

LES ENLUMINURES, LTD
2970 North Lake Shore Drive 11B
Chicago, Illinois 60657

tel. 1-773-929-5986
fax. 1-773-528-3976
chicago@lesenluminures.com

LES ENLUMINURES
Le Louvre des Antiquaires
2 place du Palais-Royal
75001 Paris

tél : 33 1 42 60 15 58
fax : 33 1 40 15 00 25
info@lesenluminures.com

The Statute of Gloucester
In Anglo-Norman French, manuscript roll on parchment
England [Sussex?], 1280s

Three sheets sewn together, on parchment, tapered to a point at top, possibly lacking at end, dorse blank, written in brown ink in an insular script by a single scribe, one column (135 mm wide), ruled in brown ink, rubrics and line-fillers red, some staining, creasing and soiling at head, two small holes affecting some words, several other wormholes, but otherwise in excellent condition, housed in modern box. Dimensions 1660 x 170 mm.

An exceptionally rare and early copy of one of the most important pieces of legislation enacted in Parliament during the reign of Edward I, the so-called Statute of Gloucester, this copy apparently made from that delivered to the sheriff of Sussex. The Statute, proclaimed at Gloucester in August 1278, played a key role in the King's campaign to recover his rights against the English barons and was crucial to the development of English law, in the same legislative tradition and from the same century as Magna Carta, first issued by Edward I's grandfather in 1215. A near-contemporary copy of an item of royal or parliamentary legislation, and probably the earliest and rarest such "statute roll" still in private hands. Of exceptional importance both for the history of the English Common Law and for the means by which such law was proclaimed.

PROVENANCE

1. An early copy of the Statute, probably taken from the 'original' royal letters sent to the sheriff of Sussex soon after the Statute was composed in 1278.
2. Carries an English (s.xviii) inscription inverted in upper margin, "Statutes relating to Gloucester, 6 Ed. I" [i.e. in the 6th year of the reign of Edward I].

TEXT

Les estatz de claucestre que furent fer par lendemain de sein pere en aust le an del regne le roy Edward vi [The Statutes of Gloucester that were made on morrow of the feast of Saint Peter in August, the sixth year of the reign of King Edward]
[i.e. 2 August, 1278]

Preamble: Pur les genz meschefs et deseritesons que gent du reame de engleterre.../...et commande que eles seient fermement tennes en son reame.;

This is much shorter than the preamble that precedes the official Statutes entered at Westminster and printed in *Statutes I:45 ff.* (see bibliography below). Many known copies begin in a similar a fashion, however, including British Library MS. Cott. Vesp. B. vii among others [*Statutes I:45, note*].

Chapter 1: Cum en avant ces oures damages ne furent agardes en assise de novele deseysine fors taunt soulement vers les deseysurs.../ Purveu est ensemment que le deseysi recovre ses damages... / Purveu est ensemment que la ou [] ces oures.../ Et la ou avant ces oures damages ne furent taxes... [*Statutes I:47*];

The beginning of the final paragraph of this section, "Et la ou avant," is not found in the official Chancery or Exchequer versions now in the Public Record Office, although it does appear in some early copies such as BL ms. Cotton Vespasian B. vii [*Statutes I:47, note 2*].

Chapter 2: E si enfaynt dedans age seit tenu hors de son heritage apres la mort son cosin, ael, ou besael... [*Statutes I:47*];

Chapter 3: Establi est ensemment que si home aliene tenement que il tent per la ley de engleterre.../ E si en tens apres heritage ly decent per memes le pere donque avera le tenant.../ Ensemment en memes la manere ne seit le eir la femme apres la mort le pere et la mere... [*Statutes I:47*];

Chapter 4: De autre part. Si homme lest sa terre a ferme on a trover estovers en vivere ou en vesture... [*Statutes I:48*];

Chapter 5: En dreit del Wast fet en garde seit fet solum ce qui lest contenu... [*Statutes I:48*];

Chapter 6: Purveu est et accord ensemment que si home murt et eit plusurs eyrs, dunt lun est fiz ou fille... [*Statutes I:48*];

Chapter 7: Ensemment que si femme vent ou done en fe ou a terme de vie tenement que ele tient en dowaire... [*Statutes I:48*];

Chapter 8: Purveu est ensemment que viscontes pledent en contez les plez de trespas si com il soloient estre pledez.../ De playes et de mahems ei ent bref si com il soleient aver.../ E si les pleintifs desoremes se facent assomer apres la premiere aparance.../ E si les defendans se facent assomer del service le ey et ne porte son garant au ior que done ly est par son assonior... [*Statutes I:48*];

Chapter 9: Purveu est ensemment que nul bref de la chancelerie ne seit par chance pur mort de homme si home occist autre par mesaventure ou en sey defendant.../ Purveu est ensemment que nul apel ne seit si legerement abatu com avant... [*Statutes I:49*];

The final paragraph of this chapter is not in the Westminster register, but it is found in Cott. Vesp. B. vii among others [*Statutes I:49, note 2*].

