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EXAMINING VARIATIONS OF WERGILD IN ANGLO-SAXON
ENGLAND: 600 C.E.-850 C.E.**

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GECNAWAN THOU GEWEORTH- TO KNOW YOUR WORTH: EXAMINING
VARIATIONS OF WERGILD IN ANGLO-SAXON ENGLAND: 600 C.E.-850 C.E.

BY

KELSE BRIGHT MERRILL

A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR
THE DEGREE OF MASTER OF ARTS

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OF

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ABSTRACT

“To Know Your Worth”

Literally translated, *Wergild* is an Anglo-Saxon word that means “man-price.” *Wergild* can broadly be defined as the compensation owed for the injury of another. *Wergild* grew exponentially between the formation of the first written law code and those that followed. The later laws emphasized both material wealth as well as land ownership in the settlement of disputes. They also integrated oaths into the legal system. Later *wergild* laws also gave more power to the king within society, allowed the king to secure revenue through additional means, protected the population from decimation, prevented needless feuding over murder and assault, as well as act as a judge for some of the legal cases. Furthermore, *wergild* defined the various social boundaries and strengthened the divide between earls and freemen. The kings who came after the conversion to Christianity modified the laws to conform to their needs and specific traditions. The importance of these modifications that are represented in Anglo-Saxon law lies in the fact that they continue to impact England’s history of centuries. The social structure, emphasis placed on land, and importance of the king would be lasting characteristics in Anglo-Saxon England and would help to make the William or Normandy’s administrative conquest successful. Portions of the Norman administration were already present in Anglo-Saxon England and visible in the early law codes, such as the importance of the king, emphasis on landowner and land worker relations, and the value of land over the value of money.

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INTRODUCTION

Hypothesis

Literally translated, *Wergild* is an Anglo-Saxon word that means “man-price.” *Wergild* can broadly be defined as the compensation owed for the injury of another. The earliest Anglo-Saxon kingdoms each had unique laws for a number of offenses that were categorized as *wergild*. This thesis argues that there was no uniform *wergild* code within the earliest Anglo-Saxon laws and that each kingdom based the particular details of *Wergild* on their own needs. Furthermore, while each Anglo-Saxon kingdom had a unique set of *wergild* laws, they all fostered the same social structure, which would later be utilized by the Normans. Finally, this thesis argues that the earliest Anglo-Saxon law codes played a significant part in the Anglo-Norman transition period after William’s conquest.

This thesis begins with an examination of the most relevant scholarship surrounding *wergild*. Continuing with an in-depth examination of the earliest English *wergild* laws and the changes that are present. Concluding with a brief comparison on the major points of change between the oldest laws and those that came after it and highlighting the similarities between Anglo-Saxon and Anglo-Norman society. Utilizing examples such as the change in perceived value, concepts of ownership, and power of the aristocracy over local affair to, it is clear that changes in *wergild* represent larger changes in Anglo-Saxon society. These changes in Anglo-Saxon society allowed William of Normandy’s administrative and political changes to be implemented in Anglo-Saxon society.

The foundation for William's government and social changes was already present in Anglo-Saxon society, this is partially represented in the earliest law codes.

Wergild translates to "man price" from the Old English. Broadly speaking, *wergild* refers to the sum of money owed to a person's family for a crime committed against them. A Germanic custom in its origin, the rationale behind these types of laws was meant to protect the civil order and keep peace in society. The expected compensation was meant to limit the chances of blood-feud. However, it is not just murder that can fall under *wergild's* jurisdiction as a number of violent crimes were covered by this definition. It was simply not solely the death and blood money paid to an individual's family. Scholarship surrounding the Anglo-Saxon legal codes and *wergild* typically focuses on the later laws that were written during the reign of, or after King Alfred. However, the foundation of the Anglo-Saxon legal code rests in the works of the earliest English kingdoms and their sudden turn to writing. These early codes are often ignored by scholars and their importance is often overlooked. If the early law codes are discussed by scholars, then they are often isolated from one another and from Anglo-Saxon society as a whole or used to emphasize the difference between the Anglo-Saxons and other European groups. This thesis expands upon the current scholarship by connecting the old laws to the formation of the Anglo-Saxon social structure. This thesis fills a gap in the scholastic world of Anglo-Saxon studies by including in one study laws from across the earliest kingdoms. Furthermore, this thesis highlights the fact that the laws fostered a social

structure in Anglo-Saxon England that would be utilized by the Normans after their conquest. This thesis' value is found in its emphasis on the older laws and the connection to the later "feudal" English society, a connection that is typically not made by scholars today.

This Thesis' value not only rests in its clarification to the scholarship surrounding *wergild* but also in clarifying the view that pop-culture and media give to the Anglo-Saxon legal code. With the recent popularity of shows such as *Game of Thrones* and *Vikings*, elements of the middle ages are now at the forefront of the large and small screen. These elements often contain nuggets of truth but at times mislead viewers. Literature too has had an upsurge in early medieval themes, especially the late Anglo-Saxon period primarily with Bernard Cornwell's best selling series *The Last Kingdom*.¹ Some brands of mainstream literature also draw clear dividing lines between the Anglo-Saxon and the period following the Norman Conquest. Throughout his work, Daniel Jones' *The Plantagenets* emphasizes that the post Anglo-Saxon kings took steps to separate themselves from England's pre-Norman history.² However, what will be shown in this thesis is that the dividing line was not always cut and dry, and many aspects of early Anglo-Saxon life mirrored the social structure that the Normans sought to achieve. Clarifying the pop-culture that now surrounds *wergild* provides this thesis with a need outside of the scholastic realm. The following

¹ Bernard Cornwell, *The last Kingdom* (New York: Harper Collins Publishers, 2009).

² Dan Jones, *The Plantagenets: The Warrior Kings and Queens who made England* (New York: Penguin Publishing, 2013).

will outline the major secondary and primary sources regarding the study of Anglo-Saxon law.

The subject of Anglo-Norman history has been discussed by scholars for decades. For a recent example, John Hudson examines how Anglo-Norman lords controlled their respective hides in *Land, Law, and Lordship in Anglo-Norman England*.³ Hudson specifically outlines the legal code's growth under the Anglo-Norman administration and the impact that these changes had on the Anglo-Norman aristocracy. According to Hudson, the Anglo-Norman lordship was able to manipulate the expansion of the legal code for their own benefit. Using the surviving charters and land grants, Hudson illustrates how this change impacted the concept of lordship in England over time.⁴ Unlike what is present in Hudson's work, this thesis will show not how things changed after the Norman conquest, but how the earliest Anglo-Saxon law codes formed a social and political structure that the Norman lords were able to utilize as their own. As Hudson points out, changes did occur after the conquest, but a portion of Anglo-Norman society was already present in England.

In contrast to Hudson's emphasis on the changes that took place after the conquest, George Burton Adams in *Council and Courts in Anglo-Norman England* examines how the Anglo-Saxon judicial tradition influenced the later Anglo-Norman courts.⁵ Adams argues that the Anglo-Saxon legal system provided the

³ John Hudson, *Land Law and Lordship in Anglo-Norman England* (London, UK.: Clarendon Press, 1997) 12.

⁴ *Ibid*, 23.

⁵ George Burton Adams, *Council and Courts in Anglo-Norman England* (New York: Lawbook Exchange, 2004) 10.

bedrock for the Anglo-Norman legal system. Through a comparative analysis of the later Anglo-Saxon laws and the institutions fostered by the Normans, Adams shows that the Anglo-Saxon legal tradition impacted the Anglo-Norman world for at least two centuries.⁶ While Adams notes the survival of the legal system, this paper will also argue that the Anglo-Saxon legal system fostered a lasting social structure that the Normans utilized to their advantage. The importance was not only in the survival of the justice system but also in the social norms that surrounded that justice system. However, Adams is primarily concerned with the legal codes after Alfred the Great, and the earliest law codes are not sufficiently represented in his work. This thesis expands upon Adams' work by discussing how the Anglo-Saxon legal system reinforced the social hierarchy as well as emphasizing the earliest Anglo-Saxon law codes.

Hugh Thomas draws a conclusion similar to Adams' in his work *The Norman Conquest: England after William the Conqueror*.⁷ Thomas' goal is not only to outline the success of the Norman conquest but also to highlight the areas of Anglo-Saxon society that changed the Normans and Vice-Versa. Thomas argues that areas of the Anglo-Saxon legal system was left untouched by the Normans after their conquest.⁸ However, Thomas emphasizes the legal code that was formulated after Alfred the Great. Absent from Thomas' work is the connection to the first written legal codes and the influence that they had on the entirety of Anglo-Saxon and Anglo-Norman society. This thesis connects the

⁶ Ibid.

⁷ Hugh Thomas, *The Norman Conquest: England After William the Conqueror* (New York: Rowman and Littlefield, 2008), 30.

⁸ Ibid,143.

earliest laws to the social structure that would eventually define Anglo-Norman society, which is absent from Thomas' work.

Scholarship Dedicated to Anglo-Saxon Law

Wergild occupied a large portion of the Anglo-Saxon legal system as a whole. At its core, Anglo-Saxon law was originally communal and local, with roots in the ancient Germanic tribe. The laws of early medieval England were Germanic in origin, borrowing ideas from the Danes, Franks, and the other tribes in Northern Europe. The Angles, Saxons, and Jutes typically occupied the region north of modern Germany, on the fringes of the old Roman Empire.⁹ Laws were typically practical and addressed issues within the communities. Over half of the early laws pertained to either *wergild* of theft. The remaining laws reinforced the social boundaries in England.¹⁰ The courts acted both as gatherings and legal authorities. Disputes beyond *wergild*, such as land disagreements and theft, were settled at these assemblies.¹¹ These meetings dominated the Anglo-Saxon legal system during the pre-Alfredian era.

After Alfred the Great consolidated the legal codes into one document the law moved from its communal origins to a royally endorsed court system. Alfred kept the Germanic nature of the law while implementing Roman bureaucracy into the legal system. The writs of later Anglo-Saxon England had moved away from their Germanic origins and represented the unification of England and the

⁹ Oliver, *Beginnings of English Law*, 10.

¹⁰ *Ibid.*, 30.

¹¹ Henry, Adams, "The Anglo-Saxon Courts of Law," in *Essays in Anglo-Saxon Law*, ed. John Wilson (Boston MA: Little Brown Publishing, 1876), 9.

king's expanded power.¹² *Wergild* was the assault and injury protection and procedure in Anglo-Saxon England that could vary from kingdom to kingdom. All of the crimes that *wergild* related to were violent by nature, such as injuring or murdering a person. With varying crimes came a variation in penalty that was required to be paid. Naturally, lesser offences required less compensation than major offenses. According to some of the earliest Anglo-Saxon laws, cutting a common man in the groin incurred a fifteen shilling penalty, while fully penetrating with a knife led to a thirty shilling penalty, and the death of the individual required full compensation paid to the individual's family.¹³ These examples, derived from the first known book of Kentish laws compiled by King Aethelbert, help to show how detail oriented *wergild* could be at times. It was not only the type of assault that impacted the fine incurred, but also the status the person held within Anglo-Saxon society.

This tradition was upheld in Wessex, as free men and women of Anglo-Saxon descent received more *wergild* from assault and death than individuals of Welsh decent. Those of the nobility had considerably more compensation paid to them when they were assaulted or their kin was killed. Finally, assault against children also resulted in a different *wergild*, varying depending on the age and gender of the child.¹⁴ While the Mercian Laws discuss the compensation for the

¹² *Anglo-Saxon Writs*, ed. F.E. Harmer (Manchester, UK: Manchester University Press, 1952).

¹³ Lisi Oliver, "Genital Mutilation in Medieval Germanic Law," in *Capital and Corporal Punishment in Anglo-Saxon England*, ed. Jay Paul Gates and Nicole Marafioti (Rochester, NY: Boydell press, 2014), 46-74. 47.

¹⁴ Martin Daly and Margo Wilson, *Homicide: Foundations of Human Behavior* (New York: Transaction publishing, 1988), 241.

death of a Welshman, a fine such as that is not mentioned in the early Kentish laws. To conclude, *wergild* can be broadly defined as the compensation paid to an individual or family for some bodily harm by another person caused to themselves or their kin. It was implemented to maintain social order within Anglo-Saxon society and to ensure minimal bloodshed.

This basic definition is what this thesis begins with, as *wergild* has not yet received its own dedicated study in the realm of Anglo-Saxon studies. Rather, various iterations of Anglo-Saxon legal history have dedicated small amounts of attention to *wergild*. While it has not yet received its own dedicated study, *wergild* has informed and influenced the scholarly arguments regarding the legal code used in England before the Norman Conquest.¹⁵ Typically, discussions of *wergild* only occupy a section of a monograph or article. Furthermore, much of the scholarship goes so far as to take *wergild's* broad definition and existence for granted, that of blood money paid for the death or injury of an individual, and place it in the greater context of Anglo-Saxon law without fully explaining the variations that existed. This is possibly due to the importance that was placed on older secondary texts and the definition that was assigned to *wergild*.

¹⁵ One of the earliest discussions and compilations of English law can be found in; W. F. Finlason, *Reeves History of the English Law from the time of the Romans to the end of the Reign of Elizabeth* (London: Ballantyne and Company, 1986). Originally printed in the 1870's, this marks one of the oldest secondary sources that examined laws such as *wergild* in detail.

Basic treatments of *Wergild*

Scholarship pertaining to Anglo-Saxon England written in the twentieth century generally repeats the narrative of older works. In contrast to the older secondary sources, more recent scholarship has begun examining *wergild* from perspectives outside of the established narrative. The following addresses several key secondary sources and their treatment of *wergild* within Anglo-Saxon studies. However, this thesis' goal is not to repeat the broad use of *wergild* emphasized in these secondary sources, even if they remain essential to this paper. Rather, this paper will build upon this scholarship by examining the particular details regarding *wergild's* change throughout kingdoms and comparing these differences.

Examples of the broad treatment of *wergild* within the scholarship of Anglo-Saxon England can be found in a multitude of general histories regarding England during the reign of the Anglo-Saxon kings.¹⁶ Assigning *wergild* as blood money for murder for the whole of Anglo-Saxon history is often the method used by general histories. For example, in *Kings and Kingdoms of Early Anglo-Saxon England* Barbara Yorke dedicates a small section of her general outline to the acknowledgment and surface-level explanation of *wergild*.¹⁷ Yorke's general history of Anglo-Saxon England is set before the rise of Alfred the Great and the

¹⁶ For examples of the broad explanation of *wergild* given by books outlining Anglo-Saxon history in general, see: Benjamin Thorpe, *A History of England Under the Anglo-Saxon Kings* (London: George Bell and sons, 1891), 113-114; and Henry Mayr-Harting, *The Coming of Christianity to Anglo-Saxon England* (University Park, PA: The Pennsylvania State University Press, 1971), 250-254.

¹⁷ Barbara Yorke, *Kings and Kingdoms of Early Anglo-Saxon England* (New York, NY: Routledge Publishing, 2003), 50-60.

formation of any unity between the kingdoms. When Yorke discusses *wergild*, she merely summarizes the legal practice of *wergild* as explained in the secondary sources that had been written before her. Yorke, like many scholars, only focuses on the Kentish form of *wergild*, only briefly mentioning the West-Saxon version of the custom and completely omits the Angle kingdoms on the Northern half of England. Yorke's surface level treatment of *wergild* epitomizes how histories regarding Anglo-Saxon England are often too general to discuss *wergild* in detail.

Histories such as Peter Hunter Blair's *An Introduction to Anglo-Saxon England* and *Roman Britain and Early England* have also included *wergild* in their discussion. Blair's goal across these two works, like Yorke's own goal, is to provide a general history of early Anglo-Saxon England. Blair's discussion of *wergild* in *An Introduction to Anglo-Saxon England* is almost exactly the same as what is found in *Roman Britain and Early England*. The near mirror image of the two explanations in both works acts as an example of the lack of novelty regarding *wergild*. Yorke and Blair's narratives summarize the argument that is so frequently found in texts concerning the legal systems used by the Anglo-Saxons.¹⁸ A broad overview focusing on the Kentish system only acknowledging in passing the existence of the other forms of *wergild* is echoed in the following secondary sources.

¹⁸ Peter Hunter Blair, *An Introduction to Anglo-Saxon England* (London: Cambridge University Press, 1956), 260 and *Roman Britain and Early England* (New York: Norton and Company, 1966), 254.

