions. We also have a multitude of possible people affected by the law, making it impossible to write in the second person as we could have done with some of the earlier simpler acts:

> If you slay another on the king's premises, you shall pay 50 shillings compensation.

The general gender-inclusive wording in this act of "his," "her," "or

their fhop," "his or her fervant," "his or their fervant," and "absent himfelf or herfelf" shows the legal need for gender inclusivity, to which laws have only recently returned.

Exceptions are very important in this act—as they are at present. The "Provided nevertheless" clause in Section I, the "works of charity and neceſſity" exception in Section II, not "being...only" exception in Section III, and the "age," "fickneſs," and "neceffity" exceptions are important elements in this act. Especially in Sections I, II and IV, coordination by "and" and "or" provides lists of persons and activities constituting an infraction of the law or listing legal obligations.

The difficulty in comprehending the language of this act is not great, and is largely caused by the exceptions just noted and the large number of items in the lists that make up the clause structures. Section III is a good example. The overall structure of the first clause (up to the semi-colon) is quite simple:

> no tavern keeper...ſhall...entertain or ſuffer any of the inhabitants...to abide or remain in their dwelling houſes...drinking or idly ſpending their time on the Lord's Day;

This is plain enough. But the difficulty comes in all the additions to the items within these elements of the clause, and especially in the exceptions in the "not being" clause and the following "or such" clause that limit the broadened range of those who must not be allowed to so waste their time. To make this plainer, we would have to state the general rule and use separate clauses to state who is affected by the requirement and who is *not* affected (the exceptions).

The Nineteenth Century

The act in Appendix G was passed by the first session of the 11th parliament of the province of Upper Canada (later Ontario). This act again has the reason or justification at the beginning, and goes to great pains to explain the authority by which the law is passed. At the time, the legislature of the province of Upper Canada was constituted under the authority of acts passed by the parliament of Great Britain. As we learn, the specific authority for this particular act derives from one act of the British Parliament repealing yet another act. Each section of this act is prefaced with reference to this established authority.

By this time, it was common to replace acts of the English Parliament

with others under the jurisdiction of the new provinces, with each province having its own laws for all matters over which they have jurisdiction. The provincial laws are often very similar, of course, as writers have "borrowed" much of the contents and wording from British (and later Canadian and USA) laws, but the laws are separately published and have provincial jurisdiction. At the end of this act, the earlier act is clearly repealed.

The conditions under which married women could sell their property are very clearly spelled out in terms of their husbands' approval and the sanction of an array of possible judicial officials. The "form" of wording to be used is an interesting development—the forerunner of the current extensive use of "prescribed" forms and related requirements that things be done in "the prescribed manner." Later the actual forms are produced, as appendices, and their use is prescribed in the requirements or regulations of the act.

The sections allow division of the contents of the act and also facilitate reference. We see here some of the complex sentences for which legal writing is notorious. In Section III, for example, we see condition, exception, and time elements as well as many complex restrictive and non-restrictive clauses. This section is so complex it takes considerable time to untangle it—and even then the exact meaning may be open to some debate.

These complications are of a different sort from those we saw in the previous act, which had simple sentence structures with complications in the length of clause elements caused by listing those involved and not involved. In this Upper Canada act, the complications are due to complex sentence structures with subordinate clauses modifying other subordinate clauses, including provisions, exceptions, and conditions. Making such writing plainer is much more difficult than making the Nova Scotia act plainer because it is often very difficult to add important subordinate clauses later as separate sentences while still retaining the original meaning of the act. Such difficulties are discussed in Jordan 1994.

By this time the long *s* had disappeared in the formal language of acts and other official documents, although it was still in general use in England and the embryonic Canada. We also see that the capitalization of nouns had become very close to current practice.

The Twentieth Century

By the early 20th century, acts were being separated into numbered sections and subsections—a return to the practice used in the Old English laws. References to other acts were being made through accepted citations. The

complete act in Appendix H is an edited version of the earlier act cited (R.S.A., 1922, c. 102, s. 2), referring to a specific section and chapter in the Revised Statutes of Alberta of 1922; and this in turn is derived from an earlier version in 1903.