Chapter 10: Cum il seit contenuz en les estadiz le rey de Wemuster que si ii parceners ou iii que tenoit en commun ne pount furcher par assonie... [Statutes I:49];

Chapter 11: Purveu est que si home baud en la cyte de lundres tenement a terme des annz... [Statutes I:49];

Chapter 12: Lacking. Hatchmark and "c 12" written in the outer margin in modern pencil, indicating the missing chapter [Statutes I:49];

Chapter 13: Purveu est que del oure que play serra meu per bref en la cyte de lundres le tenant... [Statutes I:50];

Chapter 14: Le rey grante de sa grace as cyteins de lundres que la ou avant ces oures ceus que furent deseysiz de luy franc... [Statutes I:50];

Chapter 15: Purveu est que le meyre et ses baillifs avant la venue de ceus barons enquergerent des vins vendus.../...la ou il soleient atendre ce fes a la venue des iustices. [Statutes I:50];

Quo warranto: *Le bref des franchises*/ Le rey salut le visconte de Sussex. Nous vus comandons que comunement facuz crier per tote vostre baillie aussi bien en cytez com en viles de burcz et en viles marchandes et aillurs que touz ceus que cleiment aver acunes franchises par lurs chartres de nos auncestres seient devant nous ou devant nos iustice plus procheinemenz erranz a donz plez en lavant dite contee [i.e. Sussex], a mustrer quele manere de franchises il cleiment aver, et par quell garant [i.e. "Quo warranto"] [similar to *Statutes I:45*, paragraph 3].../ Iceste crie contenie lespace de xl iors. E si la partie fust enprisent devant le rey issiut que il ne puet estre memes le roy devant iustices erranz.../...E sil dient outre que lur auncestres morerent seyez serent oyez et la verite enquire par pais. [Statutes I:45-46];

A very early and rare copy of the Statute of Gloucester and of the enactments initiating *Quo Warranto* proceedings issued by the parliament of Edward I at Gloucester in 1278. The *Quo Warranto* section is addressed to the sheriff ("visconte") of Sussex, suggesting that this is a copy of the sealed royal letters patent sent to the sheriff at the county court in Chichester soon after the Statute was issued in August 1278. Its formal, careful script and decoration (even minimal as it is) with red rubrics and line fillers, suggest that it is more likely to be a copy of the sheriff's document, rather than the original that was sent into Sussex. The insular script is clearly from the latter part of the thirteenth century, indicating that this copy does not significantly postdate the original. Its reference in chapter 10 to the first Statute of Westminster, strongly suggests a date before 1285 and the issue of the Statute of Westminster II.

The Statute of Gloucester, and the ensuing legal hearings, were a means by which Edward I sought to recover regal authority that had been alienated during the reign of his ineffectual father, King Henry III (1216-1272) and in particular during the period after 1258 when Henry III had been made a virtual tool of the baronial party led by Simon de Montfort. It was Edward, Henry III's son, who had brought these baronial experiments to an end through his defeat and battlefield execution of de Montfort at Evesham in 1265. Nonetheless, Edward was de Montfort's nephew and former

pupil and had learned much from the period of baronial rebellion. In particular, he recognized the need both for legal “reform,” as a means of settling local or popular grievances that might otherwise boil over into rebellion. He also appreciated the benefits that might be derived from encouraging a forum, the newly-constituted Parliament, in which the King could be seen publicly to do justice and to listen to the complaints of his subjects against their overmighty lords and governors. To this extent, Edward’s Parliament, like much of his legislation, was a means of buying popular support, in this instance by encouraging loyal subjects to petition the King against his own barons and ministers, uniting King and subjects in an uneasy alliance against the executive and the greater private landholders. At least in their earliest years, these initiatives proved remarkably successful. Parliament regularly voted taxation and customs duties to enable the King to pay for his massively expensive campaigns of conquest in Wales. Only later, when Edward extended his campaigns to Gascony and Scotland, did the financial basis of his rule begin to crumble. From the ensuing turmoil, Parliament was to emerge in the longer term not so much as an occasion for the public exercise of royal clemency but as a forum for distinctly anti-royal sentiments. In these developments, Edward’s parliamentary legislation, not least the Statute of Gloucester, played a significant part.