Historiography

Sir Frederick Pollock and Frederic Maitland's two volumes of *The History of English Law* contains the foundation that often gives sources their background regarding *wergild*. Pollock and Maitland's scholarship is one of the most frequently cited works not only in the general histories of Anglo-Saxon England but also in many subsequent histories. Specifically focusing on Anglo-Saxon law, Pollock and Maitland's volume acts as the foundation for succeeding literature.¹⁹ Pollock and Maitland provide a comprehensive outline of the laws that governed the Anglo-Saxon kingdoms and to disprove the notion that English law was entirely removed from the legal systems of the continent. Furthermore, Pollock and Maitland argue that significant portions of Anglo-Saxon laws were primarily based on social custom. This social custom, according to Pollock and Maitland, began with Germanic oral traditions that were synthesized over time into written codes. Pollock and Maitland also discuss how the rule of law slowly penetrated the private lives of those living in society. Pollock and Maitland's final

¹⁹ Sir Frederick Pollock and Frederic Maitland, *History of English law Before the Time of Edward I*, vol. 1 ed. 2 (New York, NY: Cambridge University Press, 1952); and Sir Frederick Pollock and Frederic Maitland, *History of English law before the time of Edward I*, vol. 2 ed. 2 (New York, NY: Cambridge University Press, 1952). Although the text is dated, its relevance has not tarnished. Receiving multiple reprints the text is still one of the towering figures of English legal history. Exemplified not only by the general histories who cite it, but also by the modern scholars of history who continue to rely on its legacy. It has not only influenced the remaining works in this historiography, but also works outside the historical field. See, for example: John Hostettler, *A history of Criminal Justice in England and Wales* (London: Waterside Press, 2009). The latter's first section relies heavily on the work of Pollock and Maitland. In contrast to the longevity of Pollock and Maitland's work, other texts regarding English law have fallen out of favor and are now infrequently used. See, for example; Finlason, *Reeves*, 238, which has aged past it's usefulness.

goal is to illustrate this legal tradition by evaluating how it penetrated the private lived in Anglo-Saxon and Anglo-Norman England.²⁰

As well as discussing the evolution of the legal codes, Pollock and Maitland synthesize older texts regarding Anglo-Saxon law. Pollock and Maitland's extensive work formulates an adequate beginning regarding the secondary scholarship surrounding *wergild*. In their discussion of *wergild*, Pollock and Maitland not only define the custom as compensation for bodily harm, but they also note that that it could be used to legitimize a personal war between individuals. While the ruling earl was meant to stop such occasions from taking place, vengeance was permitted in the absence of *wergild*. This expanded *wergild's* definition from the protection of individuals and prevention of crime to the legitimizing of personal vendetta and family war. Furthermore, Pollock and Maitland also discuss the different amounts of payment that existed depending on social ranks. Lords and those in the serviced of an earl received greater compensation than an English freeman would have.²¹ In their discussion of *wergild*, Pollock and Maitland have created a general outline of how Anglo-Saxon law defined *wergild*, how some Anglo-Saxon kingdoms determined a person's worth, and the fate of *wergild* after the Norman Conquest.²²

²⁰ Ibid., xxxvi.

²¹ Ibid., 25.

²² Ibid., 31, 47, and 75. For a more in depth discussion regarding the fate of *wergild* after the completion of the Norman Conquest see; George Keeton, *The Norman Conquest and the Common Law* (New York, NY: Barnes & Noble, 1966); As well as; H. R. Lyon. *Anglo-Saxon England and the Norman Conquest* (New York, NY: University of London Press, 1991). Both texts use the *History of English law* throughout their discussion of *wergild*. These works are more focused on the

In addition, Pollock and Maitland use *wergild* to support their thesis that the laws of England were not removed from the continent. On several occasions, *wergild* is aligned with the Germanic customs of the mainland as well as with late Roman Imperial law. However, Pollock and Maitland are more concerned with detailing and explaining the Anglo-Saxon legal code than examining the differences in the various versions of *wergild* that existed in the various kingdoms. Thus, a coherent explanation of the variations based on the different Anglo-Saxon kingdoms is not present. As well as an absence of a discussion of the variations, *wergild's* are attributed to both the Germanic invasion of England by the Angles and Saxons, but also to the remnants of Roman law that was present both on the mainland and in England.

In contrast to the lack of a discussion regarding the origins of different *wergild* payments for the various Anglo-Saxon kingdoms H. Munro Chadwick's *Studies on Anglo-Saxon Institutions* offers more precise language. As a whole, Chadwick's goal is to apply the field of philology to the historical analysis of Anglo-Saxon social orders.²³ With an emphasis on the Kentish and Saxon regions of England, Chadwick discusses *wergild* in relation to other Anglo-Saxon institutions and its place in Anglo-Saxon society. Chadwick's argument contains minimal explanation of *wergild*, but does suggest an origin for the values set by at least one Anglo-Saxon kingdom. Chadwick defines *wergild* by providing examples of the payments that an individual incurred if he killed an earl. From

impact that the Conquest had on *wergild*. In Lyon's work offers a more general discussion while Keeton goes more into the depth of the matter.

²³ H. Munro Chadwick, *Studies on Anglo-Saxon Institutions* (New York, NY: Russell & Russell, 1963), vi.

this discussion, Chadwick's definition appears to fall in line with Pollock and Maitland's argument. That of a law intent on protecting social ranks, with those at the top of society garnering greater compensation than those in the middle and bottom.

Unlike Pollock and Maitland, Chadwick suggests an origin for the different prices and application of *wergild*. Chadwick's theory states that, because the Jutes were conquered by the Danes before their settlement of England, the Jutes adopted the Danish values for their *wergild*. The Jutes that settled in Kent applied this different amount of *wergild* than what was present in the other Anglo-Saxon kingdoms.²⁴ While he does discuss Kentish *wergild* at great lengths, Chadwick does not take his argument further than the Kentish kingdom. Chadwick's explanation does not contain any attempts to examine how the values and customs of *wergild* were created and the other Anglo-Saxon kingdoms. This thesis shares with Chadwick's work the goal to provide reasons for deviation in *wergild*, though the scope is expanded and the evidence and conclusion is also expanded.

Although these three scholars give a similar definition of *wergild*, Pollock, Maitland, and Chadwick have different explanations for its existence. Pollock and

²⁴ Ibid., 401. Chadwick's argument is not only limited to the Kentish kingdom, but it also appears to be an information dump found in; F. Seebohm, *Tribal Custom in Anglo-Saxon Law*, (New York, NY: Longmans, Green, & co., 1911). While a useful beginning, recent scholarship has called into question the validity of prescribing tribal origins to the foundation of laws such as *wergild*. For example, see Thomas Benedict Lambert, *Law and Order in Anglo-Saxon England* (New York, NY: Oxford University Press, 2017), 30. This text, which will be examined later, calls attention to the ambiguity of Chadwick's conclusion, and addresses some of the issues regarding the methodology he used.

Maitland maintain that not only the Germanic tribes who settled England influenced the Anglo-Saxon legal code, but also the Britons who had occupied the Island after Rome's abandonment. It is the combination of legal systems native to the Island and imported legal traditions that influenced the eventual recording of the law codes and *wergild*.²⁵ In contrast to the insistence of Danish influence before the Anglo-Saxon settlement of England in Pollock and Maitland, Chadwick asserts that it was only the Germanic tribal influence that formed the Anglo-Saxon legal tradition. Chadwick asserts that the written record is too sparse and far too removed from the conquest of the Germanic tribes to have had a significant impact on the formation of the law. While he recognizes the existence of some legal precedent that can be traced to Roman Britain, Chadwick believes that it cannot be applied to the *wergild* of the Anglo-Saxons because the Germanic similarities are too great.²⁶ To conclude this comparison, there may be significant disagreements in the origin of *wergild* between these sources, but the discussion regarding *wergild* laws in each work is similar. Both Pollock and Maitland as well as Chadwick agree that the oral tradition of *wergild* was dominant and would have ended around the late sixth or early seventh century when the law codes were written down. It is the written code that influenced the secondary sources of the late 19th century, but also the scholarship of the 20th and 21st century.

²⁵ Pollock and Maitland, *History of English law*, 25.

²⁶ Chadwick, *Studies on Anglo-Saxon Institutions*, 401.

Continuing with more recent scholarship, Lisi Oliver's text *The Beginnings of English Law* cannot be overlooked.²⁷ Oliver's text is a reassessment of the Kentish laws that survived and influenced Alfred the Great's own legal code. Oliver traces the earliest laws of Anglo-Saxon England. Oliver's work begins with the conversion of Aethelberht through subsequent Kentish kings. The goal of Oliver's work is to show the influence of time and Christianity on the Germanic customs that influenced early English laws. While the influence that Christianity had on Anglo-Saxon poetry is apparent, such as *Beowulf* or *the Seafarer*, Christianity's influence on the legal systems of England is less apparent and requires examination. Oliver also works to exemplify the differences in the laws that appeared from one generation to another. Furthermore, Oliver provides new modern translations of the legal codes from the Old English.²⁸ Similar to Pollock and Maitland, Oliver defines *wergild* as a system of laws that would protect the society from bodily harm and keep order. Oliver examines many aspects of the legal code and *wergild* is one of the most frequently discussed. In Oliver's discussion, *wergild* within the Kentish legal codes has been broken down and its changes over time are on display, informing this paper's argument and acting as an invaluable backbone.

Oliver's argument falls in line with Pollock and Maitland's rather than with Chadwick's as she attributes the creation and formation of the Anglo-Saxon written legal code to the spread of Christianity to the Anglo-Saxon kingdoms.

²⁷ Lisi Oliver, *The Beginnings of English Law* (Toronto, Ontario: University of Toronto Press, 2002).

²⁸ *Ibid.*, xii.

Pollock and Maitland assert that the law codes were recorded due to the influence of prominent bishops like Augustine of Canterbury.²⁹ With the reintroduction of Christianity and ecclesiastical study in England also came a rediscovery of the importance and power of the written word. The stability of the church allowed kings like Aethelbert to make their mark on the historical record and assert their power in a method other than through oral tradition. Oliver agrees with the emphasis that other scholars place on Christianity and she centers a majority of her argument on the examination of how Christianity created changes in the law. Oliver even takes time to defend Pollock and Maitland's original argument, citing that it still holds validity.³⁰

In contrast to both Oliver as well as Pollock and Maitland, Chadwick does not emphasize the return of Christianity to England. In fact, Christianity is not mentioned as frequently in regards to the law by Chadwick, and Bishop Augustine does not appear to make an appearance in his work at all. The absence of Christianity in Chadwick's work puts it in direct contrast with Oliver's, who works on strengthening the influence that Christianity had on England. Furthermore, Oliver reaffirms the work of Pollock and Maitland and brings the Kentish legal codes to the front of her examination.

While *The Beginnings of English Law* is essential for the production of this paper, it also serves to exemplify this paper's purpose and need. Though Oliver does briefly discuss versions of *wergild* outside of Kent, the laws found in other kingdoms are not compared to the Kentish laws in great detail nor is the larger

²⁹ Pollock and Maitland, *History of English law*, xxxii.

³⁰ Oliver, *The Beginnings of English Law*, 16.

impact of kingdoms outside of Kent discussed.³¹ Oliver mentions the Laws of Ine, a legal code originating from Wessex, but does not discuss the content of that code or its significance to the Kentish laws. This paper strives to expand upon Oliver's extensive discussion of the Kentish laws by engaging with laws of Wessex and Mercian. Similarly, Chadwick focuses primarily on the Kentish form of *wergild* and only briefly mentions the law codes of Ine. Chadwick's work does not contain a discussion regarding the differences of each legal code. Finally, Pollock and Maitland mention the numerous variations of *wergild* in Anglo-Saxon England without addressing their differences. In an attempt to fill the gap this essay will compare law codes to highlight their differences. A larger picture of *wergild* will then appear, allowing an expansion of the scope and meaning of Anglo-Saxon laws.

Continuing with the secondary scholarship, *wergild* has also been discussed by scholars in the context of Anglo-Saxon society as a whole. Looking past the written law, recent scholarship works to place *Wergild* within the context of late Anglo-Saxon society and investigated the impact homicide and retribution had on society. To begin with, Thomas Lambert discusses *wergild's* impact on law and government after the consolidation of Alfred the Great, in, "Theft, Homicide and Crime in Late Anglo-Saxon Law."³² Lambert's aim is not only to reevaluate the previously held tradition that homicide *wergild* was seen as a less egregious offense than theft, but also to reconstruct the entire view on

³¹ For example, see *Ibid*, 30, 87, 107. Oliver mentions the laws of Ine and the West-Saxons, but does not detail the differences between these two.

³² Thomas Benedict Lambert, "Theft, Homicide and Crime in Late Anglo-Saxon Law," *Past & Present* 214, 1 (2012): 3–43.

capital punishment in Anglo-Saxon England.³³ A departure from the previous sources discussed earlier, which examined the actual code itself, the ripple effect Lambert discusses is essential for examining *wergild* in the greater context of Anglo-Saxon England.

Thomas Lambert does not diverge from the previous secondary scholarship, as he uses Pollock and Maitland extensively throughout his work. Not only does he use Pollock and Maitland's definition of *wergild*, Lambert also reasserts Maitland's belief that laws of *wergild* fostered condoned violence and blood feuds. Lambert does not question the fact that one could pay the price required by law to prevent vengeance. Instead, Lambert emphasizes the consequences that would ensue if the fine remained unpaid, or if it was paid and vengeance was enacted regardless.³⁴ Lambert uses this to illustrate the conscious efforts that Anglo-Saxon kings made to keep blood-shed to a minimum by condemning unjustified violence.

Through this examination, Lambert also seeks to provide fresh perspective on royal authority as it pertained to the legal codes before the Norman Conquest.³⁵ The application of Lambert's viewpoint informs and enhances the overall argument of this paper by providing an avenue to expand

³³ For another example of scholarship that is more concerned with the impact that law codes had on Anglo-Saxon society, see Rebecca Colman, "Domestic Peace and Public Order in Anglo-Saxon Law," in *The Anglo-Saxons: Synthesis and Achievement*, ed. Jay Paul Gates and Nicole Marafioti (Ontario, CA: Wilfrid Laurier University Press, 1985), 49-61.

³⁴ Lambert, "Theft, Homicide and Crime in Late Anglo-Saxon Law," 7.

³⁵ *Ibid.*, 5.

the discussion of *wergild*. The content of this paper is not only concerned with written law, but also with its implications on Anglo-Saxon society as a whole.

Levi Roach's, "Law codes and legal norms in later Anglo-Saxon England" continues the discussion of *wergild* in the context of its place in late Anglo-Saxon society.³⁶ Less concerned specifically with *wergild* and more so with the creation of and practicality of the law, Roach examines the evolution of Anglo-Saxon law codes and the various implications that they had on later Anglo-Saxon kings and Wessex dynasties.³⁷ Roach takes the legal tradition of *wergild* outside of the legal codes and examines it from a political and institutional point of view.

Questioning the long held assumption regarding legal power before the Norman Conquest, Roach asserts the Anglo-Saxon kings had a greater influence on the creation and implementation of the written laws, such as *wergild*, than Pollock and Maitland. However, Roach asserts that kings did not have as much control over their use in everyday society.

Using the law codes written during the time of King Athelstan as the base of his argument, Roach offers each king more legal flexibility than assumed by the historiography. Furthermore, Roach empowers kings with control of the law, offering more royal flex of power than real concern with their practical implication in Anglo-Saxon society³⁸ Finally, Roach also compares the oral and written legal traditions with the Frankish kingdoms across the English Channel

³⁶ Levi Roach, "Law codes and legal norms in later Anglo-Saxon England," *Historical Research: Special Issue Early Medieval Law in Context*, ed. Jenny Benham Vol. 86, issue 233 (August 2013), 465-486.

³⁷ *Ibid.*, 468.

³⁸ *Ibid.*, 469.

and how their differences emphasize Anglo-Saxon royal authority and power. Through Roach's analysis and conclusion, *wergild* as an institution becomes clearer to understand and the streamlining of the legal codes after the success of Alfred the Great is thoroughly developed.