We still have a brief note of authority at the start, but there is now no "Whereas" clause to give reason or justification for the passing of the act. Perhaps that was assumed to be self-evident. A new feature adding complexity which we find in this act is that the grammatical subjects of Sections 2 and 4 are extremely long—a feature we still often find in modern acts. We also find many possibilities and options covering all eventualities.

The sentences are very long and complex compared to other English prose forms; Sections 2–4 contain 70–90 words each, whereas most computer style checkers would suggest rewriting when sentence lengths exceed about 20 words. There are also several restrictive relative clauses (using "who", "whose", and "which"), which add considerably to the difficulty in comprehension; and there are several instances of conditionals (with "in the case of" and "if"). Two types of "notwithstanding" clauses are used: dominating a final clause in Section 2 meaning "whether or not"; and dominating a noun phrase as a pre-subordinate clause in Section 5 meaning "In spite of."

The manner clause "in her own name" is an interesting complication. It indicates the manner by which the unmarried seduced woman can maintain an action under this act—not, as we might think on initial reading, that she has been seduced in this manner. Such difficulties occur when we have two or more clauses dependent on different parts of the sentence, as in this case. It might have been better to have included this clause after "maintained" to make this clearer—and without the commas, as the manner is an essential element of the right being preserved here. This is a further issue for which linguistic guidance is needed to help writers and editors of legislation.

The Present

Nowadays the authority of acts is inherent in the statement of origin and identification, for example "2nd SESSION, 35th LEGISLATURE, ONTARIO 41 ELIZABETH II, 1992 Bill 121 An Act to Revise the Law related to Residential Rent Regulation." Ironically, though, there are still often questions of authority for acts, usually arising from doubt concerning federal/provincial jurisdiction.

Present Canadian acts, now published in both official languages, have two main sections (the definitions and the requirements), often supplemented

by regulations and standard forms. They also have extensive three- or four-level numbering systems to allow reference to other sections and subsections within the act and to other acts.

An extract from a modern-day act is given as Appendix I, which is Item 6(2) of the Appropriations Act of the Province of Manitoba, enacted in 1992. This single sentence is a prime example of the great complexities that readers now have to deal with in attempting to comprehend the requirements of the law—and we can readily perceive from this example the need for plainer legal language.

The single sentence of this extract starts off with an adverbial clause of circumstance containing three main parts, with a further negative condition being added to the third part. There are two main clauses under this major adverbial clause. The subject of the first main clause is quite simple—having only a single restrictive -ed clause dominated by the -ed form "indicated." Also the main verb phrase ("shall be increased") is a simple agentless passive, and the basic complementation is only "by an equivalent amount." The combined purpose/effect clause ("so that...remains unchanged") completes the first main clause.

The second main clause (coordinated to the first by "and") has within it three coordinated parts before we come to the main verb phrase of the second clause ("shall be increased"). The comma breaks the basic grammatical rule of separating the subject from its verb with a single comma, but this might help readers understand the clause pattern a little more readily. This second clause parallels the first in structure.

The trouble with this example from a comprehension point of view is that readers would have to read the text several times before grasping the overall sentence structure—and it is conceivable that different analysts could come to different conclusions regarding that structure. A case could perhaps be made that "so that" dominates the entire remainder of the sentence, and that therefore only one main clause exists. We need to concentrate on allowing easy—and definitive—recognition of the sentence patterns if we hope to make such texts more transparent to more members of the public affected by them.

Summary and Conclusions

We have seen that early laws (in Old English) were very simply structured. Most sentences were based on the condition-consequence structure repeated many times for different infractions of the law and related penalties.

The number and complexities of conditionals in particular have increased as the laws have grown in complexity and completeness, including every possible relevant detail and all the circumstances that define the penalties involved.

As laws changed to include rights, duties, and obligations as well as infractions and penalties, further legal complications had to be included. In addition the different people involved in the contravention, enforcement, and application of the law were given rights, duties, and responsibilities. To accommodate all these, the structures of the clauses and sentences also became more lengthy and complicated, and these complexities have resulted in growing difficulties in comprehension. These difficulties have only partly been overcome through greater use of listing and the separation of requirements, exceptions, and conditions as separate sentences. Clearly much more needs to be done to improve the readability of our laws.

