DR. KORTE has produced an admirably lucid account of certain general aspects of Anglo-Saxon law after a careful study of the surviving codes and of the law-books of the reign of Henry I. He does not lose sight of the fact that, rich though the material is compared with that for other Germanic peoples, we have no complete picture of the law of the Anglo-Saxons. The codes make no attempt to state the complete law relating to any subject; they are in the main merely supplements and alterations to the existing law. The mass of what has survived belongs to "process law." The legislators' main concern is with the public order, the maintenance of the peace, and it is by alterations in this "process law" that they are able to introduce developments with this end in view. It is only when we come to the post-Conquest law-books that we meet, especially in the Leges Henrici Primi, attempts to deal with the whole of the existing law, in the confused situation brought about by the Conquest.

After a detailed examination of the surviving codes Dr. Korte concludes that most of them are not nearly as haphazard in arrangement as has been supposed. General themes can be observed in successive sections, though within these the sequence of clauses may depend on association, perhaps sometimes unconscious, which leads to the handling of matters not related to the main theme of the section. In considering arrangement within the codes, and the development during the period, Dr. Korte claims that, though of course the legal processes are of Germanic origin, we are not dealing with an old tradition of folk-law, but mainly with a "Staatsorganisations Recht." In this he is surely right, and later in his work he rejects the view that the laws embody ancient poetic formulae or other such primitive elements.

Dr. Korte writes well on the situation in England at the time the law-books were produced. These differ from the Anglo-Saxon codes in that they are not attempting to introduce new laws or to confirm old ones, but only to state existing law as the authors see it, in all its variety in different areas. He is particularly interesting in his detailed discussion of the Leges Henrici Primi. It is a pity that his book evidently went to press before the appearance of the edition by L. J. Downer (Oxford, 1972). This might have saved him from accepting the opinion of Richardson and Sayles that Quadripartitus was not the work of the same author. Both Mr. Downer and Dr. Korte agree that the author of the Leges Henrici has received less than his due, but Dr. Korte goes further than Mr. Downer in his defence of him. While the latter sees little but disorder in the arrangement of the work, saying that "There is a kind of Irish logic in the author's presentation, in the sense that one notion leads on to another, but no other harmony of presentation is discernible," Dr. Korte, while recognising the many faults of arrangement, nevertheless holds that there are discernible some overriding main themes. He thinks that the author saw it as his main function to represent the system of courts, to distinguish cases according to their various attributes and the courts competent to deal with them. This was an urgent necessity because the already complicated situation of the relation between king's court, local courts and the courts of immunity holders had been made more confused by new
feudal relationships between lord and man. But within the larger divisions into which one can divide his work, he is far too often led away by associations on to topics not relevant to the larger theme. His arrangement is, in short, very like that which Korte has claimed for the codes of Alfred and Cnut. Dr. Korte writes with more sympathy than others of the use made of passages from Isidor's *Etymologiae*, the pseudo-Isidorian Decretals and the Decretals of Ivo of Chartres, and of some *regulae iuris*. He sees in the author's use of legal maxims, which he knew from authoritative sources in his reading, an attempt to prove that the legislators of his country had established right law.

As Dr. Korte says, a main concern of the Anglo-Saxon laws is the relation of Church and State, and he is aware of the influence of ecclesiastical law on the secular law. He rightly considers the influence exercised by the penitentials. But his treatment of ecclesiastical influence in the laws of the later part of the period suffers from his ignorance of much of the work which has appeared since Liebermann's time, apart from the more general studies. He was right to use Liebermann's monumental work as the basis of his study, but several of its conclusions require modification in the light of the work of Karl Jost (*Wulfstanstudien*, pp. 13–44), Dorothy Bethurum (*Journal of English and Germanic Philology*, LIX, 449–463) and myself (*Transactions of the Royal Historical Society*, 4th ser., XXIV, 25–45), to name only the most important. For it is now clear that all the codes of Ethelred after 1008 and those of Cnut, as well as some private treatises, were drafted by Archbishop Wulfstan of York, who was well-read in canonical works. Moreover, some codes survive only in manuscripts connected with him, some of which have entries in his own handwriting (see N. R. Ker, in *England before the Conquest*, ed. P. Clemoes and K. Hughes, pp. 315–31), while the versions of certain other codes contained in these manuscripts include alterations probably made by his instructions, and need to be used with caution. It is true that many of the variants are details which do not concern Dr. Korte's theme, but it is to Wulfstan that we should ascribe the tendency in the laws to limit the application of the death penalty, since this gave the criminal little time to save his soul by repentance. One can also see his influence in the clauses that say that a judge when giving sentence should take into consideration the condition of the offender—weak or strong, young or old, rich or poor, free or slave—and whether the deed was voluntary, or done under compulsion, or by accident. Dr. Korte refers on this matter to VI Ethelred 52–52.1; he does not say that this part of the code was rightly judged by Liebermann not to be an original part of it. What Liebermann could not know was that the manuscript has entries in Wulfstan's own hand, so that this appendix was probably added by his instructions. The same sentiments and much of the same wording occur also in II Cnut 68.1–68.3, and also in a text *De confessione* (Thorpe, *Ancient Laws*, II, 260–262), which is in several of the Wulfstan manuscripts.