However, Roach's argument runs counter to Lambert's view in regards to Anglo-Saxon law. Lambert argues that the Anglo-Saxon nobility and monarchy was concerned with the welfare of its people and the bloodshed that can occur from personal feuds. Lambert appears to suggest that Anglo-Saxon kings wanted to directly influence and protect their people by enacting laws such as *wergild*. In contrast to this, Roach argues that the practical implementation of these laws codes have been overstated and that their major goal was simply to allow the Anglo-Saxon kings to assert some influence over their Earls and subjects. Their practical day-to-day use is questioned by Roach, who asserts that the ancient customs of the English communities would have held more influence in the lives of the local freeman than law. This thesis builds upon Roach's work by examining the impact that society had on the creation *wergild* laws.

Thomas Lambert's, *Law and Order in Anglo-Saxon England* concludes the analysis of major secondary works addressing *wergild*.³⁹ Lambert examines the practices of the Anglo-Saxon legal system and how it was applied to society. Lambert is concerned with the legal system used by the Anglo-Saxons and how it was carefully constructed to foster order within the various levels of society.⁴⁰ Like many of the other secondary sources, Lambert discusses the royal desire to

³⁹ Lambert, *Law and Order in Anglo-Saxon England*, 19.

⁴⁰ *Ibid.*, 2-3.

keep feuds and bloodshed at bay with the application of *wergild*.⁴¹ In addition, Lambert also suggests that *wergild's* evolution was utilized to define the structure of society. During the early ninth century, *wergild* had expanded from a code only pertaining to murder and mutilation to eventually cover assault and strikes. As time progressed, so did the offenses that *wergild* addressed. Lambert argues that *wergild's* expansion after the rise of Alfred the Great created greater order among the various levels of Anglo-Saxon society.⁴² This also contrasts with Roach's assessment of royal power and legal authority, as Lambert suggests, that the creation of these social distinctions were of high importance to Anglo-Saxon society. Branching from the narrative that other secondary sources have adhered to, Lambert's work has been invaluable for evaluating the evolution of the various forms of *wergild* found in Anglo-Saxon England.

While the paper would not be complete without the major secondary works that are detailed above, the validity of this paper's argument rests foremost on the primary sources. Beginning with one of the most important documents pertaining to the study of Anglo-Saxon England, Venerable Bede's *magnum opus* titled *The Ecclesiastical History of England*. The work is essential for understanding the Anglo-Saxons and their self-identity.⁴³

Writing in the early 8th century, Bede sought to provide the Anglo-Saxons with an ethno-genesis and a general history of their island. Recording how the Anglo-Saxons settled and developed England into their own, his work influenced

⁴¹ Ibid., 30.

⁴² Ibid., 73.

⁴³ Venerable Bede, *Ecclesiastical History of England*, ed. J. A. Giles (London: George Bell & Sons, 1894).

the Anglo-Saxons who saw it as their historic past; but it also influenced the chroniclers who followed the Norman Conquest of England.⁴⁴ While there is little mention of *wergild* in his text, Bede's influence cannot be overstated and his history provides much-needed context, regardless of its accuracy. Another primary source of value is the *Anglo-Saxon Chronicle*.⁴⁵ Providing not only a history of the Anglo-Saxon period through the Norman Conquest, it also contains several examples of *wergild* as it was used throughout the span of history that it covers. Spread over five centuries and with numerous versions produced in different parts of the Island, the *Anglo-Saxon Chronicle* is invaluable for dating as well as placing into context various major events in Anglo-Saxon history. Utilizing the *Anglo-Saxon Chronicle* in conjunction with the legal codes will be essential for showing the growth and development of the laws over time. Both Bede and the *Anglo-Saxon Chronicle* provide context for a number of the laws discussed in this these.

Finally, the sources present in *The Laws of the Earliest English Kings* are invaluable for the secondary texts above, and the content of the following.⁴⁶

Translated and edited, *The Laws of the Earliest English Kings* contain all of the

⁴⁴ For examples of Bede's influence on the Anglo-Saxons, see Ethelweard, *The Chronicle of Ethelweard*, ed. A. Campbell (New York: Thomas Nelson and Sons, 1962), 22; and Andreas Lemke, *The Old English Translation of Bede's Historia Ecclesiastica Gentis Anglorum in its Historical and Cultural Context* (Gottingen: University of Gottingen Press, 2015). For Bede's influence on later chronicles, see William of Malmesbury, *Chronicle of the Kings of England From the Earliest Period to the Reign of King Stephen*, ed. J. A. Giles (London: William Clowes and Sons, 1866); and Henry of Huntington, *The History of the English People 1000-1154*, trans. Diana Greenway (New York: Oxford University Press, 2002).

⁴⁵ *Anglo-Saxon Chronicle*, ed. J. A. Giles (London: George Bell & Sons, 1894).

⁴⁶ *The Laws of the Earliest English Kings*, ed. and trans. F. L. Attenborough (London: Cambridge University Press, 1922).

major legal codes and Dooms from various Anglo-Saxon kingdoms as well as numerous examples of commentary on these law codes. This compilation of translated work will form the bulk of primary documents found in this paper. Most importantly, this volume contains laws from outside of Kent, including the Mercian laws, West Saxon laws, as well as the law of Ine. All of these law codes are neglected by much of the secondary literature, which primarily focuses on the Kentish legal documents. Many of these laws and writs exist because of the preservation of Rochester cathedral's *Textus Roffensis*. Containing both Latin and Old English, the *Textus Roffensis* is a collection of all of the major written legal and governmental codes in England from 600 C.E. through the twelfth century. Compiled in the twelfth century, *Textus Roffensis* provides the first layer of legitimacy to the early Anglo-Saxon law codes. The earliest laws were not compiled for posterity's sake, but rather were implemented with the new and updated Anglo-Norman code. This body of legal texts formed the backbone of the English court system for centuries and it began with the earliest written laws. Like the *Textus Roffensis*, this thesis brings attention to the first written laws of England and highlights their importance both to the early legal system, and also to the class structure that survived into the Norman Conquest.

Although there is a wealth of primary material regarding the laws of Anglo-Saxon England, it is important to call into question the inspiration to create such laws. Although the Anglo-Saxon Chronicle notes several uses of *wergild* within its pages it is unclear if this was because of societal norms already

existing or laws that had been previously recorded.⁴⁷ Levi Roach suggests that the tradition of *wergild* was present because of its previous inclusion in the law codes.⁴⁸ However, Roach's focus is on the later law codes, and does not address the possibility that *wergild* preceded the earliest laws. The *Anglo-Saxon Chronicle* does not mention *wergild* in its earliest years, but Bede's does describe two actions that he condemns in his *The Ecclesiastical History of England*.⁴⁹ The two actions described by Bede match laws that were subsequently written in Ine's law code. This lends itself to the possibility that legislation pertaining to *wergild* may have had some basis in society. However, based on this alone, this thesis cannot definitively say whether the earliest *wergild* laws were prescriptive or normative. Although it is worth noting the possibility that they were normative and attempted to synthesize a system that was already in place in Anglo-Saxon England. Further work is needed to definitively find a place for the earliest laws in England.

Although the previously cited works prove essential for the development of this essay, a common issue found in many of them is the lack of depth in the discussion of the several legal codes. Many of the secondary sources focus either on the older law codes or the laws that pertained only to one kingdom. A discussion of the early *wergild* laws and how they reflected changes in Anglo-Saxon society is not present. Often, the emphasis is placed on the Kentish form of *wergild* and does not do justice to the legal system as a whole; it neglects the

⁴⁷ Anglo-Saxon Chronicle.

⁴⁸ Roach, "Law codes and legal norms in later Anglo-Saxon England", 18.

⁴⁹ Bede, *The Ecclesiastical History of England*, 112.

voice of many other iterations of *wergild*. Through the following analysis of the oldest law codes, a clear shift in societal values is present between the first written laws, and those written before Alfred the Great.

FROM THE BEGINNING

The Earliest Written Laws of *Wergild*: King Aethelberht (7th Century)

The Beginning of Kentish *Wergild*

First of all, the formation of the earliest written legal code goes hand and hand with the British conversion to Christianity. The first legal code written in Anglo-Saxon England was compiled under King Aethelberht of Kent in the early 7th century. Aethelberht's reign saw not only the formation of a written legal code but also the conversion to Christianity. Saint Augustine is credited with the conversion process. Saint Augustine is also credited for recording these laws. Augustine of Canterbury was sent to evangelize on Gregory the Great's orders. Augustine first went to Kent where he was able to convert Aethelberht and begin to restore Christianity in England.⁵⁰ Whether the laws were kept orally in Kent or they originated on the continent, it is likely that they were written at Augustine's suggestion in order to further Christianize the kingdom.⁵¹ Aethelberht's law code is significant for two reasons. This law code informs the reading and interpretation of all other laws written in the Anglo-Saxon period. It also informed later Kentish law codes. *Wergild*, the concept of blood-money to prevent feuds is first articulated in these codes and allows for further investigation and explanation of the subsequent legal text. The subsequent Kentish legal documents would not have been complete as they often only

⁵⁰ Richard Gameson, *Augustine and the Conversion of England* (London, UK: Sutton Press, 1999), 1-13.

⁵¹ "From the Laws of Aethelberht, king of Kent (602)," in *English Historical Documents*, ed. Dorothy Wheatlock (Published online: Routledge 1979), *Volume 1, 500 - 1042*, <https://www-englishhistoricaldocuments-com.uri.idm.oclc.org/document/view.html?id=35>.

included their additions to the existing record. Finally, The earliest Kentish laws also display a complex and rigidly enforced social hierarchy that dictated nearly every aspect of life. The classes that are present in the earliest legal code are slaves, various levels of ordinary individuals, and various levels of nobility. This social structure is identical to the one the Normans utilized in France and what they brought with them when they invaded England.⁵²

Aethelberht's many laws regarding *wergild* display the complexity of the practice as well as the concern for feuding that resulted if a system like *wergild* was not put in place. As well as the complexity of the legal code and the desire to prevent feuds, Aethelberht's laws also illustrate the breakdown of classes in Anglo-Saxon society. The most prominent in society received the highest *wergild*, the least the lesser. This class structure impacted all subsequent law codes. However, these early laws are only concerned with bodily harm. These laws cover almost all of the human body and murder, their limitation to death and assault represents the gravest concerns in early Anglo-Saxon society. The early *wergild* do not discuss legal repercussions for theft or land and they are only based on the exchange of monetary compensation.

The discussion surrounding Aethelberht's law code is most often centered around its origin. Historians debate if the formation of this legal text resulted from primarily outside forces or from traditions already present in Kent. Scholars such as H. M. Chadwick argue for a Scandinavian origin to the

⁵² Anne Williams, *Kingship, legislation, and power in Anglo-Saxon England*, ed. Gale Owen-Crocker & Brian Snyder (New York: Boydell and Brewer, 2013) 4. See also: Bouchard, *Strong of Body, Brave & Noble*, 42.

Kentish law codes. James Campbell makes a case for a Frankish influence in the compilation of the earliest English laws. Lisi Oliver emphasizes the unique Kentish origin and oral tradition that influenced the formation of this first law code. Furthermore, the emphasis that each scholar places on the conversion of Aethelberht to Christianity is inconsistent. Some regard it as crucial to the formation of a written code while others do not mention it at all.

One of the earliest discussions regarding the origins of Aethelberht's law code is found in H. M. Chadwick's, *Anglo-Saxon Studies*. Chadwick examines the Kentish law code written under Aethelberht in relation to those written on the continent at the same time.⁵³ Chadwick's research regarding the origins of Aethelberht's law code leads him to argue that the various laws had been formulated elsewhere and brought to the Kingdom of Kent in its earliest days. The brunt of Chadwick's argument is formulated from the similarities between the legal codes found in the Scandinavian areas of Europe and those that formed the body of the Kentish law codes, particularly when he does discuss the earliest forms of *wergild*. Chadwick also suggests that the legal body, which the remainder of Anglo-Saxon law is built upon is, in fact, more Scandinavian in origin than truly Anglo-Saxon. Chadwick's conclusion regarding the origin of Anglo-Saxon law suggests that the eventual merger with the law codes of the Danelaw under Alfred the Great helped to bring the Anglo-Saxon tradition full circle.

⁵³ Chadwick, *Studies*, 383.

James Campbell also discusses the origin of the Kentish law codes in his work, *Essays in Anglo-Saxon History*.⁵⁴ Campbell touches upon many themes in his collection of essays, one of which is the origin of the laws of Anglo-Saxon England. Similar to Chadwick's argument, Campbell also suggests that the laws present in Aethelberht's code were influenced from the continent. However, Campbell argues that it was the Frankish law code from the continent that influenced the Anglo-Saxons.⁵⁵ Campbell concludes by suggesting that the entire government of the Kentish kings was influenced by the Franks.⁵⁶

Finally, Lisi Oliver provides a third alternative to the formulation of the law codes in the oral traditions already present in Kent. During her discussion of the earliest law codes, Oliver re-enforces the theory that the law codes were brought by the Jutes when they conquered the area and were kept in an oral tradition since then.⁵⁷ Oliver emphasizes the role that the adoption of Christianity, at Saint Augustine's insistence, had on the recording of the laws.⁵⁸ Unlike Chadwick and Campbell's arguments, Oliver credits the Kentish kings with the maintenance of an oral tradition for the origin of the written law code. This oral tradition forms the backbone of the laws of Aethelberht as well as the subsequent Anglo-Saxon legal codes. When subsequent scholarship discusses the origin of the law codes they tend to gravitate to Oliver's oral tradition as the

⁵⁴ James Campbell, *Essays in Anglo-Saxon History* (Ronceverte, WV: Hambledon Press, 1986).

⁵⁵ *Ibid.*, 163.

⁵⁶ *Ibid.*, 67.

⁵⁷ Oliver, *The Beginnings of English Law*, 8.

⁵⁸ *Ibid.*

explanation of choice.⁵⁹ The following does not dispute the origin of the legal code; rather Oliver attempts to emphasize the most important attributes of the laws that pertained the *wergild*.

Wergild resulting from Murder

With the closing of the major arguments surrounding the origin of the oldest Anglo-Saxon laws, Aethelberht's codes regarding *wergild* will now be examined. The code itself is a compilation of 83 laws. Nearly half of Aethelberht's law code is centered around *wergild*.⁶⁰ The laws that are concerned with *wergild* can be broken down into three major categories, all of which deal with some form of assault. The first category deals with two laws that handle the murder of another person and the requisite *wergild* incurred from the act.⁶¹ Second, there are minor non-lethal attacks on another person.⁶² Third and finally, major non-lethal attacks on an individual that were egregious enough to incur a larger fine.⁶³ The first group of laws embodies the most common and basic definition of *wergild*, they emphasize the exchange of blood money for the crime to the dead man's family. The other two groups I have categorized between assault that is invisible and non-inhibiting, and assault that is visible and-or inhibiting to a person's quality of life.

⁵⁹ See; Lambert, *Law and Order in Anglo-Saxon England*, 26.

⁶⁰ Oliver, *The Beginnings of English Law*, 60-81. See, Laws 24, 30, and 32-71.

⁶¹ Ibid., 60-69. Law 13 also refers to murder and *wergild*, but it orders that a freeman's *wergild* should be paid based on law 27.

⁶² Ibid., 71.

⁶³ Ibid., 72.

Beginning with the laws that are concerned with murder, there are two laws with two sub-clauses that illuminate the proper action to take when a murder takes place.

24. If a person kills someone, let him pay an ordinary person-price, 100 shillings. 24.1. If a person kills someone, let him pay 20 shillings at the open grave, and let him pay the entire person [-price] in 40 nights. 24.2. If the killer departs from the land, let his kinsmen pay a half person [-price]...

27. If [a person] kills a freedman of the first rank, let him pay 80 shillings. 27.1. If he kills [one of] that second [rank], let him pay with 60 shillings. 27.2 [for one of] that third rank, let him pay with 40 shillings

*(24. Gif man mannan ofslaeth, medume leodgeld C Scillinga gebete. 24.1. Gif Man mannan ofslaeth, aet openum graefe, XX scillinga forgelde, in XL nihta ealne leod forgelde. 24.2. Gif bana of lande gewiteth, tha magas healfne leod forgelden. 27Gif laet ofslaeth, thone selestan LXXX scillinga forgelde. 27.1 Gif thane otherne ofslaeth, LX scillingum forgelde. 27.2. Dane thriddan, XL scillingum forgelde).*⁶⁴

⁶⁴ Ibid., 67.

Law 24 and its additions are concerned with the fee that is required of the offender and how that fee is to be paid. The second law, numbered 27, is concerned with the lower classes of society and their *wergild*. *Wergild's* prominent characteristic of separating levels of society is represented through these laws. The fine for a freeman is less than that of the higher rank in society. Even the freemen themselves are broken down into three different ranks with varying levels of *wergild*. Furthermore, the first two clauses provide a timeline as to when the *wergild* should be paid. They required that at least a significant percentage be delivered at the dead man's burial.