In recent, related work (1994a, 1994b) I have tried to provide an introduction to the difficult task of making acts more easily understandable to members of the general public, who are materially affected by the laws and therefore should be in a position to understand them. This work analyzes many of the complexities found in an Ontario act regulating rents and rent increases. The first paper describes methods we can adopt to improve the definitions given at the openings of the acts, and discusses French versions that can help us to improve the readability of the English version. It also derives several principles to guide writers and editors in making definitions and requirements in acts more readily understandable. The second paper concentrates on the important use of conditionals and other clauses in complex subordinations, and also gives some guidance on how we might improve the readability of clauses containing large or complex restrictive clauses.

The aim of this present paper has been to provide some understanding of the growth of both the legal and the linguistic complexities of legal writing in acts through the centuries. This is intended as a basis for a deeper understanding of the problems associated with making legal language plainer—and for developing possible solutions.

Appendix A

AETHELBERT

Þis syndon Þa domas, Þe Aeðelbirht cyning asette on Augustinus daege.

1. Godes feoh 7 ciricean XII gylde. Biscopes feoh XI gylde. Preostes feoh IX gylde. Diacones feoh VI gylde. Cleroces feoh III gylde. CiricfriÞ II gylde. Maethl friÞ II gylde.
2. Gif cyning his leode to him gehateÞ 7 heom mon Þaer yfel gedo, II bóte 7 cyninge L scillinga.
3. Gif cyning aet mannes ham drincaeÞ, 7 ðaer man lyswaes hwaet gedo, twibote gebete.
4. Gif frigman cyninge stele, IX gylde forgylde.
5. Gif in cyninges tune man mannan ofsles, L scill' gebete.

AETHELBERHT

These are the decrees which King Aethelberht established in the lifetime of Augustine.

1. [Theft of] God's property and the Church's shall be compensated twelve fold; a bishop's property eleven fold; a priest's property nine fold; a deacon's property six fold; a clerk's property three fold. Breach of the peace shall be compensated doubly when it affects a church or a meeting place.
2. If the king calls his lieges to him, and anyone molests them there, he shall pay double compensation, and 50 shillings to the king.
3. If the king is feasting at anyone's house, and any sort of offence is committed there, twofold compensation shall be paid
4. If a freeman robs the king, he shall pay back a nine fold amount.
5. If one man slays another on the king's premises, he shall pay 50 shillings compensation.

Appendix B

10. [Be haemedðingum.]
    Gif mon haeme mid tweldhyndes monnes wife, hundtwelftig scill. gebete ðam were; syxhyndum men hundteontig scill. gebete; cierliscum men feowertig scill. gebete.
11. Gif mon on cirliscre faemnan broest gefó, mid V scill. gebete.
    1. Gif he hie oferweorpe 7 mid ne gehaeme, mid X scill. gebete.

2. Gif he mid gehaeme, mid LX scill. gebete.
3. Gif oðer mon mid hire laege áer, sie be healfaum ðaem ðonne sio bot.
4. Gif hie mon teo, geladiege hie be sixtegum hida, oððe ðolige be healfre Þaere bote.
5. Gif borenran wifmen ðis gelimpe, weaxe sio bót be ðam were.

10. If anyone lies with the wife of a man whose wergeld is 1200 shil lings, he shall pay 120 shillings compensation to the husband; to a husband whose wergeld is 600 shillings, he shall pay 100 shillings compensation; to a commoner he shall pay 40 shillings compensa tion [for a similar offence].
11. If anyone seizes by the breast a young woman belonging to the com mons, he shall pay her 5 shillings compensation.
    1. If he throws her down but does not lie with her, he shall pay [her] 10 shillings compensation.
    2. If he lies with her, he shall pay [her] 60 shillings compensa tion.
    3. If another man has previously lain with her, then the com pensation shall be half this [amount].
    4. If she is accused [of having previously lain with a man], she shall clear herself by [an oath of] 60 hides, or lose half the compensation due to her.
    5. If this [outrage] is done to a woman of higher birth, the compensation to be paid shall increase according to the wergeld.