The Statute of 1278, issued on the King’s return to England from his first, successful campaign against the Welsh, provided for several important emendations to the law, including a modification of *novel disseisin* (one of the most popular forms of action for the recovery of land which had been seized illegally). Its principal focus, however, lay in the challenge that it mounted to private baronial rights through a revival of the system of general eyres (royal justices to go on tour throughout the land), and through a significant increase in the number of pleas of *quo warranto* (literally “By what warrant?”) to be heard by such eyres, in which individual barons and franchise holders were expected either to show the King’s judges proper legal title by which they possessed their rights to private jurisdictions, or risked losing such rights altogether. It is from the records of the enquiries which followed, the so-called *Placita de Quo Warranto*, that we learn much of what we know today both of the private jurisdictions exercised by England’s thirteenth-century landholders, and of the King’s attempts to curb such franchises and to bring them under royal scrutiny and control.

Thirteenth-century statutes, made by royal declaration and through parliament, are assumed to have circulated throughout the kingdom as sealed charters addressed to the sheriff of each county (and a few leading ecclesiastics) whose duty—explicitly laid out in the *Quo Warranto* writ appended to the present exemplar—was to have the statute read out in the county court and proclaimed elsewhere in all the county’s vills and boroughs and market towns.” While the statutes might be composed in Latin or, from the 1250s onwards, more frequently in Norman French, the sealed charters would often be proclaimed not only in French but in Latin and in certain circumstances in English, for the benefit of a population for whom Latin or French were the languages of record, but for whom French or English were the vernacular. The *Quo Warranto* brief, extracted from the original preamble to this particular Statute, is often appended to other copies as an explanatory section. Here, the sheriff is ordered to summon all those who claim to possess private legal rights or franchises by charter of previous kings of England to present these charters either in person to the King or to the King’s itinerant justices.

It is exceptionally rare for early statutes to be preserved in the original: so much so that none of the "original" versions of the Statute of Gloucester sent out to the counties of England in 1278 is known to survive. For Edward I's legislation as a whole, and leaving aside the reissue of Magna Carta, there are only two manuscripts that can be identified as "official" original statutes, sent out under the King's seal, both in the Public Record Office: PRO E175/11/5 (an official copy of the Statute of Wales 1284, apparently sent to the Exchequer) and PRO E30/26/210 (an official copy of the Statute of Westminster II 1285, with remnants of a seal). For our knowledge of the Statute of Gloucester, as of most other late thirteenth-century legislation, we instead depend upon a nineteenth-century edition, *Statutes of the Realm* (1810), which itself is derived from the so-called "Statute Roll" (London, Public Record Office C74/1 m.47), a late thirteenth-century chancery copy of the King's letters and enactments, which preserves the Statute in Anglo-Norman French. The editors of *Statutes of the Realm* also drew upon the semi-official version of the Statute in Liber A of the King's Exchequer (London, Public Record Office E36/274 fos.311v-316v), again dating from the reign of Edward I, where the Statute is preserved in both French and Latin versions, the Latin being apparently merely a translation of the French version, with the French version accepted as the legally valid text.

These Chancery and Exchequer versions were assumed until the 1930s to be official and authoritative texts. However, more recent research suggests that the earliest legislation entered on the Statute Roll, including the Statute of Gloucester 1278, was drawn not from chancery "originals" but from unofficial copies or memoranda. In particular, the Statute of 1278 as printed by its nineteenth-century editors, has itself been shown to be a composite text, incorporating not just the legislation of August 1278, but a French translation of the preamble to the 1267 Statute of Marlborough and rulings on the *Quo Warranto* inquests probably made before August 1278. As a result, for any authoritative edition of the Statute to be prepared, the Chancery and Exchequer copies have to be supplemented with copies preserved unofficially, in books of law, generally for the benefit of lawyers and legal corporations.

As a result, and as a near-contemporary version of the 1278 Statute, apparently taken from the Anglo-Norman "original" preserved in the sheriff's office in Sussex, the present manuscript is of exceptional interest, not merely as a historic rarity but as testimony to the earliest version then circulating of the Statute's official text. It is likely to occupy a significant place in any future project to produce definitive editions of the Edwardian legislation. Its French version is of particular interest as testimony to the precise sense in which the Statute of Gloucester was popularly received and contains clauses (noted above) found otherwise only in private copies of the Statute, not in the official or semi-"official" copies preserved in the King's Chancery and Exchequer. It also carries a precise date for the Statute, 2 August 1278, not in the Chancery Statute Roll and apparently not previously recorded.