Not only do these laws display a significant level of organization but they also dictate a course of action in the event an offender flees. If one were to flee from justice, then their kin should be saddled with their unpaid *wergild*. The fact that financial responsibility was placed on the offender's family is worth noting. Financial responsibility fell not only on the offender but on his family and kin. This aspect embodies the most common understanding of *wergild's* tradition. It was not only the responsibility of the offender to right the wrong, but it was also his family's responsibility to ensure that it was accomplished. The initial purpose of *wergild* was to prevent feuding between families. The responsibility was put on the family as a whole to prevent retaliation and see that justice was served. It was also beneficial for all parties to see that unpaid debts were satisfied, as an unpaid debt may have resulted in the death of a family member and/or kin. The forfeiture of *wergild* was not yet explicitly stated in the law in case there was retaliation.

The importance of law number 27, listing of fines incurred upon the murder of various classes in Anglo-Saxon society, rests in its influence on subsequent law codes. Instantly, there are distinctions drawn between nobles and freemen, as well as between the various classes of freemen. The organization of Anglo-Saxon society mirrors that of the Normans as they also used multiple distinctions between free classes in their society.⁶⁵ Later codes took on the concept of separating classes by value. The class system present in Aethelberht's law code was eventually expanded in Kent by his successors and the grouping was completely altered in other kingdoms. The various levels of freeman were marked with a difference in 20 shillings, and each level received 20 fewer shillings than the one above. Later Kentish codes expanded this financial grouping to the lowest levels of society. The later laws also assigned to the nobility different values based on their importance in society.

The complexities that are present in Aethelberht's code continue to be exemplified in its layout of acceptable methods of compensation for murder. While laws 24 and 27 state that shillings are to be paid, law 30 notes that the required *wergild* can be met with either money or property. As the following states, "If a person should kill someone, let him pay [with] his own money or unblemished property, whichever" ("*Gif man mannan ofslan, agene scaette unfacne feo gehwilce gelde*").⁶⁶ The exchange of both money and property for an individual's *wergild* reinforces the complexity of the law code present as well as

⁶⁵ Thomas, *The Norman Conquest*, 108.

⁶⁶ *Ibid.*, 69.

the desire to maintain order on the ground level. Not all were able to produce the shillings needed to pay for a man's *wergild*. The substitution of property and items of value made it much more likely that the respective *wergild* would have been paid, by both the offender and the offender's family if he had fled the country.⁶⁷

Social Classes

Aethelbeht's law code also reinforced the social hierarchy that was present in Anglo-Saxon England. The various Anglo-Saxon kingdoms all had similar definitions of the social status of men within their kingdoms. At their core, each kingdom had three broad categories, earl, freeman, and slave. Though mobility was not always common, these social boundaries were not permanently defined. As Runciman notes, social mobility, both up and down the ladder, was a possibility in Anglo-Saxon society.⁶⁸ The presence of these social ranks within the legal code reinforced the importance of an earl in relation to freemen, and second it also emphasized the importance of the warrior in Anglo-Saxons society.

Beginning with the earls and freemen who held in common their status as free, the Anglo-Saxon elite felt it necessary to emphasize the status of the nobility over ordinary freeman. While they both were free, the peasantry was

⁶⁷ Ibid., 87. Oliver provides a convincing argument rebutting scholars who argue that the family would be required to pay an additional fine. *Oliver, Beginnings of English Law*, 88-89.

⁶⁸ W. G. Runciman, "Accelerating Social Mobility: The Case of Anglo-Saxon England," *Past & Present* 104 (1984): 3-30, 6.

reminded that they were beholden to their lords.⁶⁹ Furthermore, the freemen in this section of Aethelberht's code are broken down in several ranks. The various ranks in the code emphasize the role and importance that warriors played in Anglo-Saxon England. A freeman who served a lord or who could be called upon to fight if needed would have been worth significantly more than one who was unable to fight and defend his Lord's property. Thus, he would have been categorized in a higher rank than another freeman. By placing a higher *wergild* on those able to fight as well as making it necessary to pay homage to the lord, the nobility ensured that the ranks of their fighting force were not needlessly thinned before battle. As Daniela Fruscione argues, the alignment of the upper and warrior class with a higher *wergild* acted as a buffer from unnecessary deaths. The sophistication and organization that was present in Anglo-Saxon law codes show that the protection of the kingdom and land as a whole was essential in Anglo-Saxon society.⁷⁰ This was also a feature of every subsequent legal code in Anglo-Saxon England, including those present in this analysis. The importance of reinforcing and maintaining the social hierarchy only got more pronounced as subsequent law codes were written.

Wergild Incurred from General Injuries

Continuing this discussion of *wergild's* oldest written code this section will focus on the laws that could be considered non-inhibiting and invisible.

⁶⁹ Lambert, *Law and Order*, 50-51.

⁷⁰ Daniela Fruscione, "Drihtinbeag and the Question of the Beginning of Punishment," in *Textus Roffensis: Law, Language, and Libraries in Early Medieval England*, ed. Bruce O'Brien and Barbara Bombi (Turnhout, Belgium: Brepols, 2015), 157-174, 170.

These are laws that would not have incurred a large fine, as the injury addressed by the law did not inhibit the quality of an individual's life permanently, was not visible regularly or for a long period of time, and did not impact the individual's standing in society. For example, if a person's ribs were broken, then it would incur a three shillings fine, "66. If a rib becomes broken, let him pay [with] 3 shillings." If the individual was stabbed through the thigh, it resulted in a fine of 6 shillings, "67. If a person stabs through a thigh, for each thrust 6 shillings" (66. *Gif rib forbrocen weorth, III scill gebete* 67. *Gif man theoh thurhstingth, stice gehwilce VI scillingas*).⁷¹ Collarbones, shins, and other puncture wounds were also discussed in these laws, including finger and toenails. Each fine ranged from a tenth of a shilling through to 12 shillings.⁷² Which place is worth the most money and that will show you the most important "body part." These were offenses that could be healed and hidden while the healing took place so that they would have been minimally intrusive on the individual's life. It is both their lack of permanence and their minimally invasive nature that caused crimes such those listed above to have had a comparably low fine. Furthermore, as Lisi Oliver insists, these wounds would have been out of sight from the public, which would have saved the recipient of the assault from either future harassment or embarrassment of their wounds.⁷³

Concluding the discussion of the earliest written laws of *wergild* are examples that would have resulted in visible injuries and-or a reduction in the

⁷¹ Oliver, *The Beginnings of English Law*, 77.

⁷² Ibid.

⁷³ Ibid.

quality of an individual's life. An example from Aethelberht's code of a clause regarding assault resulting in both visible injury and reduction in the quality of life is law 69 which states, "If a foot becomes [struck] off, let him pay with 50 shillings" (69. *Gif fot of weortheth, L scillingum forgelden*).⁷⁴ The loss of a foot would have resulted in the payment of 50 shillings, for some members of Anglo-Saxon society that would have been more compensation than their families received if they were actually killed. The loss of a foot was both a visible dismemberment that, in addition, obstructed an individual's day-to-day life, thus it resulted in a higher fine than other injuries. The fine was also a result of the loss of an individual's ability to fight and participate in raids. Not only was the individual less useful to his lord, but he was also unable to secure any valuables from war. The Anglo-Saxon warrior society demanded participation in combat. This fine held insure there would be sufficient fighting strength within the population.

Another example of a fine that resulted in an unseen but costly injury is found in law 64, "If a person damages the genital organ, let him pay him with three person-prices" (64. *Gif man gekyndelice lim awyrdeth, thrym leudgeldum hine /3r/ man forgelde*).⁷⁵ Piercing another's genitals incurred a fine three times the *wergild* of that individual.⁷⁶ Though an unseen wound, the high price is speculated to be centered around the elimination of the individual's

⁷⁴ Ibid., 76.

⁷⁵ Ibid., 75.

⁷⁶ See also: Lisi Oliver, "Genital Mutilation in Medieval Germanic Law," in *Capital and Corporal Punishment in Anglo-Saxon England*, ed. Jay Paul Gates and Nicole Marafioti (Rochester, NY: Boydell Press, 2014), 48-74.

reproductive capacity, thus the required payment is three times the fee the person would be worth. The high fine was in place to compensate the individual for the children he would miss, and exemplifies the heavy importance that the Anglo-Saxons placed on reproducing and regenerating.

One final example of a visible crime that would result in a serious fine is law 42, “If an eye becomes gouged out, let him pay [with] 50 shillings” (“42. *Gif eage of weorth, L scillingum gebete.*)⁷⁷ Relieving another person of their eye required a 50 shilling payment to be rendered. The loss of an eye would not have inhibited an individual from making a living and continuing life, but it would have been a permanent visual scar and a memorial to what had happened. The loss of an eye impacted a man’s ability to fight and protect his land. The visibility of the injury also caused the fine to be as high as it was.⁷⁸ These three laws are not the only examples in the code that are an embodiment of the principle of visible and inhibiting injuries, but they are the three representations that will be used here.

Honor in Anglo-Saxon Society

The laws that are present in Aethelberht’s code that pertain to *wergild* cover almost the entire body and are too numerous to expound upon all in details. The reason that they were present in the legal codes was to deal with the personal honor of the afflicted individual. *Wergild* extended beyond murder and incapacitating injuries because of the emphasis that Anglo-Saxon society placed on personal honor. Someone’s visual appearance dictated how an individual was

⁷⁷ Oliver, *The Beginnings of English Law*, 71.

⁷⁸ *Ibid.*, 99.

perceived and how he would be viewed by the lord's court or other lords. Lisi Oliver seems to have made this connection.⁷⁹ In her analysis, Oliver emphasizes both the high compensation for debilitating injuries as well as the clear compensation for grotesque and visible injuries that would damage an individual's standing in society. A visible injury and grotesque appearance, like those covered in Kent's first legal code, would have caused a lapse in an individual's honor and status in society. In some cases, it would have even prevented a freeman from advancing in society or maintaining his status.⁸⁰ As a result, paying the required *wergild* for a person's missing eye was not only compensation for pain and suffering caused by the injury, but also a way of paying for lost honor.⁸¹ Oliver's interpretation is typically echoed by subsequent scholars who address both *wergild* and honor. Thomas Lambert is one such scholar who follows up on this interpretation.

Lambert continues Oliver's scholarly observations regarding *wergild* and honor by directly citing her work. However, Lambert emphasizes the affront to an individual's honor more so than the compensation for a debilitating injury.⁸² The insistence of *wergild* acting as compensation for lost honor is repeated by other scholars as well.⁸³ The emphasis on personal honor was true for the remainder of the wounds received, the less useful front teeth were worth more

⁷⁹ Ibid., 90.

⁸⁰ Lambert, *Law and Order*, 38.

⁸¹ Oliver, *Beginnings of English Law*, 90.

⁸² Lambert, *Law and Order*, 38.

⁸³ For example, see; Daniela Fruscione, "Beginnings and Legitimation of Punishment in Early Anglo-Saxon Legislation from the Seventh to the Ninth Century," in *Capital and Corporal Punishment in Anglo-Saxon England*, ed. Jay Paul Gates and Nicole Marafioti (Rochester, NY: Boydell Press, 2014), 34-48, 46.

than irreplaceable back teeth, near-fatal torso wounds were worth less than your forearms and fingers, and the most visible fingernails had the most value of all.⁸⁴ Each body part had its price, and each law code valued the honor of its freemen and earls as well as their lives. As this analysis of the Anglo-Saxon laws continues, it will be important to note how the other law codes valued the non-lethal but visible and “dishonoring” wounds. Discrepancies between their values will in turn also display discrepancies between each kingdom’s value on personal and visible honor.

In Summary

All three of the examples above involve laws that did not pertain to the death of an individual but still resulted in high fines, and in some cases, a fine larger than if the individual had died. The most prominent reason for larger compensation from visible wounds was due to the lifetime of shame facing the recipient of the assault. Similarly, a higher fine would also be incurred if an individual lost a limb.⁸⁵ Furthermore, the incredibly high fine that resulted from genital mutilation was to compensate for the lost chance of offspring.⁸⁶ However, it is also important to emphasize the fact that all three attempted to replace something lost, that would have impeded the recipient of the wound to move forward in his activities and life. The loss of a foot or eye would have impacted the ability to work and fight, and the loss of the ability to produce children may have resulted in issues later in life, when a lack of progeny prevented support in

⁸⁴ Oliver, *The Beginnings of English Law*, 96.

⁸⁵ Ibid.

⁸⁶ Ibid., 98.

old age, and the honor of seeing one's lineage continue in time. All three together worked to perhaps aid the recipient of the wound in continuing his life as normally as possible. The earliest laws also show a society that was easily molded by William to coincide with Norman traditions. The varying levels of freemen would become varying levels of serfs and the nobility would remain of high importance. What the Anglo-Saxons called "freemen" was reorganized by William and the successive Norman kings into the class of serfs. Although the lower class was called by a different name it was still within the same confines of society and beholden to both the land and lords.⁸⁷

These early laws also emphasized *wergild's* purpose as a peacekeeping measure. The large compensation for the loss of limbs decreased the chance of retaliation. Feuding in Anglo-Saxon society was accepted if these laws were ignored. As Pollock and Maitland note, if the proper *wergild* was not paid in full the kin of the dead or injured man could retaliate on the offender or his family.⁸⁸ The concept and tradition of the Feud was present in every Anglo-Saxon kingdom, from the regions settled by the Saxon in the South, to the kingdoms settled by the Angles in the North. As Richard Fletcher notes, from the earliest legal traditions, the feud was an understood result from uncompensated murder.

⁸⁹ The feud, like *wergild*, would remain in Anglo-Saxon society until the Norman Conquest when we may surmise the conqueror's centralization of government

⁸⁷ Bouchard, *Strong of Body, Brave & Noble*, 42.

⁸⁸ Pollock and Maitland, *History of English law*, 242.

⁸⁹ See for example; Richard Fletcher, *Bloodfeud: Murder and Revenge in Anglo-Saxon England* (New York: Oxford University Press, 2003), 5-20.

pushed it out of tradition.⁹⁰ However, as John Niles notes, the feud is often over cited as a legal means to solve disputes and the original purpose of the *wergild* was often employed to subdue the risk of an all-out feud.⁹¹

The non-lethal examples noted above emphasized that *wergild* and blood money as a whole was not always focused on death. While compensation for death was indeed a major characteristic of this legal code, it was not always the prime factor. Mere assault or even the relief of another's hair may have resulted in fines that were referred to as *wergild* in order to protect the honor of that person. The examples above, however, are limited in their scope, as they are not taken any further than the human body. The subsequent *wergild* laws expand the scope covered by the tradition, suggesting that Anglo-Saxon society was also expanding.

⁹⁰ Paul R. Hyams, *Rancor and Reconciliation in Medieval England* (Ithaca, NY: Cornell University Press, 2003), 10. For a more detailed discussion on feuding see his "Feud and the State in Late Anglo-Saxon England," *Journal of British Studies* Vol. 40 (2001): pp. 1-43.

⁹¹ John Niles, "The Myth of the Feud in Anglo-Saxon England," *The Journal of English and Germanic Philology* Vol 114, no. 2 (April 2015): pp. 163-200, 196.