Appendix C

4. [De illo qui alterius hominem recepit.]
   Et qui alterius hominem suscipiet intra vel extra, quem pro malo suo dimittat et castigare non possit, reddat regi centum viginti solidos, et redeat intus unde exivit, et rectum faciat ei cui servivit antea.
5. [Ne dominus libero homini ius prohibeat.]
   Et item, ne dominus libero homini hlafordsocnam prohibeat, qui ei per omnia rectum fecerit.
6. [De fure capto, qui personam vel locum pacis adierit.]
   Et sit fur qui furatus est postquam concilium fuit apud Dunresfeld vel furetur, nullo modo vita dignus habeatur, non per socnam, non per pecuniam, si ver verum

reveletur in eo; sit liber, sit servus, sic comitum, sic villanorum, sit domina, sit pedissequa, sit quicumque sit, sic handhabbenda,, sic non handhabbenda; si pro certo sciatur—id est si verbum non dixerit ut andsaca sit—vel in ordalio reus sit, vel per aliud aliquid [culpabilis] innotescat.

4. If anyone shall receive a man who has been in the service of another, within or beyond the border, whom the latter has dismissed for his wrongdoing, and whom he has not been able to punish, he shall pay 120 shillings to the king; and the fugitive shall return to the place from which he came and render satisfaction to him in whose service he has been.
5. And further, a freeman who has acted rightly in all respects to his lord, shall not be prevented from seeking a [new] lord.
6. And if there is a thief who has committed theft since the council was held at Thundersfield, and is still engaged in thieving, he shall in no way be judged worthy of life, neither by claiming the right of pro tection nor by making monetary payment, if the charge is truly substantiated against him—whether it is a freeman or a slave, a noble or commoner, or, if it is a woman, whether she is a mistress or a maid—whosoever it may be, whether taken in the act or not taken in the act, if it is known for certain—that is, if he shall not make a statement of denial—or if the charge is proved in the ordeal, or if his guilt becomes known in any other way.

Appendix D

A Widow shall have her Marriage, Inheritance, and Quarantine. The King's Widow etc.

A Widow, after the death of her hufband, incontinent, and without any Difficulty, shall have her marriage, and her inheritance, (2) and fhall give nothing for her dower, her marriage, or her inheritance, which her hufband and fhe held the day of the death of her hufband, (3) and fhe fhall tarry in the chief houfe of her hufband by forty days after the death of her hufband, within which days her dower fhall be affigned her (if it were not affigned her before) or that the houfe be a caftle; (4) and if fhe depart from the caftle, then a competent houfe fhall be forthwith provided for her, in the which fhe may honeftly dwell, until her dower may be affigned, as it is aforfaid; and fhe fhall have in the mean time her reasonable eftovers of the common; (5) and for her dower fhall be affigned unto her the third part of all the lands of her hufband, which were his during coveture, except fhe were endowed of lefs

at the Church-door. (6) No widow fhall be diftrained to marry herfelf: neverthelefs fhe fhall find surety, that fhe fhall not marry without our licence and affent (if fhe hold of us) nor without the affent of the Lord, if fhe hold of another.

Appendix E

An Act for taking away of Clergy from Offenders againft a certain Statute made in the Third Year of the Reign of *King Henry* the Seventh, concerning the Taking away of women againft their Wills unlawfully.

WHEREAS of late Times divers Women, as well Maidens as Widows and Wives, having Subftance, fome in Goods moveable, and fome in Lands and Tenements, and fome being Heirs apparent of their Anceftors, for the Lucre of fuch fubstance been oftentimes taken by Mifdoers contrary to their Will, and afterward married to fuch Mifdoers, or to others by their affent, or defiled, to the Great Difpleasure of God, and contrary to your Highnefs Laws, and Difparagement of the faid Women, and great heavinefs and Discomfort of their Friends, and ill Example of others; (2) which Offences, albiet the fame be made Felony by a certain Act of Parliament made in the third Year of *King Henry* the Seventh, yet forafmuch as Clergy hath been heretofore allowed to fuch Offenders, divers Perfons have attempted and committed the faid Offences, in Hope of Life by the Benefit of Clergy; Be it therefore enacted by the Queen's moft excellent Majefty, The Lords Spiritual and Temporal, and the Commons, in this prefent parliament affembled, and by the authority of the fame, That all and every fuch Perfon and Perforns, as at any Time after the End of this prefent Seffion of Parliament fhall be convicted or attainted of or for any Offence to be committed after the End of this prefent Seffion of Parliament fhall be convicted and arraigned of or for any fuch Offence, and ftand mute, or make no direct Anfwer, or fhall challenge peremptorily above the Number of twenty, fhall in every fuch Cafe lose his or their Benefit of Clergy, and fhall fuffer Pains of Death without any Benefit of Clergy, any former Law to the contrary notwithstanding.