It is assumed that most privately-produced copies of early statutes originally circulated in scroll form. In England, however, virtually all such early "statute rolls" have perished, no doubt jettisoned or recycled as so much waste parchment in the eight centuries that have elapsed since their creation. Those scrolls that do survive, so far as can be established, are later than the present manuscript which thus deserves recognition as possibly the oldest surviving example of a particularly rare genre. Of those that survive, we have a single-sheet copy from the mid thirteenth

century, recording slightly garbled texts of the 1225 Magna Carta and Forest Charter (London, Society of Antiquaries MS 544). From some years before this, and perhaps the very earliest such record, we also have a thirteenth-century copy in scroll format of the 1215 Magna Carta (Oxford, Bodleian Library MS Lat. Hist. a.1), apparently made for public display, subsequently acquired by an unknown Italian collector or institution. A collection of statutes in roll form, made for the disgraced royal minister Adam of Stratton and including copies of Magna Carta and the 1259 Provisions of Westminster, is today in the Public Record Office (E175/11/3), and there is a further such collection, in roll form, including several late thirteenth-century statutes together with the 1300 reissues of Magna Carta and the Forest charter in BL MS Lansdowne Roll 11. With specific reference to the Edwardian Statutes of the 1270s and 80s, and here omitting documents that appear to represent official or semi-official drafts of statutes preserved in the royal chancery or Exchequer (e.g. London, Public Record Office E175/11/4, Statute of Acton Burnell 1283; E175/11/6, Statute of Wales 1284), there are at least three near-contemporary copies of the Second Statute of Westminster 1285 in scroll form. One of these (BL MS Add. 19559, acquired by the British Museum in 1853 from a private collector), is in some ways reminiscent of the present manuscript, with blue and red line dividers, a little wider (240 mm.) and almost twice the length (3000 mm.) of the present scroll, endorsed at a slightly later date with Anglo-Norman lawyers' doggerel and with a series of interpretations in Latin and Anglo-Norman French, with chapter headings suggesting that this particular scroll continued in use until at least the early years of the fourteenth century. The others (Bedford, Bedfordshire Record Office MS WW1, from the muniments of the Trevor family, and BL MS Add. 31891 acquired from a Mrs. Horwood in 1881) are written on several sheets of parchment in the same basic format. A scroll of three membranes, of similar dimensions to the present manuscript (151 X 1315 mm.), perhaps originally from Guisborough Priory in Yorkshire, later owned by Lord Gisborough (Northallerton, North Yorkshire Record Office ms. ZFM 350), preserves copies and Anglo-Norman translations from shortly after 1300 of both the so-called "Confirmatio Cartarum" of 10 October 1297, by which Edward I agreed to the renewal of Magna Carta and the Forest Charter, and of the text of the latest substantive reissue of Magna Carta, dated 28 March 1300. Only two other examples of private copies of statutes in scroll form are cited in the specialist literature, both of them in public collections, and both of them later than the present document: one in the library of King's College Nova Scotia, the other in the Huntington (San Marino California, Huntington Library HM 27186).

Within a few years of the production of the present roll it became more usual to reproduce these and other legal texts in book form. Such books of statutes dating to late thirteenth century and beyond but recording older laws became known as "Statuta vetera" or "Statuta antiqua," and of these more than two hundred examples are known. In recent years, these manuscripts, and the even rarer and earlier statute scrolls, have once again become the focus of attention, with the realization that they often preserve better or variant readings of statutes and legislation for which, in most cases, no fully-collated modern edition as yet exists.

LITERATURE

Baker, J.H., *English Legal Manuscripts*, 2 vols., Zug, Inter Documentation Company, 1975-8.

Baker, J.H., *English Legal Manuscripts in the United States of America*, 2 vols. London, Selden Society, 1985-90.

Baker, J.H., *A Catalogue of English Legal Manuscripts in Cambridge University Library*, Woodbridge, Boydell, 1996.

The Statutes of the Realm, London, Record Commission, 1810, i, 45-50.

Plucknett, T.F.T., *Legislation of Edward I*, Oxford, Clarendon Press, 1949.

Richardson, H. G. 'The Early Statutes', *Law Quarterly Review*, 50 (1934), 201-23, 540-71

Sutherland, D. *Quo Warranto Proceedings in the Reign of Edward I: 1278-1294*, Oxford, Clarendon Press, 1963.