LATER KENTISH LAWS

The laws of Eadric and Whitred (8th Century)

Introduction

The laws drafted under Kings Eadric and Whitred will conclude this discussion of the Kentish law codes. Eadric ruled from 679 to 686 C.E., and Whitred ruled from 690 to 725 C.E. Between both rulers, Kent was invaded and several pretenders took the throne between 686 and 690 C.E. It was during these uncertain times that external legal traditions may have influenced the Kentish law codes. Eadric and Whitred's codes are significant because they mark the beginning of other pre-Alfred laws codes as well as the final additions to the Kentish legal code. Ine of Wessex and Offa of Mercia were contemporary rulers with both Eadric and Whitred.⁹² This section provides a fresh commentary on the laws pertaining to *wergild*, the following aims at displaying the sophistication and complexity that was present in these early laws and show how they expanded from the earlier Kentish laws. For the most part, scholarship emphasizes the later post Alfredian laws as the solidification of social norms and of kingly power. However, what is clear from the laws of Eadric, Whitred, and the other early Anglo-Saxon kings is that they focused on extending royal power and enforcing social tradition. The social tradition displayed in these laws was similar to that of the Normans who dominated England a few centuries later. Both of more than likely, the legal systems of both the Kentish kings as well as the Normans in France find their origins in the Frankish law codes. Scholars such

⁹² Oliver, *The beginnings of English Law*, 120.

as John Hudson speculate that Augustine of Canterbury used those Frankish codes as a model when directing the Kentish kings in writing their own code.⁹³ The Normans, having integrated into what was Frankish society, would have also built their legal system and social structure around these early law codes.⁹⁴

Much of what is written regarding the regal impact and authority on the law codes emphasizes the later Anglo-Saxon kings, their influence on writing and on enforcing the laws. Milton Turk's translation and discussion of Alfred the Great's law code emphasizes Alfred's influence on the law codes of previous kingdoms.⁹⁵ H. R. Lyon focuses on Edward the Confessor's contribution to the code.⁹⁶ Patrick Wormald discusses Cnut's impact on the law codes under the Danish kings.⁹⁷ Finally, Levi Roach emphasizes the kings who came after Cnut and their royal authority.⁹⁸ This scholarship is primarily focused on the post-Alfred the Great legal tradition and influence on the law codes. In contrast to this, the emphasis of this thesis is on the early, pre-Alfredian laws, and their role in creating a powerful kingship and a complex society.

Milton Turk begins his translation of Alfred's laws with a discussion of the code itself and the implications that it had on Anglo-Saxon society. In his

⁹³ Hudson, *Law, Land, and Lordship in Anglo-Saxon England*, 203.

⁹⁴ Thomas, *The Norman Conquest*, 84.

⁹⁵ Alfred The Great, *The Legal code of Alfred the Great*, ed. Milton Haight Turk (London: Max Niemeyer, 1893), 11.

⁹⁶ H. R. Lyon, "The King and the Structure of Society in Late Anglo-Saxon England," *History* 42/145 (1957), 87-100.

⁹⁷ Patrick Wormald, "Lex Scripta and Verbum Regis: Legislation and Germanic Kingship, From Euric to Cnut," in *Early Medieval Kingship*, ed. P. H. Sawyer and I. N. Wood (Leeds, UK: University of Leeds Publishing, 1979), 105-138.

⁹⁸ Levi Roach, "Law Codes and Legal Norms in Later Anglo-Saxon England," *Historical Research: Special Issue Early Medieval Law in Context*, ed. Jenny Benham 86/233 (2013): 465-486.

introduction, Turk emphasizes the importance that Alfred's law had on creating order within society. According to Turk, not only did Alfred's law code solidify social hierarchy, it also cemented the place of the king as head of legal tradition in that hierarchy.⁹⁹ Lyon continues this scholarship by expanding on the importance of the king in Anglo-Saxon society from Alfred the Great to Edward the Confessor. According to Lyon, the work that began under Alfred the Great in establishing the king as head of Anglo-Saxon England, both over the local earls as well as government, was completed by Edward the Confessor.¹⁰⁰ Roach echoes Lyon's emphasis on the later 9th and 10th century Anglo-Saxon kings and their role in asserting royal influence over both the laws and social tradition.¹⁰¹ Roach notes the importance that *wergild* played in maintaining the boundaries between social classes and the role that the kings had in reinforcing these boundaries. Finally, Wormald examines why Danish kings of England became involved with the formation of the law codes.¹⁰² In his analysis, Wormald acknowledges both the ancient influence on the Danish kings as well as the social need for new laws.¹⁰³ Notably, absent from this historiography is a discussion of pre-Alfredian monarchs. Although they ruled on a smaller scale, the early Anglo-Saxon kings also exercised royal influence and impacted the Anglo-Saxon law codes.

⁹⁹ Alfred, *The Legal code of Alfred the Great*, 11.

¹⁰⁰ Lyon, "The King and the Structure of Society in Late Anglo-Saxon England," 91.

¹⁰¹ Roach, "Law Codes and Legal Norms in Later Anglo-Saxon England," 467.

¹⁰² Wormald, "*Lex Scripta and Verbum Regis*," 106.

¹⁰³ *Ibid.*, 134.

Eadric's Law Code

The laws, beginning with Eadric's law code, were most likely compiled between 680 and 686C.E.¹⁰⁴ Eadric's law code contains two new laws pertaining to *wergild*, with a sub clause.

Hlothere and Eadric, kings of the people of Kent added to the laws that their ancestors made before with these decrees, which are stated hereafter. 1. If a person's servant kills a man of noble birth, who should be compensated for with three hundred shillings, the owner should give up that killer and add three man-worths. 1.1. If the killer should escape, he should add a fourth man-worth and clear himself with good oath-helpers that he was not able to seize the killer. 2. If a person's servant kills a freeman, who should be compensated for with a hundred shillings, the owner should give up that killer and another man-worth in addition. 2.1. If the killer should escape, [the owner] should compensate him with two man-worths, and clear himself with good oath-helpers that he was not able to seize the killer. (*Hlothhaere Eadric, Cantwara*

¹⁰⁴ Oliver, *The beginnings of English Law*, 121.

*cyningas, ecton tha ae tha the heora aldoras aer
geworhton thyssum domum, the hyr efter saegeth. 1.
Gif mannes esne eorlcundne mannan ofslaehth, thane
the sio threom hundum scill gylde, se agend thone
banan agefe do thaer thrio manwyrth to. 1.1 Gif se
bane othbyrste, feorthe manwyrth he to gedo hin
gacaenne mid godum aewdum thaet he thane banan
begeten ne mihte. 2. Gif mannes esne frigne mannan
ofslaehth, thane the sie hund scillinga gelde, se agend
thone banan agefe othe manwyrth thear to. 2.1 Gif
bana othbyrste twam manwyrthum hine man
for gelde hine gecaenne mid godum aewdum, thaet he
thane banan begeten ne mihte).¹⁰⁵*

The opening remarks both reassert Aethelberht's laws as well as provide validity to the new laws. By connecting the new laws to the old, Eadric continued the legal tradition already present in Kent and extended his royal authority. After the introduction, Eadric's code begins with two laws regarding wergild.

These laws delineated the course of action taken when an earl or freeman was killed by a servant. If an earl was killed by a servant, three hundred shillings was owed to the earl's family. When the servant was relinquished to face justice, his master was required to pay an additional *wergild* worth three times the

¹⁰⁵ Ibid., 126-127.

servant's value for compensation of the crime.¹⁰⁶ If the servant was able to elude capture, the master was required to pay an additional *wergild*, which brought the total up to four-times what was required. The master was also required to prove that he had done everything in his power to subdue his servant and bring him to justice.

The second law followed a similar narrative, but the emphasis was placed on a freeman rather than an earl. The compensation for a freeman's death, rather than an earl's death, was reduced from 300 shillings, to 100 shillings. Furthermore, the additional compensation received from the slave's owner was set to a freeman's *wergild*. The rank of the freeman was not specified by the law. Thus, the fine could have ranged from 60 to 100 shillings depending on the rank of the freeman. This is noteworthy as this fine was a significant increase in *wergild* over that found in Aethelberht's law code.¹⁰⁷ The language in the clause of this law was also similar to law number one, which pertained to earls. The owner of the servant was required to either catch the servant and provide him to the authorities, or to have several individuals corroborate the fact that he was unable to detain his servant by taking an oath. Unlike the first law however, the master was required to pay two additional amounts of *wergild* in the event that the servant was not caught and brought to justice.¹⁰⁸ These two laws and their

¹⁰⁶ It is ambiguous as to whether this was three-times the value of the master or the servant. Patrick Wormald, *The Making of English Law* (London, UK: Wiley Press, 1999), 234. However, based on Patrick Wormald's interpretation of other laws it would make the most sense to value from the servant's *wergild*.

¹⁰⁷ Oliver, *The Beginnings of English Law*, 70.

¹⁰⁸ Again, the reference to *wergild* here is ambiguous. Most likely, this is the specific *wergild* that the individual would have paid had he not been killed by a

sub-clauses expanded the boundaries of the social classes in Anglo-Saxon law. They included the titles “slave” and “earl” more frequently than those found in Aethelberht’s law code. And, they added an additional jurisdictional layer, the oath, absent up to now in the Kentish law codes. These two laws were the only additions made to the Kentish legal code by Eadric regarding *wergild*.

Although there was a significant amount added to the Kentish law codes from these two laws, as the language used to describe individuals was changed, there has been very little scholarly dialogue regarding Eadric’s *wergild*.¹⁰⁹ Again, the earliest laws display a rigid social structure that was similar to what the Normans later instituted. Long before Alfred the Great’s work on Anglo-Saxon law and government, the earliest codes were already forming the basic breakdowns of society. The laws and social structure of the two were so similar in fact that Henry I still utilized many of the original Anglo-Saxon laws in his own administration. Laws regarding murder, land distribution, and the maintenance of the social classes in society were adhered to by all of the Norman monarchs who ruled after William.¹¹⁰

servant. This not only references the laws of Aethelberht but also shows how they were still very much in play after his reign.

¹⁰⁹ For example, Oliver discusses every other law present in Eadric’s code except for these two. In *The Laws of the Earliest English Kings*, Attenborough’s translation and analysis is also absent of the discussion regarding the later concepts of *wergild* in Kent. Finally, in *Law and Order in Anglo-Saxon England*, Lambert also does not mention these laws in his discussion. The lack of scholarly evaluation of these two laws is a gap within the realm of Anglo-Saxon studies that I intend to begin to fill. You should put this in text.

¹¹⁰ Thomas, *The Norman Conquest*, 83-85.

Oaths and Slavery

One of the most striking characteristics of the two laws from Eadric's code was their reliance on oath. Oaths were the most binding agreement an individual could make as Christianity became the dominant religion in England. Oaths worked in many facets. They were both cement of political alliances and legal paraphernalia used to validate or refute a claim.¹¹¹ The oath was the method used to bind a person in service, to the land, and also to an individual. But, in Christianized Kent, the oath also took on spiritual value as well. Gregory Laing convincingly outlines both the theological and political gravity of the oath. According to Laing, in the now staunchly Christianized kingdom of Kent, the oath was taken as seriously as possible as an individual's soul was taken as collateral. Furthermore, God was invoked in the act of swearing an oath, which gave the action even more theological clout.¹¹² Helena Forbes echoes the severity of oaths in Anglo-Saxon society, as the seriousness and magnitude placed on the theological implications of taking an oath and possibly lying under oath took root in Anglo-Saxon England. Forbes notes that death and damnation were expected if an oath was made under false pretenses.¹¹³

In a time when wealth was limited, the most important collateral an individual could offer was his eternal soul. Naturally, the seriousness of the oath

¹¹¹ Eric John, *Reassessing Anglo-Saxon England* (New York, NY: Manchester University Press, 1996), 7-9.

¹¹² Gregory Laing, *Bound by Words: The Motif of Oath-taking and Oath-breaking in Medieval Iceland and Anglo-Saxon England* (New York: Western Michigan University Press, 2014), 34.

¹¹³ Helena Forbes, *Heaven and Earth in Anglo-Saxon England: Theology and Society in an Age of Faith* (New York, NY: Routledge Press, 2016), 10-16.

would be a tool used in legal proceedings. For example, Chadwick details the requirements that came with swearing an oath in Ine's court.¹¹⁴ The faith expressed in the oath itself and the required collateral made for both a theological as well as financial check on the offender. Julie Mumby corroborates Chadwick's initial findings by extending the impact of the oath beyond the offender, as a man's family was also brought into the court proceedings.¹¹⁵

After the reign of King Alfred, a person swore on their finances and offered their soul if they were not faithful. This became a tool used regularly in Anglo-Saxon legal traditions.¹¹⁶ Furthermore, with the conversion to Christianity, oaths became more than a political institution, and a broken oath could have had dire consequences. Forfeiture of property, exile from society, and death sentences could be enacted in response to a broken or false oath.¹¹⁷ While the emphasis is typically placed on Alfred and Cnut's law codes, the introduction of oaths to later Kentish laws exemplifies the sophistication and separation of the law codes that was taking place long before the unification of the Anglo-Saxon kingdoms. In some cases, monetary compensation could be replaced with an oath. This is one of the major examples of the expansion of Anglo-Saxon society. While the first law code was concerned with monetary compensation alone, the subsequent legal codes add an element of religion and social order to

¹¹⁴ Chadwick, *Anglo-Saxon Institutions*, 134-136.

¹¹⁵ Julie Mumby, "Fathers or Uncles? A Problem in the Old English Tract Known as *Wergeld*," in *Textus Roffensis: Law, Language, and Libraries in Early Medieval England*, ed. Bruce O'Brian and Barbara Bombi (Turnhout: Brepols, 2015), 215-230, 220.

¹¹⁶ Pauline Stafford, "The laws of Cnut and the history of Anglo-Saxon royal promises," *Anglo-Saxon England* 10 (1982), 173-190, 184.

¹¹⁷ Lambert, *Law and Order*, 68.

wergild. The weight was not only placed on the amount of coin an individual could produce, but it was also placed on their spiritual capital. As the analysis of the laws continue Anglo-Saxon society expands, so too will the use and importance of the oath in legal codes. Eventually, a complete break with the first law codes will take place as compensation for a crime regarding *wergild* moves away from physical coinage and into land and property.

In addition to oaths, the law code of Eadric reflected the social structure of its society, more so than its predecessors, particularly within the realms of freemen and slaves.¹¹⁸ First and foremost, these laws separated the status of slave from others, and created a larger divide between the *wergild* of a freeman and an earl when killed. Pollock and Maitland outline the typical characteristics of who would have owned a slave and what ownership entailed. However, Pollock and Maitland's details are sparse and the early laws are not accounted for.¹¹⁹

¹¹⁸ The terms "slave" and "servant" are used interchangeably by the secondary literature and typically mean the same thing. However, this paper will use the term slave as it most accurately embodies the rank in society that these individuals occupied.

¹¹⁹ Pollock and Maitland, *The History of English Law*, 35-36. A multitude of studies regarding slavery in Anglo-Saxon England primarily focuses on the period after Alfred the Great. For example, David Anthony Edgell Pelteret, *Slavery in Early Medieval England: From the Reign of Alfred Until the Twelfth Century* (New York, NY: Boydell and Brewer, 2001), 15-18. Pelteret notes several earlier studies that focus on slavery after the unification of England. Pelteret's work is useful for emphasizing slavery's importance in the Anglo-Saxon social system.

Later scholars, such as H. P. R. Finberg's, in *The Formation of England* continue the discussion of slavery in early Anglo-Saxon England.¹²⁰ Finberg synthesizes older works regarding slavery and thoroughly delves into the definition and status of slave in the major Anglo-Saxon Kingdoms. These slaves ranged from debtors to a war prizes, and performed any number of tasks for their master.¹²¹ However, as David Pelteret notes, slavery in Anglo-Saxon England is a difficult institution to synthesize. There were many ways to become bound into slavery. Practicing a different religion, being captured in war, or the inability to compensate for a crime were causes for servitude. In general, those who were slaves were considered the property of their master. They could have been held either until their debt for their crime was paid off or the death of the master or slave.¹²² The purpose of a slave was typically broken down into three categories; work inside an estate, work on an estate's land, and be sold for their cash value.¹²³ The sale of those captured in battle across the English channel was a common way to secure a small amount of money for a war-prize. More pertinent to *wergild*, an individual could pay his fine in servitude. The issue of slavery was addressed by every Anglo-Saxon law code, in similar and different ways.

¹²⁰ H. P. R. Finberg, *The Formation of England* (London: Hart-Davis, MacGibbon Ltd, 1974), 48.

¹²¹ *Ibid.*, 56-66.

¹²² Pelteret, *Slavery in Early Medieval England*, 5-8.

¹²³ James, Campbell, "Early Anglo_Saxon Society According to Written Sources" in *Essays in Anglo-Saxon History* (Ronceverte, WV: The Hambledon Press, 1986), 131-138, 137.