II. Provided always, That the Act, nor any Thing therein contained, fhall not extend to take away the Benefit of Clergy, but only from fuch Perfon or Perfons as hereafter fhall be Principals, or Procurers or Acceffaries before fuch Offense Committed.

Appendix F

An ACT for the better Obfervation and keeping of the Lord's Day.

***Be** it enacted by the Honorable the Commander in Chief the Council, and Aſſembly,* in order that all persons may, on the Lord's Day, apply themſelves to duties of religion and piety, both publikly and privately, no tradeſman, warhouſe keeper, ſhopkeeper, or other perſon whatſoever ſhall, for the future, open his, her or their ſhop or warehouſe; or either by himſelf or herſelf, or by his or her ſervant or ſervants, child or children, ſell, expoſe, or offer to ſale, upon any bulk, ſtall or ſhed, or ſend or carry out, any manner of goods or merchandise on the Lord's Day or any part thereof: *Provided neverthelefs*, that this Act ſhall not extend to prohibit any perſons from ſelling or expoſing for ſale, milk and freſh fiſh before the nine of the clock in the afternoon of the ſaid day.

II. *And be it further enacted*, That no perſon whatsoever, for the future, ſhall do, or exercise any labour, work or buſiness, of his or their ordinary callings, or other worldly labour, or ſuffer the ſame to be done, by his or their ſervant or ſervants, child or children, either by land or water, (works of neceſſity and charity only excepted) or uſe, or ſuffer to be uſed any ſport, game, play or paſtime on the Lord's day or any part thereof, upon pain, that every perſon or perſons ſo offending in any way of the particulars beforementioned, upon conviction thereof upon the oath of one credible witneſs, before any one of His Majeſty's Juſtices of the Peace of this province, or upon view of any Juſtice of the Peace, for every ſuch offence ſhall forfeit and pay the ſum of ten ſhillings.

III. *And be it further enacted,* That no tavern keeper, retailer of ſpirituous liquors, vintner, or other perſon keeping a public houſe of entertainment within this province, ſhall, for the future, on any pretence whatsoever, entertain or ſuffer any of the inhabitants or town dwellers of Halifax, or any of the towns reſpectively where ſuch tavern keepers, retailers of ſpirituous liquors, vintners, or others, not being ſtrangers or lodgers in ſuch houſes, or ſuch as come thither for neceſſary dieting and victualling only, to abide or remain in their dwelling houſes, out-houſes or yards, drinking or idly ſpending their time on the Lord's Day; but ſhall keep their doors ſhut during the time of divine ſervice, on penalty of forfeiting and paying the ſum of ten ſhillings, for every perſon or perſons reſpectively ſo found drinking or abiding in ſuch public houſes or dependencies thereof as aforesaid; and every ſuch perſon and perſons, who ſhall be found ſo drinking or abiding in any ſuch public houſe or dependencies thereof as aforeſaid, ſhall reſpectively forfeit and pay the ſum of five ſhillings.

IV. *And be it further enacted*, That the church wardens and the conſtables,

or any one or more of them, fhall once in the forenoon, and once in the afternoon, in the time of divine fervice, walk through the town to obferve and fupprefs all diforders, and apprehend all offenders whatfoever contrary to the true intent and meaning of this act: And they are hereby authorized and impowered to enter into any public houfe of entertainment, to fearch for any fuch offenders, and in cafe they are denied entrance, they are hereby impowered to break open, or caufe to be broke open, any of the doors of the faid houfe, and enter therein; and all perfons whatsoever are ftrictly required and commanded to be aiding and affifting to any conftables or other officers in their execution of this act, on the penalty of ten fhillings current money for every neglect.

V. *And be it further enacted*, That if any perfon or perfons whatfoever, being of the age of twelve years or upwards, being able of body and not otherwife neceffarily prevented by real ficknefs, or other unavoidable neceffity, fhall for the fpace of three months together, abfent himfelf or herfelf from the public worfhip on the Lord's Day, fhall be fubject to a fine, that is to fay, for every head of a family ten fhillings, and for every child or fervant five fhillings to be recovered upon complaint, before any one of his Majefty's Juftices of the peace, who is hereby impowered to caufe the fame to be levied.

