

BURNING ISSUES: THE LAW AND CRIME OF ARSON IN ENGLAND,  
1200–1350

Henry Summerson

In 1101 or 1102, according to Orderic Vitalis, the Leicestershire baron Ivo de Grandmesnil was accused by Henry I ‘of waging war in England, and burning the crops of his neighbours, which is an unheard-of crime in that country...’<sup>1</sup> The crime of arson, here understood as maliciously starting fires in order to destroy property and endanger lives, was not in fact completely unknown in early medieval England. Before the Norman Conquest Æthelstan’s Grately code had legislated against ‘incendiaries and those who avenge a thief’, while Cnut’s second code named arson among those particularly heinous crimes which were ‘beyond compensation’.<sup>2</sup> It was regarded no less seriously after 1066. The *Leges Henrici Primi* listed arson among the pleas reserved to the crown,<sup>3</sup> the Assize of Northampton of 1176 placed it among the crimes which juries were to present to the king’s justices,<sup>4</sup> and *Glanvill* numbered it among the offences punishable by death or mutilation<sup>5</sup>—a miracle of St William of York, datable to 1177, involved the healing of a man blinded and castrated following a malicious charge of arson and defeat in a judicial duel.<sup>6</sup> By the late twelfth century arson had clearly come to be regarded as a felony—an evil deed, punishable as such. As time passed it became possible to allege deliberate

---

Unless otherwise stated, all unpublished documents cited are preserved in The National Archives, Kew (TNA). I gratefully acknowledge the value of the Anglo-American Legal Tradition website (AALT) as an additional source of reference for these records.

<sup>1</sup> Orderic Vitalis, *The ecclesiastical history of Orderic Vitalis*, ed. and trans. Marjorie Chibnall, 6 vols, (Oxford, 1969–80), 6:18–19.

<sup>2</sup> Dorothy Whitelock, ed., *English Historical Documents, 500–1042*, 2nd edn, (London, 1979), pp. 418, 464.

<sup>3</sup> Leslie John Downer, ed. and trans., *Leges Henrici Primi* (Oxford, 1972), pp. 108–109.

<sup>4</sup> William Stubbs, ed., *Select Charters and other Illustrations of English Constitutional History from the Earliest Times to the Reign of Edward I*, revised by Henry William Carless Davis, 9th edn, (Oxford, 1921), p. 179.

<sup>5</sup> *Ranulf de Glanvill, Tractatus de legibus et consuetudinibus regni Anglie qui Glanvilla vocatur*, ed. and trans. G. Derek G. Hall with a guide to further reading by Michael T. Clanchy (Oxford, 1993), p. 3.

<sup>6</sup> Raoul Charles van Caenegem, ed. and trans., *English Lawsuits from William I to Richard I*, 2 vols, (Selden Society 106–107) (London, 1990–91), 2:557.

burning (like other breaches of the king's peace) as an essentially civil offence, calling for fiscal penalties and the award of damages, but it always remained potentially, and often actually, a capital crime.

Arson (a French-derived word in circulation by the end of the thirteenth century, as the law-books *Britton* and *The Mirror of Justices* demonstrate)<sup>7</sup> was never common in medieval England. It has indeed been possible to assemble a sizeable dossier of cases from judicial documents and other sources from the thirteenth and early fourteenth centuries, yet charges of arson were nowhere near as often made as accusations of homicide or theft, or even of rape, during the same period. Even though it must often have been impossible to tell, in the prevailing conditions of life, whether a fire had been started deliberately or not, it may still be significant that the thirteenth-century treatise *Placita Corone* illustrates procedure in cases of homicide, theft and robbery, rape, and wounding, but makes no mention of arson, as if it came up in court so rarely as to be not worth discussing.<sup>8</sup> Some eyres heard no presentments or appeals of arson at all; most received only one or two—the five cases recorded at the 1240 Suffolk eyre, for instance, constituted an unusually high number.<sup>9</sup> This apparent infrequency requires explanation. In an age when the principal building material was wood, and in which there was no shortage of people whose quarrels with their neighbours, or whose exclusion from, and consequent indifference to, social solidarities and constraints, could have led them to exploit the vulnerability of this inflammable environment, one might have expected arson to have been more often committed than appears to have been the case. The rest of this essay, as well as surveying the evidence for the prevention, perpetration and prosecution of arson, will also attempt to explain why it was rare.

Medieval people were of course perfectly aware of the threat which fire could pose to their property and lives, as they showed by their efforts to combat it. Before the end of the twelfth century attempts were being made in London to encourage the use of stone for house-building, and Southampton followed soon afterwards.<sup>10</sup> In 1202 the chapter of York

<sup>7</sup> Francis Morgan Nicholls, ed. and trans., *Britton*, 2 vols, (Oxford, 1865), 1:41–42; William Joseph Whittaker, ed. and trans., *The Mirror of Justices* (Selden Society 7) (London, 1893), p. 22.

<sup>8</sup> John Marsh Kaye, ed. and trans., *Placita Corone* (Selden Society Supplementary Series 4) (London, 1966).

<sup>9</sup> JUST 1/818 mm. 48, 49, 51d, 54, 54d.

<sup>10</sup> Harry Rothwell, ed., *English Historical Documents, 1189–1327* (London, 1975), pp. 852–853; Colin Platt, *Medieval Southampton: the port and trading community, A.D. 1000–1600* (London, 1973), p. 39.