The Laws of Whitred

Whitred's law code contained the final examples of *wergild* in pre-Alfred Kent. Whitred's reign saw the restoration of a Kentish monarch to Kent's throne and his law codes were nearly contemporary with Eardic's laws. The laws that pertained to *wergild* also addressed theft and related issues. Whitred's code addresses both *wergild* as it pertains to theft with three laws. Laws 20, 21, and 22 all clarify and expand *wergild's* jurisdiction over theft. They are written as follows,

20. If a person kills a man in the act of theft, let him lie without *wergild*. 21. If a person seizes a free man having [the goods in] hand, then the king rules one of three things: either one should kill him, or sell him across the sea, or release him in return for his *wergild*. 21.1 He who seizes and delivers him [the thief], owns him half if he [the thief] is killed, let them be paid 70 shillings. 22. If a slave steals and a person redeems him: 70 shillings which ever the king wants. 22.1 If he [the slave] is put to death, one should pay the owner half his [the slave's] value. (20. *Gif man laud ofslea an theofthe, licge buton wyrgealde.* 21. *Gif man frigne man aet haebbindre handa gefo, thanne wealde secyning*

*threora anes: oththe hine man cwelle, oththe ofer sea
selle, oththe hine his wergilde alese. 21.2 Se the hine
gefo gegange, healfne hine age. Gif hine man cwelle,
Geselle heom man LXX schillinge. 22. Gif theuw stele
hi[ne] man alese: LXX schillinge, swa hwader swa
cyning wille. 22.1. Gif hine man acwelle, tham agende
hi[ne] man healfne agelde).*¹²⁴

As Oliver notes, Law 20 was the only Kentish law that was meant to shield a murderer from punishment.¹²⁵ *Wergild* would not have been required if the thief was caught and was killed in the fight that ensued. Uniquely, law 21 and its sub clause provide the king with authority that was not present in the previous law codes. The king could have sentenced the thief to death, allow him to be sold into slavery, or allow the thief to buy his freedom at the price of his *wergild*. This clause is crucial because it extends the concept of *wergild* beyond murder and assault. An exchange of *wergild* could take place without a drop of blood being spilt or limbs being lost. Theft and compensation after was not present in the first *wergild* laws found in Kent. However, as Anglo-Saxon society shifted from mobile conquering tribes to a many sedentary Christian kingdoms, the concept of theft and compensation grew and expanded into *wergild*.¹²⁶

¹²⁴ Oliver, *The Beginnings of English law*, 160-163.

¹²⁵ *Ibid.*

¹²⁶ Patrizia Lendinara, "The Kentish Laws" in *The Anglo-Saxons From the Migration Period to the Eighth Century: An Ethnographic Perspective*, ed. John Hines (New York, NY: Boydell Press, 2003), 217.

This also would have reinforced the social order within Anglo-Saxon society as it was now pertinent to know an individual's worth even if there were non-violent brushes with the law. Through their laws, the Anglo-Saxon kings sought to extend their power and influence over as much of the kingdom as they could. The Anglo-Saxon kings gradually introduced laws protecting citizens but also reinforcing and bolstering royal authority. In a similar way, the power of the king would be pivotal to William of Normandy. After his conquest, William sought to spread his influence over the social aspects of his kingdom via fiefs, the Anglo-Saxon courts, and the religious aspects with his brother Odo.¹²⁷ William's use of a strong monarchy saw its foundations in these early laws with the old Anglo-Saxon kings pressing their influence on society as shown above. The sub clause for law 21 also extends the king's power as it requires a fine to be paid to the king if the thief was captured and then killed. This was most likely meant to compensate the king for lost justice, similar to the compensation of individuals for lost honor.¹²⁸ Furthermore, law 21 extended the king's power more so into the daily lives of the Kentish people. In earlier law codes, the king was only paid a fee if the assault happened within his court; In Whitred's code the King's power extends to wherever there was a lapse in justice. In contrast to the earliest laws, the social boundaries were becoming more defined by *wergild* and were more explicitly discussed.

Law 22 of Whitred's code pertains to the *wergild* of a slave and what the course of action would be if a slave abducted an individual. The king decided

¹²⁷ Hudson, Land, Law, and Lordship, 206-229.

¹²⁸ Ibid.

whether to have the slave killed or have a fine paid for the transgression. If the king decided to sentence the slave to death, the slave's owner was owed *wergild* as compensation. It is interesting to note that the owner of the slave was incentivized to advocate for the slave's death. If the slave was given leniency, then the owner was required to pay 70 shillings, essentially the double of the slave's value. However, if the slave was killed and the owner was compensated with half of the slave's value he could mitigate some of his losses and put that compensation towards the fine incurred from the slave's actions.¹²⁹ The final two laws found in Whitred's code both expand the king's power as well as the system of compensation from *wergild* than what was previously present in the other first law codes.

In Summary

With the restoration of the Kentish monarchy new law codes were compiled to supplement those already in existence. Unlike the first written code, these laws were not concerned with bodily harm and monetary compensation. Aethelbeht's *wergild* laws were limited to murder and assault and are the most closely linked to the Germanic origins of Angles and the Saxons. Several generations later, the laws of Eadric and Whitred expanded *wergild's* scope to include non-violent acts such as theft. Furthermore, the monetary exchange did not always take place, as oaths and Christianity became further engrained in society. Finally, these laws also more firmly defined the social classes present in

¹²⁹ Wheetlock, *Laws of the Earliest English Kings*, 88. Wheetlock seems to be the first to make this curious observation, which Lisi Oliver echoes; *The beginnings of English Law*, 164.

Anglo-Saxon culture. They provided greater barriers between those who owned land, those who did not, and those who were not free in society. The subsequent laws written by other kingdoms continued to separate themselves from the original laws. In the later Kentish laws, the status of the nobility was further elevated above that of the freemen, and the legal code further codified the power of the king.¹³⁰

¹³⁰ *ibid.*

EARLY ENGLISH LAWS OUTSIDE OF KENT

The laws of Ine

Significance

King Ine of Wessex ruled from 688 to 726 C.E.. His law codes were likely recorded between the years 690 and 695 C.E. Ine's laws were recorded around the same time as Whitred's law codes, shortly after the throne of Kent was restored to the Kentish monarchs.¹³¹ Ine's law code survives because Alfred the Great added it as a stand-alone supplement to his own legal code. Ine's laws were significant because they were the first law codes outside of Kent that were recorded and they also provided a point of comparison to the Kentish laws. Ine's laws influenced Alfred the Great's own legal code, and the legal code of England. In spite of this, scholarship regarding *wergild* within Ine's law code is preoccupied with the impact that Ine's code had on the compilation of Alfred the Great's law code, and a comprehensive evaluation of the major laws regarding *wergild* in Ine's code has not been updated.¹³² The following provides a new commentary on Ine's laws regarding *wergild*, as well as the new avenues that they created for *wergild* as it pertains to England as a whole. Ine's laws also rely on the unit of land called "hide" more so than previous codes. The hide was crucial for the Anglo-Saxons in their legal disputes and it would also become of great use to William when he partitioned England to his nobles. This system of land measurement that would prove invaluable to the Normans was on early

¹³¹ Attenborough, *Laws of the Earliest English Kings*, 40.

¹³² *Ibid.*

display long before Alfred was even born.¹³³ The following examines the legal code outside of Kent and its role in Anglo-Saxon England as a whole.

Alfred the Great credits Ine in the introduction of his code code. Recent scholarship attempts to discern the level of influence that Ine's law code had on those compiled by Alfred. Heinrich Brunner contends that Alfred's laws were compiled from Ine's code and that the legal system of Wessex was a predecessor of the previous monarchs.¹³⁴ In contrast to Brunner's assessment, Todd Preston argues that Alfred the Great used significant portions of Ine's code, but that Alfred also changed and omitted a number of laws which he did not agree with.¹³⁵ Finally, Joseph Lynch argues that Ine's laws influenced Alfred's code, but that Alfred's zealous Christianity changed laws that he liked and omitted laws that he did not. Lynch concludes that the final product was not the result of major influences from Ine's law, but a more zealous Christianity influencing the previous law codes.¹³⁶

The relationship between Alfred and Ine's codes is debated in three ways. First, that Ine's laws heavily influenced Alfred's code and were almost directly

¹³³ *Domesday Book: A Complete Translation*, trans. Ann Williams and Geoffrey Martin (New York: Penguin Books, 2003). The Domesday Book compiled under William of Normandy illustrates how much the Normans relied upon and used the hide and hundred system of the Anglo-Saxon. Every hide now under William's control is broken down in the text as well as the new French lord who controlled the land.

¹³⁴ Heinrich Brunner, *The sources of English Law* (London, UK: Little & Brown Publishing, 1908), 10.

¹³⁵ Todd Preston, *King Alfred's Book of Laws: A Study of the Domboc and Its Influence on English Identity, with a Complete Translation* (Jefferson, NC: McFarland Press, 2014), 8.

¹³⁶ Joseph Lynch, *Christianizing Kinship: Ritual Sponsorship in Anglo-Saxon England* (Ithaca, NY: Cornell University Press), 199.

copied from the older laws to the new ones. Brunner argues this point of view in, *The sources of English Law*. According to Brunner, the laws that were directly quoted from Ine's laws significantly outnumber the laws from other Anglo-Saxon kings.¹³⁷ Brunner bases his conclusion on the fact that without Ine's laws Alfred's code would be quite insignificant.

The second viewpoint regarding Ine and Alfred's legal code is one of mutual relationship between the record of Ine and the legal work of Alfred the Great. Todd Preston argues for a mutual relationship between the two law codes in, *King Alfred's Book of Laws: A Study of the Domboc and Its Influence on English Identity, with a Complete Translation*. Preston argues that many of the laws found in both law codes have a similar structure to one another, as well as similar themes. Thus, Alfred's code borrowed heavily from Ine's laws while also molding many of the laws for his own administration.¹³⁸ According to Preston, Alfred includes Ine's code to both show the continuity between the two law codes, and to legitimize his own code.¹³⁹ The need to provide legitimacy to his own law code caused Alfred to take a mutualistic approach to Ine's laws.

The third and final argument is that although Alfred used Ine's code, he often modified it and neglected certain laws. Lynch argues this by emphasizing Alfred's devotion to Christianity. According to Lynch, Alfred influenced Ine's laws more so than Ine's laws influenced Alfred, as Alfred christianized the laws

¹³⁷ Brunner, *The sources of English Law*, 13.

¹³⁸ Preston, *King Alfred's Book of Laws*, 10.

¹³⁹ Attenborough, *Laws of the Earliest English Kings*, 5.

to fit his religion or by omitting laws that did not conform to Alfred's ideas.¹⁴⁰

Lynch bases his argument on Alfred's extreme Christianity and his devotion to the religion. Christianity had been able to root itself deeper into Anglo-Saxon society between Ine's code and Alfred.

General laws of *Wergild*

Ine's law code contains eighteen laws that discuss *wergild*.¹⁴¹ I have broken those laws into four categories; general *wergild*, oaths, theft, and laws that pertain to the Welsh. The general *wergild* laws, typically revolve around the procedure after death, and the *wergild* required from an individual's death.

The following are several, but not all, of the general *wergild* laws from

Ine's law

code,

11. If anyone sells one of his own countrymen, bond or free, over the sea, even though he be guilty, he shall pay for him with his *Wergild* and make full atonement with God [for his crime]. 19. A member of the king's household, if his *wergild* is 1,200 shillings, shall be allowed to swear for 60 hides, if he is a communicant. 23. If anyone slays a foreigner, the king shall have two-thirds of his *wergild*, and his son or relatives one-third. 23.1. If he has no relatives, the king shall have one-half and the magnate shall have

¹⁴⁰ Lynch, *Christianizing Kinship*, 198-99.

¹⁴¹ Attenborough, *Laws of the Earliest English Kings*, 40.

the other. 23.2. If, however, the person under whose protection he has been is an abbot or an abbess, he or she shall share the *wergild* with the king in the same proportion as the magnate does. 70. When a *wergild* of 200 shillings has to be paid, a compensation of 30 shillings shall be paid to the man's lord; when a *wergild* of 600 shillings has to be paid, the compensation shall be 80 shilling; when a *wergild* of 1200 shillings has to be paid, the compensation shall be 120 shillings. (11. *Gif hwa his agenne geleod bebycgge, theowne oththe frigne, theah he scyldig sie, ofer sea, forgielde hine his were with Godd deoplice bete...* 42. 19. *Cyninges geneat gif his wer bith twelfhund scill, he mot swerian for syxtig hida, gif he bth huslagengea...* 43. 23. *Gif mon eltheodine ofslea, se cyning ah twaedne dael weres thriddan dael sunu oththe maegas.* 23.1. *Gif he thonne maegleas sie, healf kyninge, healf se gesith.* 23.2. *Gif hit thonne abbod sie oththe abbodesse, daelen on tha ilcan wisan with thone kyning...* 59. 70. *Aet twyhyndum were mon sceal sellan to monbote XXX*

*scill, aet VI hyndum LXXX scill, aet XII hyndum CXX
scill).*¹⁴²

The first of these laws dealt with the capture and sale of men from Wessex to foreign lands. This law was primarily concerned with the sale of the guilty to foreign lands to be assigned to slave labor. The king had the option to send the thief to the mainland for the sale and benefit of both the king and the man he was robbing. Similar in nature to the Kentish laws, the king had the authority to issue justice in these cases. By placing a fine on the sale of criminals, this incentivized individuals to save justice for the king. Furthermore, as Bede notes, the practice of selling Christians into foreign slavery became more intolerable the longer that Anglo-Saxon England remained Christian.¹⁴³

Another topic addressed by Ine's law code was how much those in the service of the king were worth. Those who were in the service of the king had a *wergild* totaling 1,200 shillings. This was quite a substantial amount, as the highest amounts found in the Kentish codes only reached 600 shillings. The large fine no doubt was utilized to isolate those close to the king from violence. 1,200 shillings might have encouraged those in Wessex society to think twice before assaulting or brawling with a member of the court. Furthermore, the king's agent was allowed to swear a minimal number of hides on oaths that he made. This provided further protection for those who were connected to the king.¹⁴⁴ Both of

¹⁴² Ibid., 41-70.

¹⁴³ Bede, *History of the English People*.

¹⁴⁴ Attenborough, *The Laws of the Earliest English Kings*, 185.

these examples give significant power to the king and his agents. A status that is comparable to Norman kingship.¹⁴⁵

The final two laws discussed the proper action taken after killing a foreigner and the money that was owed to an earl if *wergild* was paid. The death of an individual from a foreign land would have most directly benefited the king, as he was owed between one-half and two-thirds of the *wergild* incurred. The king received less if the foreigner was being hosted by a government official or the head of a monastery. However, the king received compensation regardless of the outcome. The earl was also compensated for their subject's death. As law 70 noted, when *wergild* was paid out to a victim's next of kin, the earl was also owed an amount that was separate from the dead man's total *wergild*. Both of these laws exemplified both of the king and nobles extending their power into the day-to-day lives of their people.¹⁴⁶ Fines were no longer between those involved in the situation, as the lords had begun to assert themselves more into all social ranks. A king was entitled to payment not only if the crime was committed in his house, but also if the king was that individual's direct lord.

Laws Containing Oaths

As well as the general laws regarding *wergild*, the laws of Ine also contained clauses centered on an individual's value and oaths. The five laws that

¹⁴⁵ Ann Williams, *Kingship and Government in pre-Conquest England 500C-1066C* (New York: McMillian Higher Education, 1999), 34. See also; George Garnett, *Conquered England Kingship, Succession, and Tenure* (London, UK: Oxford University Press, 2007), 154.

¹⁴⁶ Lambert, *Law and Order*, 38.

referenced *wergild* were often focused around finances and the value of the individual had an impact on the value of their oath. As the following exemplifies,

30. If anyone accuses a commoner of harboring a fugitive he shall clear himself by an oath equal in value to his own *wergild*. If he cannot do so he shall pay for harboring the fugitive, a sum equal to his own *wergild*. A nobleman also shall pay according to the amount of his own *wergild*. 54. If anyone is accused of homicide and he wishes to deny the deed with an oath, there shall be in the 100 hides one entitled to give the king's oath of 30 hides, both in the case of the noble and the commoner, whichever he may be. 54.1 If payment is made for the deadman, then he may, if need be, include a slave and a coat of mail, and a sword in each hundred shillings of the *wergild*. 71. If a man is accused on a charge involving the payment of *wergild*, and if when he is required to give an oath he confesses the act, which he has previously denied, no proceedings shall be taken to secure the fine until the *wergild* has been paid. (30. *If mon cierliscne monnan fliemanfeorme teo, be his agnum were geladgin he hine; gif he ne maege gielde hine his agne were; se gesithmon swa be his were...*

56. 54. *Se the hith werfawhthe betogen he onsacan wille thaws sleges mid athe, thonne sceal bion on thaere hydenne an kyningaethe be XXX hida, swa be gesithcundum men swa be cierliscum, swa hwaether swa hit sie... 54.1. Gif hine mon gilt, thonne mot he gese;;an on thara hyndenna gehwelcere monnan byrnan sweord, on thaet wergild, gif he thyrfe. 59. Gif mon sie wertyhtlan betogen he hit thonne geondette beforan athe onsace aer bide mon mid thaere witeraedeene oth thaet se wer gegolden sie).*¹⁴⁷

Law 30 had nothing to do with death or assault, rather it stipulated an individual's proper actions if they wished to deny their involvement in a treasonous crime. If a man was accused of providing assistance to treasonous individuals, they could deny it, so long as they swore an oath and provided a security equal to their *wergild*. In contrast, if the accused individuals did not deny the charges that were laid against them they could clear their name by simply paying a fine equal to their *wergild*. This exemplifies *wergild's* definition expanding yet again. Individuals could have paid their *wergild* to their lord in order to escape punishment. Or, if they wished to deny the charge against them, they could have sworn an oath on a sum equal to their value. *Wergild* was now

¹⁴⁷ Attenborough, *The Laws of the Earliest English Kings*, 47-70.

also responsible for settling arbitration between citizens and their justice system, completely removed from murder or assault.