Appendix G

An act to enable married women more conveniently to alien and convey their real estate, and to repeal an act passed in the forty-third year of the reign of King George the Third, entitled, "An act to enable married women having real estate more conveniently to alienate and convey the same." [Passed March 16, 1831.]

WHEREAS the laws now in force, enabling married women more conveniently to alien their real estate, do not afford the facility required, and at the same time unnecessarily expose purchasers to risk, from the chance of the married woman dying, or retracting her consent after her execution of the conveyance, by means whereof such conveyances may be defeated, to the great prejudice of innocent purchasers; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the legislative council and assembly of the province of Upper Canada, constituted and assembled by virtue of and under the authority of an act passed in the parliament of Great Britain, entitled, "An act to repeal certain parts of an act passed in the fourteenth year of his Majesty's

reign, entitled, 'An act for making more effectual provision for the government of the province of Quebec, in North America, and to make further provision for the government of the said province of Quebec, in North USA and to make further provision for the government of the said province,'" and by the authority of the same, That from and after the first day of August next after the passing of this act, it shall and may be lawful for any married woman, being above the age of twenty-one years, residing within this province, and seized of real estate therein, to alien and convey such real estate by deed, to be executed by her jointly with her husband, to such use and uses as to her and her husband shall seem meet: Provided always, nevertheless, That such deed shall not be valid, or have any effect, unless such married woman shall execute the same in presence of one of the judges of the court of king's bench in this province, or in the presence of a judge in the district court, or of a judge of the surrogate court of the district in which such married woman shall reside, or of two justices of the peace for such district, and unless such judge or two justices of the peace (as the case may be) shall examine such married woman, apart from her husband, respecting her free and voluntary consent to alien and depart with her estate, as mentioned in the deed, and shall on the day of the execution of such deed, certify on the back of the deed in some form of words to the following effect:

"That on the day mentioned in the certificate, such married woman did appear before him or them, [as the case may be,] at the place to be named in the said certificate, and being examined by him, or them, [as the case may be,] apart from her husband, did appear to give her consent to depart with her estate in the deed mentioned, freely and voluntarily, and without any coercion, or fear of coercion, on the part of her husband, or of any other person or persons whatsoever."

II. And be it further enacted by the authority aforesaid, That when the married woman resides out of this province, the deed may be executed by her in the presence of a judge of the court of king's bench, or of a judge of the district court, or of the surrogate court, or of two justices of the peace in and for any district of this province, whose certificate shall be effectual for the purposes aforesaid: Provided always, That it shall not in any case be necessary for any such judge or justices as aforesaid, to attest the execution of any deed as a subscribing witness ; Provided always, That nothing in this act contained shall be taken or construed to give to such deeds, so executed as aforesaid, so far as relates to the married woman, or the interests of herself, or of those claiming under her, any greater or other force or effect than the

same would have had in case such married woman had been sole at the time of executing the same.

III. And be it further enacted by the authority aforesaid, That in all cases in which a married woman shall, before the passing of this act, have made any conveyance, which would be valid in law, if such certificate had been obtained with the period of twelve months, as was required by the laws then in force in this province, such certificate may at any time, after the passing of this act, be obtained, notwithstanding the period of twelve months may have expired, and the same shall have the like effect, and no other, as if given within twelve months : Provided always, nevertheless, That nothing herein contained shall affect, or be construed to affect, the right to lands of any person or persons who may have obtained a deed according to law for any lands which may have been previously conveyed by a married woman, but not ackowledged before a judge, pursuant to the laws of this province.

IV. And be it further enacted by the authority aforesaid, That the sum of five shillings shall be paid for every such certificate, and no more.

V. And be it further enacted by the authority aforesaid, That a certain act of the parliament of this province passed in the forty-third year of the reign of his late Majesty, King George the Third, entitled, "An act to enable married women having real estate more conveniently to alien and convey the same," shall, from and after the said first day of August next, be repealed, except as to any conveyances which have been or shall be executed while the same was in force.