There are places where something should have been said about the area to which a code refers. It may be significant that the passage which mentions the alternative *lufe oddle lage* which is quoted (p. 164) in connection with *pactum legem vincit et amor iudicium* in *Leges Henrici* 49.5a, is found only in III Ethelred, a code for the Danelaw district of the Five Boroughs. In this connection, it might have been in place to refer
to the tendency, revealed in accounts of lawsuits in late Anglo-Saxon charters, to reach a compromise between the parties rather than a legal decision.

Dr. Korte has interesting things to say on several matters, and often shows practical commonsense in discussing the theories of others. He has a good section on the purpose of Alfred's introduction, with its use of the law of Moses. Interesting also is his Part 3, with its account of the varieties of formulation of clauses, and a careful examination of the precise meaning in legal use of words which have a more general meaning elsewhere. His work deserves serious study by those interested in Anglo-Saxon law.

DOROTHY WHITELOCK.


ALL students of Roman Law must be grateful to Professor Watson, the editor, and all who have contributed to this splendid tribute, on his 65th birthday, to a brilliant and warm-hearted, if sometimes wayward, scholar and teacher.

A Cambridge Roman Lawyer may feel wistful on seeing the title, because Daube was once ours in a very intimate sense. We were not his first alma mater: when he came from Germany in 1933, "learned, we found him." But he was a devoted pupil of W. W. Buckland, and his first teaching post was in Cambridge, and in Roman Law. He went on to Aberdeen and Oxford and Berkeley, and has lectured all over the world; and the breadth of his interests is shown by the fact that parallel volumes are being produced on Jewish Studies and on New Testament Studies. He is the world's Daube now.

This is not the place to give details of the articles included, but the roll-call of the contributors, in four languages, speaks for itself: Hans Ankum, on Pomponius; J. L. Barton, on the Lex Aquilia; G. C. J. van den Bergh, on Auctoritas Poetarum; Peter Birks, on Lucius Veratius; Francis Cairns, on Propertius 2.19.32; G. Cardascia, on La Portée Primitive de la Loi Aquilia; Robert Feenstra, on Impossibilitas ... up to Grotius; W. M. Gordon, on Cinus and Pierre de Belleperche; Antonio Guarino, on Ineptiae Iuris Romani; Arthur Hartkamp, on Die Drittwendung der in integrum restitutio; A. M. Honoré, on Labeo's Posteriors and the Digest Commission; J. M. Kelly, on Threefold Mancipation; Naphtali Lewis and Arthur Schiller, on Another "Narratio" Document; G. MacCormack, on Aquilian Culpa; Theo Mayer-Maly, on Evidenz im Denken römischer Juristen; Dieter Nörr, on Salvius Julianus; David Pugsley, on The Aedilician Edict; Alfredo Rabello, on Patria Potestas; Alan Rodger, on Damages for the Loss of an Inheritance; E. Seidl, on Das Getreidedarlehen nach den demotischen Papyri; Peter Stein, on Naturalis Ratio; J. A. C. Thomas, on Pithanon Labeonis a Paulo Epitomatorum Libri VIII; Edoardo Volterra, on Vatican Fragment 284; Alan Watson, on Enuptio Gentis; and Reuven Yaron, on Semitic Elements in Early Rome.

The reviewer had accepted responsibility, and had written the first two paragraphs, when fate intervened. A cataract operation, followed by three further operations, deprived him of the pleasure of reading much.