Continuing, law 54 and its sub clause 54.1 stipulated what was required of an oath that denied homicide and what was required if *wergild* was paid to the victim's family. While law 54 had little to do with *wergild*, its sub clause specified that there was additional compensation if the oath proved false.¹⁴⁸ As well as the victim's *wergild*, the offenders were also encouraged to supply the family with an additional sword, slave, and coat of mail if they provided a false oath. This issue would not have involved the peasantry to a large extent, as the vast majority did not have a *wergild* valued over 100 shillings. However, this was significant for the earls and lords, who had to supply fighting men in times of war. The additional resources helped alleviate the burden that a lost soldier incurred. Finally, law 71 explained the course of action that was required if a person confessed to a crime upon being asked to swear an oath. Payment of the *wergild* was paramount in the event that the individual confessed the crime.

Hides

Ine's code referenced a form of measurement that was not present in any of the Kentish codes. Ine's laws referenced the "hide" constantly throughout its laws, not only in the laws that pertained to *wergild*, but in regards to other subjects topics as well. The English hide was a unit of land within the counties of Anglo-Saxon England. The hide was present from the earliest days of Anglo-Saxon society in England and provided the land with structure and

¹⁴⁸ Ibid.

organization.¹⁴⁹ The hide lasted through the Danish occupation of England and became a critical tool of William of Normandy's Domesday Survey.¹⁵⁰ A hide was valuable to lords and the aristocracy because it was a reliable and consistent source of tax revenue and soldiers. To offer a hide as collateral for an oath would not only stake an individual's fortune on his innocence, but his status in society as well. The more hides an individual controlled the more valuable he was to the earl and king. This provided those within society with more land more prestige in society.¹⁵¹ The laws of Ine moved from a theological backing for their oaths to a financial one as the entire oath system was based on financial risk, and not on spiritual consequences. Those who did not have enough hides to secure an oath could not make an oath, and thus were required to pay the *wergild*.¹⁵² The Hide provided not only significant prestige for those who had it, but also a temporary shield from legal resource.

After his conquest, William instituted a feudal system that was almost entirely in line with our modern interpretation and definition of medieval lordship and fief-holding. Ultimate authority was held by the king, who then disseminated his authority to his nobles, who further disseminated his power.

¹⁵³ The organization of the lands in Anglo-Saxon England made this task much easier, as the hides and hundreds could be spread to multiple lords. William

¹⁴⁹ Hannis Taylor, *Origin and Growth of the English constitution* (New York, NY: Houghton, Mifflin, and Company), 293.

¹⁵⁰ H. R. Lyon, *Anglo-Saxon England and the Norman Conquest* (London, UK: Longman Group, 1991), 167.

¹⁵¹ Christopher Dyer, *Making a living in the middle ages, The People of Britain 850-1520* (New York, NY: Yale University Press, 2003), 13.

¹⁵² The secondary literature on this fact is all but non-existent.

¹⁵³ Thomas, *The Norman Conquest*, 72.

promised land and titles to those lords who helped him take England and the Anglo-Saxon's organization of the land made creating and distributing fiefdoms to William's vassals a much easier task. The land was already divided into defined sections under a similar system. The earliest laws, including the *wergild* laws, helped the Anglo-Saxons define and solidify the land organization that would be utilized by William in his Domesday book.¹⁵⁴

Theft and Wergild in the Laws of Ine

Ine's law code, like Kent's also applied *wergild* to thievery. However, Ine's law code expanded *wergild* laws regarding thievery. The laws below were a fraction of the laws in Ine's code that deal with thievery.

Shown in the following,

12. If a thief is taken he shall die the death, or his life shall be redeemed by the payment of his *wergild*.¹⁵⁵

35. He who kills a thief shall be allowed to declare with an oath that he whom he killed was a thief trying to escape, and the kinsmen of the dead man shall swear an oath to carry on no vendetta against him. If, however, he keeps it a secret and it afterward comes to light, then he shall pay for his (*wergild*).¹⁵⁶ (12. *Hif theof sie gefongen, swelte he*

deathe, oththe his lif be his were man aliese. 35. Se the

¹⁵⁴ Robin Flemming, *Domesday Book and the Law: Society and Legal Custom in Early Medieval England* (New York: Cambridge University Press, 2003), 72.

¹⁵⁵ Attenborough, *The Laws of the Earliest English Kings*, 41.

¹⁵⁶ *Ibid.*, 47.

*theof slighth, he mot athe gecythan, thaet he hine
fleondne for theof sloge, thaes deadan maegas him
swerian unceasees ath. Gif he hit thonne dierne sie eft
yppe, thone forgielde he hine.).*

Law 12 introduced a new concept to English law, a thief may buy back his life and freedom. The fine was paid to the king and the stolen item was to be returned to the owner.¹⁵⁷ If a fine was not paid then the thief was killed. Law 35 expands the criteria of *wergild* to cover perjury after an oath. If an oath made in response to the murder of a thief was proven false, then the full *wergild* was required as compensation to the thief's family. A punishment based on a person's *wergild* for a false claim was not present in any of the Kentish law codes, but was a fixture in Ine's laws of Wessex.

Ine's code also contained other laws regarding a thief and his *wergild*, the capture and escape of a criminal, as well as the proceedings to follow after *wergild* was paid. However, laws 12 and 35 are the most important as they add significantly new weight to *wergild* as an institution.

The Welsh and *Wergild*

Laws regarding the Welsh conclude the laws of Ine. The Welsh, like thieves and murderers, occupied a significant portion of Ine's law code. The Welsh were a new category in the laws pertaining to *wergild* as they were not

¹⁵⁷ Johann Martin Lappenberg, *A History of England Under the Anglo-Saxon Kings, Volume 2* (London, UK: Bell Publishing, 1884), 422.

present in the Kentish law codes. These laws regarding the Welsh represented the disparity present between Anglo-Saxons and Welsh of Wessex.

The most deliberate laws are present with the following,

32. If a Welshman possesses a hide of land his *wergild* shall be 120 shillings. If, however, he possesses half of a hide, his *wergild* shall be 80 shillings; if he possesses no land; 60 shillings. 33.

The *wergild* of a Welsh horseman who is in the king's service and can ride on his errands shall be 200 shillings. 23.3. The *wergild* of a Welsh taxpayer is 120 shillings; of his son 100 shillings. The amount to be paid for killing a slave is normally 60 shillings, but in some cases 50 shillings. A Welshman may compound for a scourging by the payment of 12 shillings. 24.2. The *wergild* of a Welshman who holds five hides of land shall be 600 shillings. (32. *Gif Wilisc mon haebbe hide londes, his wer bith CXX scill; gif he thonne healfes haebbe, LXXX scill; gif he naenig haebbe, LX scill.* 33. *Cyninges horswalh, se the him maege geaerendian, thaes wergield bith CC scill.* 23.3. *Wealh gafolgelda CXX scill, his sunu, C, theowne LX,*

somhwelcne fiftgun; Wealse hyd twelfum. 24.2.

Wealh, gif he hafath V hida, he hith syxhynde.).¹⁵⁸

Beginning with law 23 clause 3, the normal *wergild* of a Welsh land holder was 120 shillings, and the land holder's family's *wergild* was 100 shillings. Curiously, law 23 also contained a stipulation that allowed a Welshman to reduce his fines to 12 shillings if he also elected to be scourged. Law 32 delineated the worth of a Welshman in Anglo-Saxon Wessex. The value began at 120 shillings but diminished as the land that the Welshman held also decreased. However, 120 shilling was not the maximum value of a Welshmen in Wessex. As law 33 notes, if a Welsh horseman was serving the king his *wergild* is worth 200 shillings. Similar to what has been present in the previous laws, the higher fine applied to those in direct service to the king was put in place to protect those who were able to fight and defend the kingdom. A fine of 200 shillings might have made an individual think twice before taking the life of a Welshman who served the king.

In Summary

Ine's laws, like Whited and Eadric's laws, greatly expanded *wergild's* jurisdiction in society. Like the later Kentish laws, Ine's code expanded the coverage beyond assault and murder to include theft as well as fraud. The emphasis was placed on protecting material possession as well as physical well-being. Ine's laws also expanded the role of the king within society. Not only was the king responsible for enacting the laws but he also acted as a judge for some

¹⁵⁸ Attenborough, *Laws of the Earliest English Kings*, 45-71.

of the *wergild* crimes. This gave the king enhanced power as well as affirm his importance within Anglo-Saxon society. Finally, Ine's laws also expanded on the methods of compensation used in *wergild* laws. Schillings were still of importance within Ine's code, but the role of the hide now took on greater importance. Land allowed an individual to stake more on their oath and claim and thus avoid paying fines, or the individual could compensate utilizing land. This is significant because it represents a major shift in the legal culture. While the first law code heavily emphasized money, Ine's use of land shows that value within Anglo-Saxon society had begun to shift. Wealth was now also measured in relation to how much land an individual controlled. This emphasis on landed wealth would grow in Anglo-Saxon society and be an integral part in William of Normandy's conquest of England.

OFFA'S POSSIBLE LAW CODE

Suggesting several laws that may have originated with King Offa

King Offa

King Offa ruled the western Anglo-Saxon Kingdom known as Mercia from 756 to 796 C.E. Under Offa, Mercia expanded and dominated the surrounding kingdoms, taking land from Wessex, Northumbria, and Kent in the process. Offa created lasting building projects that stand still to this day, and his coinage is recognized as one of the first major examples of regal iconography in Anglo-Saxon England.¹⁵⁹ Much is known about Offa and his kingdom, but not his laws¹⁶⁰ Alfred the Great made reference to Offa's law code at the beginning of his own legal text, when he offered praise for the ruler's contribution.¹⁶¹ However, the exact content of Offa's code is unknown because, unlike Ine's laws, Alfred did not include a separate list of Offa's laws.¹⁶² The only definitive connection that Offa's has to Alfred's code is through the credit given to him. Despite the credit that was bestowed in Alfred's law code, scholars have yet to synthesize a significant portion of Offa's code out of the existing laws. The following section suggests several laws that may belong to Offa's code, provide a commentary on those laws in that context, places them in the category of laws that predated Alfred the Great, and highlights the change in the legal tradition that Offa's code represents.

¹⁵⁹ Michael Brown and Carol Farr, *Mercia: An Anglo-Saxon Kingdom in Europe* (New York, NY: Bloomsbury Publishing, 2005), 3.

¹⁶⁰ For example, see the following sources regarding the sophistication and lasting impact from Offa's reign: D. P. Kirby, *The Earliest English Kings* (New York, NY: Psychology Publishing, 2000). David Lindsay, *Offa's Dyke* (New York, NY: Trafford Publishing, 2005).

¹⁶¹ Attenborough, *The Laws of the Earliest English Kings*, 60.

¹⁶² Preston, *King Alfred's Book of Laws*, 14.

These laws, like the Ine's Law code, strengthened the power of the king, and helped solidify his place in society.

Previous Works on Offa's Code

While Alfred gave credit to Offa, it remains unclear what specific laws Alfred used when compiling his law code. Scholars such as M. Turk argue that there is no way to discern Offa's laws from Alfred's.¹⁶³ In contrast, Henry Mackenzie argues that the laws in Alfred's code that do not mimic Aethelberht's or Ine's code can be attributed to Offa.¹⁶⁴ Similarly, William Chaney argues that the laws not accounted for by Ine's or Aethelberht's code could have originated with either Offa or the continental Frankish law codes.¹⁶⁵ While scholars such as Patrick Wormald argue that the language used in various laws matches words that could only belong to Mercian writing.¹⁶⁶ This analysis uses both Mackenzie and Wormald's suggestions in searching for Offa's laws regarding *wergild*, as I address the laws that Wormald singles out based on their language while also comparing laws that are not found in the other legal codes.

Beginning with the scholarship that suggests isolating Offa's code is impossible, Milton Turk addresses the issue of Offa's law code in the introduction of his translation of Alfred's law code. During his introduction, Turk addresses the fact that the laws in Alfred's code were not divided by authors.

¹⁶³ Turk, *The Legal Code of Alfred the Great*, 40.

¹⁶⁴ Henry, Mackenzie, *Essay on the Life and Institutions of Offa, King of Mercia A.D. 755-794, Parts 755-794* (London, UK: Hamilton Adams Press, 1840).

¹⁶⁵ William Chaney, *Cult of Kingship in Anglo Saxon England: The Transition from Paganism to Christianity* (Los Angeles, CA: University of California Press, 1970).

¹⁶⁶ Patrick Wormald, "In Search of Offa's 'Law Code'" in, *People and Places in Northern Europe, 500-1600: Essays in Honour of Peter Hayes Sawyer* (London, UK: Boydell and Brewer Press, 1991), 26-60.

Rather they were combined together into sections. Turk questions the viability of discerning Offa's law code from the mass of laws from various kingdoms and expresses doubt that the process would definitively show what laws belonged to Offa and that his code will remain lost. According to Turk, because Alfred did not include Offa's laws in his own legal code, as he did with Ine's laws, it is impossible to discern Offa's laws from Alfred's.¹⁶⁷ In contrast, Mackenzie argues by elimination that the laws of Offa can be extracted from Alfred's law code. Mackenzie states that because Alfred's administration did not create new laws, then those clauses that do not align with Ine's code or Aethelberht's code must belong to Offa's code.¹⁶⁸ Chaney does not disagree with Mackenzie's argument, but he does note that the laws found in Alfred's code may have also originated on the continent. Chaney states that the Frankish legal tradition was present in England at this time and that it may have also influence Alfred's laws. Chaney acknowledges that Offa's code could also be traced in some of the laws that are unaccounted for, in the previous law codes.¹⁶⁹

Patrick Wormald also argues that the laws of Offa can be extracted from Alfred's law code. Wormald uses Mackenzie's argument that Offa's laws are most likely those missing in Ine's or Aethelberht's code. Wormald also examines the language used in some of the laws to further solidify their origin in Offa's code. Wormald notes several in Alfred's laws, such as law two, five, and eight, that use

¹⁶⁷ Turk, *Laws of King Alfred*, 40.

¹⁶⁸ Mackenzie, *Essay on the Life and Institutions of Offa*, 18-19.

¹⁶⁹ Chaney, *Cult of Kingship in Anglo Saxon England*, 179.

words or phrases that have only appeared in Mercian old English.¹⁷⁰ Through his analysis, Wormald identifies several laws that could be attributed to Offa and asserts that more could also be identified through a deeper analysis of the language. The laws identified for this paper's analysis use both Mackenzie's theory as well as Wormald's to identify laws pertaining to *wergild* that could be attributed to King Offa, although a firm identification of the laws may never be possible.

Offa's laws regarding *Wergild*

Through an examination of the laws present in Alfred's code, five laws could conceivably be considered originating in Offa's laws. Wormald identifies law two, which is noted below, as the language used in the law is only found in Mercian writing. The remaining four laws are singled out after a comparison with other *wergild* laws. Laws 4.1, 6.1, 9, and 19, which are addressed below, either pertain to a subject that the other law codes do not address, or the language in them is so altered that they could be considered from another source.¹⁷¹ While these are the five laws used in this analysis, it is worth mentioning that several other laws could have been from Offa's law code. Although these laws either pertain to *wergild*, they did not display enough of a difference to be confidently singled out, or they were in reference to a law already mentioned.¹⁷²

¹⁷⁰ Wormald, "In Search of Offa's 'Law Code'," 43-45.