Appendix H

An Act respecting Actions for Seduction.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows :

Short Title.

1. This Act may be cited as *"The Seduction Act."* [R.S.A. 1922, c. 102, s. 1.]

Persons Entitled to Maintain Action.

2. The father or, in case of his death, the mother, whether she remains a widow or remarries, of any unmarried female who has been seduced and for whose seduction the father or mother could maintain an action in case such unmarried female was at the time dwelling under his or her protection may maintain an action for the seduction, nothwithstanding such unmarried female was at the time of her seduction serving or residing with another

person upon hire or otherwise. [R.S.A. 1922, c. 102, s. 2.]

3. Upon the trial of an action for seduction brought by the father or mother it shall not be necessary to prove any act of service performed by the party seduced but the same shall in all cases be presumed and no evidence shall be received to the contrary; but in case the father or mother of the female seduced had before the seduction abandoned her and refused to provide for and retain her as an inmate then any other person who might at common law have maintained an action for the seduction may maintain such action. [R.S.A. 1922, c. 102, s. 3.]

4. Any person other than the father or mother who by reason of the relation of master or otherwise would have been entitled at common law to maintain an action for the seduction of an unmarried female may still maintain such action if the father or mother is not resident in the Province at the time of the birth of the child which is born in consequence of the seduction or being resident therein does not bring an action for the seduction within six months from the birth of the child. [R.S.A. 1922, c. 102, s. 4.]

5. Notwithstanding anything in this Act an action for seduction may be maintained by an unmarried female who has been seduced, in her own name, in the same manner as an action for any other tort and in any such action she shall be entitled to such damages as may be awarded. [R.S.A. 1922, c. 102, s. 5.]

Appendix I

Adjustments consequent upon transfers for Canada-Manitoba Winnipeg Core Area Renewed Agreement

6(2) Where money is transferred under subsection (1) to an appropriation for Canada-Manitoba Winnipeg Core Area Renewed Agreement under a service heading of the Main Estimates other than the service heading Urban Affairs (XX), the amount indicated in the Main Estimates as recoverable from the Department of Urban Affairs shall be increased by an equivalent amount so that the total appropriation authorized to be expended under that service heading of the Main Estimates, less recoveries, remains unchanged and the amount authorized for expenditure for Canada-Manitoba Winnipeg Core Area Renewed Agreement under service heading Urban Affairs (XX) in Schedule A and in Appropriation No. 3—Urban Policy and Agreement Management or Appropriation No. 4—Expenditures Related to Capital under that heading, shall be increased by the amount transferred so that the total of appropriations authorized to be

expended under service heading Urban Affairs (XX) is increased by that amount.

Acts Studied

The examples used as the basis for the analysis in this paper have been extracted from the following acts.

597–616 Decrees of King Aethelberht in the Lifetime of St. Augustine (Attenborough, 1922, from Old English), Appendix A

892–893 Laws of King Alfred (Attenborough, 1922, from Old English), Appendix B

925–939 Laws of King Aethelstan (Attenborough, 1922, from Old Latin), Appendix C

1225 "Widow fhall have her Marriage, Inheritance, and Quarentine," *Magna Carta,* Anno nono HENRICI III, CAP. VI (Ruffhead, 1762, from Latin), Appendix D

1597 "An Act for taking away of Clergy from Offenders against a certain Statute made in the third Year of the Reign of King Henry the Seventh, concerning the Taking away of Women against their Wills unlawfully," Anno tricefimo nono Reginae ELIZABETHAE, CAP. 9 (Ruffhead, 1762, from Latin), Appendix E

1761 "An ACT for the better observance and keeping of the Lord's Day", first year of the reign of George III, first session, third General Assembly, Province of Nova Scotia, CAP. 1, Appendix F

1831 "An Act to enable married women more conveniently to alien and convey their real estate, and to repeal an act passed in the forty-third year of the reign of King George the Third, entitled, 'An Act to enable women having real estate more conveniently to alienate and convey the same.'," first year of William IV, first session, eleventh parliament, Province of Upper Canada, c. 3, Appendix G

1931 "An Act respecting Actions for Seduction," Revised Statutes of

Alberta, c. 142, Appendix H

1992 "The Appropriations Act," Revised Statutes of Manitoba, c. 60, 6(2), Appendix I

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