¹⁷¹ Ibid.

¹⁷² Attenborough, *The Laws of the Earliest English Kings*, See for example laws 8, 17, and 26.

The following are the laws pertaining to *Wergild* that could realistically be attributed to Offa,

2.1 If, during that time, anyone injures him [a man] by a mortal blow, by putting him [the man] in fetters, or by wounding him [a man], he [the offender] shall pay compensation for each of these offences in the regular way, both with *wergild* and fine, and he [the offender] shall paw 120 shillings to the community as compensation for violating the sanctuary of the Church, and he [the offender] himself shall not have the payment due to him from the fugitive. 6.1 If he [the thief] wishes to redeem his hand, and if it is decided to give him permission to do so, he shall paw such fine as is appropriate to his *wergild*. 9. If anyone slays a woman with child, while the child is in her womb, he [the offender] shall pay the full *wergild* for the woman and half the *wergild* for the child, which shall be in accordance with the *wergild* of the father's kindred. 19. If anyone lends a weapon of his to another man, for the purpose of committing murder with it, they may if they are willing to, combine to pay the *Wergild*. 19.1. If they do not combine voluntarily, he who lent the weapon

shall pay one-third of the wergild and one-third of the fine. (2.1. *Gif hine mon on tham fierste geyflige mid slege oththe mid bende oththe thurh munde, btet thara aeghwele mid ryhte theodscipe, ge mid were ge mid wite tham hiwum hundtwelftig scill. Ciricfrithes to bote naebbe his agne forfongen. 6.1. Gif he tha hand lesan wille him mon thaet gethafian wille gelde swa to his were belimpe. 9. Gif mon wif mid bearne ofslea thonne thaet bearn in hire sie, forgielde thone wifman fullan gielde, thaet bearn be thaes faerencnosles were healfan gelde. 19. Gif hwa his waepon othrum onlaene, thaet he mon mid ofslaenm hie moton hie gesomnian gif hie willath, to tham were. 19.1. Gif hi hie ne gesamnien, gielde se thaes weapnes onlah thaes weres thriddan dael thaes wites thriddan dael).*¹⁷³

Beginning with law 2.1, the law stipulated the *wergild* required if a man, “him” was killed under a church’s protection. If a man was killed while under immunity, then the offender was required to both pay the *wergild* of the man as well as the town a fine of 120 shillings as compensation for this act. Law two introduced two concepts to the legal code that did not exist before, a fine paid to an entire community, as well as the notion of sanctuary. The previous law codes

¹⁷³ Ibid., 73.

had treated *wergild* as compensation between two parties and the earl or king at times would have taken part. Offa's code brought the community into the process of *wergild* settlements. Law two also places the concept of sanctuary location in the legal code of the kingdom.

Beginning in the early middle ages, the legal codes of Europe added articles enhancing and protecting the sanctuary or legal immunity offered by the church.¹⁷⁴ Karl Shoemaker argues this was not only due to the adherence to Christianity in England, but to an extension of royal authority. Offa extended his royal authority to influence the church as well as control his subjects who were now beholden to both Christianity and their earl.¹⁷⁵ Paul Hyams echoes this by focusing on the impact that the later kings had on sanctuary laws, particularly just before the Norman Conquest.¹⁷⁶

Continuing, law 6.1 provided thieves with a legal alternative if they were caught. If the thieves were caught, the penalty in Mercia was the loss of their hand. However, if the thieves wished, they could save their hands by paying their *wergild* as punishment. This would have saved the thieves from the ax, while also reinforcing royal authority within the law as the payment would have been made to the king. Law 9 required payment if a pregnant woman was killed. Interestingly, there were several laws that pertained specifically to women and assault against them. The existence of these laws echoes *wergild's* purpose, as

¹⁷⁴ Ruth Mazo Karras, Joel Kaye, and E. Ann Matter, *Law and the Illicit in Medieval Europe* (University Park, PA: Pennsylvania State University Press, 2008), 19.

¹⁷⁵ Karl Shoemaker, *Sanctuary and Crime in the Middle Ages, 400-1500* (New York, NY: Fordham University Press, 2011), 88.

¹⁷⁶ Hyams, *Rancor and Reconciliation*, 103.

those who produced children for the society were protected by law. Women were singled out in Alfred's law code, but the structure of these laws was similar to those general assault laws found in Aethelberht's code. It was not definitive whether they originated in Offa's law code or were taken from Aethelberht's code and slightly modified. Regardless, law 9 made it clear that the murder of both a woman and her unborn child had to be compensated for. The woman's full price was required for her death and the child was valued as half of his father's *wergild*.¹⁷⁷

Law 9 reinforced the importance in Anglo-Saxon society of having children and thus protected pregnant women and their offspring. The foundation of society demanded that there be a steady supply of labor for food production and a ready supply of men for the military endeavors of the kingdom. A fine placed on the life of woman of bearing ages and their progenitor created protection for those members of the society.

Finally, law 19 and its sub clause were the last two laws that could have originated from Offa's code. Law 19 described the punishment incurred if an individual supplied weapons for a murder. In this case the king received *wergild* and both the man who lent the weapon as well as the man who was going to carry-out the murder was responsible for the *wergild*. Law 19's sub-clause outlined the course of action and payment required if the two individuals disagree with paying the whole fine. The man who loaned the weapon out was

¹⁷⁷ Andrew Rabin, "Parent-Child Litigation in Anglo-Saxon England," in *Childhood & Adolescence in Anglo-Saxon Literary Culture*, ed. Susan Irvine and Winfried Rudolf (Toronto, CA: University of Toronto Press, 2018), 270-290, 247.

not responsible for the entire fine if the two decided not split the cost, and it was beneficial to him if his accomplice agreed not to pay because he would ultimately pay a lower fine. Law 19 and its sub clause touched once again on the original intended purpose of *wergild*. These laws were meant to prevent violent crime from taking place, protecting the population from being needlessly decimated.

In Summary

The laws above represented the last surviving pre-Alfredian laws regarding *wergild*. They, like their contemporaries, took steps to ensure senseless violence. The subsequent law codes were then written under one kingdom, either Anglo-Saxon or Danish. While the later codes were influenced by the early legal texts, they did not exemplify the major disparities between the early codes, especially regarding *wergild*. In particular, Offa's code brought the community into the legal process. While *wergild* had previously been contained between individuals or closed groups, Offa's code expands upon the previous codes also expanding upon those involved in the legal process. Finally, Offa's laws briefly guard against insurrection

CONCLUSION

The Growth of Early *Wergild*

Comparisons between the early codes and the Normans

To conclude this thesis, I would now like to compare major points of deviation between the first written law code and the other earliest English versions of *wergild*. *Wergild* laws went through many changes after they were first compiled. These include the use of oaths, the treatment of thieves, the power and influence of kings, as well as methods used to pay for and settle fines. These differences exemplify shift from polytheism to Christianity, as well as shifts from a mobile Germanic tribal heritage to sedentary kingdoms attempting to create order and structure. It is by shifting away from Germanic heritage and structure that William was able to move much of the Anglo-Saxon legal code and social structure to his own benefit. It was this organizational structure that was of great benefit to William after the conquest.

The scholarship surrounding the changes of early *wergild* laws typically focuses on comparing the values listed by the various later laws and does not include the earliest Kentish code. One of the debates regarding *wergild* surrounds the value of the shilling. Ine's code, more so than any other, has fines that range in the high hundreds and the thousands. Beginning with the scholarship surrounding the value of the shilling in Wessex, H. M. Chadwick argues that the shillings that are listed in Ine's code were equal to those of other kingdoms, and thus the *wergild* required changed drastically from kingdom to kingdom. Chadwick bases his argument on his interpretation of H. Green who

had first makes this observation.¹⁷⁸ Chadwick's main purpose is to show that the *wergild* values of Wessex were inherently different than other kingdom's values. Frederic Seebohm's *Tribal custom in Anglo-Saxon law* echoes Chadwick's analysis.¹⁷⁹ Seebohm also argues that the shilling held a similar value throughout England. In his analysis, Seebohm uses the currency from the Danelaw and the shilling that was prevalent in Anglo-Saxon England to show that the shilling held a constant value across the various kingdoms.¹⁸⁰

However, scholars have recently called into question Chadwick and Seebohm's conclusion, as the monetary system of Anglo-Saxon England has received new attention. D. A. Bullough refutes their claim in "Anglo-Saxon Institutions and Early English Society."¹⁸¹ Bullough argues that *wergild* found in the various Anglo-Saxon kingdoms was relatively equal based on how each kingdom valued the shilling.¹⁸² Echoing Bullough's work is John Hines' article, "Units of Gold and Silver in Seventh Century England: *Scillingas, Sceattas and Paningas*."¹⁸³ Hines uses the variations in weight and size of shillings from various regions to illustrate that their value would likely have been different in each kingdom. Concluding that the 1,200 shillings in Wessex would indeed be

¹⁷⁸ Chadwick, *Studies in Anglo-Saxon Institutions*, 208.

¹⁷⁹ Frederick Seebohm, *Tribal Custom in Anglo-Saxon Law: Being an Essay Supplemental To: (1) The English Village Community, (2) The Tribal System in Wales* (London, UK: Longmans, Green, and Company, 1911), 209.

¹⁸⁰ D. A. Bullough, "Anglo-Saxon Institutions and Early English Society," in *Anglo-Saxon History, Basic Readings*, ed. David Pelteret (New York, NY: Grandal publishing, 2011), 363.

¹⁸¹ *Ibid.*, 370.

¹⁸² *Ibid.*

¹⁸³ John Hines, "Units of Gold and Silver in Seventh Century England: *Scillingas, Sceattas and Paningas*," *Antiquities Journal* 90 (2010): 153-73.

roughly the same value as the 800 shillings in seventh century Kent.¹⁸⁴ In the following, I will not attempt to refute either claim, but rather I will discuss the evolution that *wergild* underwent after the first law code was recorded.¹⁸⁵ Through the inclusion of oaths, the expansion of *wergild*'s coverage, the methods of payment, and the increased power of the king it is clear that *Wergild* greatly expanded from its initial recording. I will then discuss implications that these changes had on Anglo-Saxon society and the lasting impact on England as a whole.

Oaths and Land

To begin, with I will discuss the addition of oaths within *wergild* laws. Oaths were absent from the first recorded laws from Kent. Eventually, the oath made its way into the Anglo-Saxon legal code. Kent, Wessex and Mercia had some utilization of oath within their *wergild* laws. In Kent, there were the oath helpers,

1.1. If the killer should escape, he should add
a fourth man-worth and clear himself with
good oath-helpers that he was not able to
seize the killer. (*1.1 Gif se bane othbyrste,*
feorthe manwyrth he to gedo hin gacaenne

¹⁸⁴ Ibid., 160.

¹⁸⁵ Although, there is still much to be said about the disparity between the *wergild* found in Kent and Wessex as Lisi Oliver seems to accept that the shilling present in both kingdoms was roughly worth the same amount: Oliver, *The Beginnings of English Law*, 58.

*mid godum aewdum thaet he thane banan
begeten ne mihte.)*¹⁸⁶

If a man in Kent wished to clear his name, he not only needed to swear an oath confirming the validity of his statement, but he also needed to secure the oaths of four other men in good standing. The oath was not present in first laws of Kent, but was added later. Similarly, the Wessex legal system also used oaths. Ine's code emphasized financial backing with the oaths that were made in regards to *wergild*,

30. If anyone accuses a commoner of harboring a fugitive he shall clear himself by an oath equal in value to his own *wergild*. If he cannot do so he shall pay for harboring the fugitive, a sum equal to his own *wergild*. A nobleman also shall pay according to the amount of his own *wergild*. 54. If anyone is accused of homicide and he wishes to deny the deed with an oath, there shall be in the 100 hides one entitled to give the king's oath of 30 hides, both in the case of the noble and the commoner, whichever he may be. (*30. If mon cierliscne monnan fliemanfeorme teo, be*

¹⁸⁶ Oliver, *The Beginnings of English Law*, 126.

*his agnum were geladgin he hine; gif he ne
maege gielde hine his agne were; se gesithmon
swa be his were 54. Se the hith werfawhtthe
betogen he onsacan wille thaws sleges mid
athe, thonne sceal bion on thaere hydenne an
kyningaethe be XXX hida, swa be
gesithcundum men swa be cierliscum, swa
hwaether swa hit sie).*¹⁸⁷

In Wessex, an oath was sworn to clear an individual of any false charges. If a man desired to clear himself for example, of the false charge of harboring a fugitive then he was required to swear an oath on the value of his *wergild*. If a man wished to clear his name, deny a homicide charge made against him, and not pay the required *wergild* he was required to swear an oath based on 100 hides of land. Both examples required some financial backing, either based on the individual's *wergild* or taxable land. A man was able to take an oath without assistance from others, as long as he had the financial capacity to do so.¹⁸⁸ The inclusion of the oath in *wergild* laws is two-fold. First, it represents the growth of Christianity within Anglo-Saxon society since the formation of the first legal code. England began to convert to Christianity several generations prior to the formation of the later Kentish and Wessex laws and now the Christian oath was becoming an integral part in society. The oath was already an integral part of

¹⁸⁷ Attenborough, *The Laws of the Earliest English Kings*, 47-70.

¹⁸⁸ Chadwick, *Anglo-Saxon Institutions*, 73.

other Christian kingdoms, and Anglo-Saxon society was adopting it for its own legal code as well.¹⁸⁹ Oaths would be of the utmost important to Norman society as well and aided during the post-conquest transition.¹⁹⁰ As well as the inclusion of the oath, The reliance on non-material wealth also represented a shift in Anglo-Saxon society. The highest levels of society accumulate vast amounts of landed wealth as well as material wealth. As society moved further from its Germanic roots, the landed wealth became more important than the physical wealth.¹⁹¹ *Wergild* laws reflect this change in society by replacing some of the fines with oaths made on land, rather than physical money. The land became far more valuable and sustainable and the Anglo-Saxon legal system utilized its value to settle these disputes.

Theft

Another addition made to later *wergild* laws is thievery. Kent, Wessex, and possibly Mercia all had laws regarding theft that revolved around an individual's *wergild*. Kent had the following laws regarding the *wergild* of a thief,

20. If a person kills a man in the act of theft, let him lie without *wergild*. 21.1 He who seizes and delivers him [the thief], owes him half if he [the thief] is

¹⁸⁹ Owen M Phelan, *The Formation of Christian Europe: The Carolingians, Baptism, and the Imperium Christianum* (New York, NY: Oxford University Press, 2014), 47.

¹⁹⁰ Wendy Marie Hoofnagle, *The Continuity of the Conquest: Charlemagne and Anglo-Norman Imperialism* (University Park: The Pennsylvania State University Press, PA, 2016), 48.

¹⁹¹ Michael Moissej Postan, *The Medieval Economy and Society: An Economic History of Britain 1000-1500* (Oakland, CA: University of California Press, 1973), 103.

killed, let them be paid 70 shillings. (20. *Gif man laud ofslea an theofthe, licge buton wyrgele. 21.1 Se the hine gefo gegange, healfne hine age. Gif hine man cwelle, Geselle heom man LXX schlinge.*)¹⁹²

If a thief was killed during capture or transport to justice then the thief's family was owed either half of his *wergild* or 70 shillings as compensation. Ine's code stated the following regarding the compensation for a thief's family,

12. If a thief is taken he shall die the death, or his life shall be redeemed by the payment of his *wergild*. 35.

He who kills a thief shall be allowed to declare with an oath that he whom he killed was a thief trying to escape, and the kinsmen of the dead man shall swear an oath to carry on no vendetta against him.

If, however, he keeps it a secret and it afterward comes to light, then he shall pay for his (*wergild*).

(12. *Hif theof sie gefongen, swelte he deathe, oththe his lif be his were man aliese. 35. Se the theof slihth, he mot athe gecythan, thaet he hine fleondne for theof sloge, thaes deadan maegas him swerian unceasees*

¹⁹² Oliver, *The Beginnings of English Law*, 160-163.

*ath. Gif he hit thonne dierne sie eft yppe, thone
forgielde he hine.).¹⁹³*

First, thieves were able to save their life by paying a fine equal to their *wergild* to the king. Thieves' punishments in relation to their *wergild* was not mentioned in the Kentish codes. Furthermore, if a thief was killed while attempting to escape capture, the laws of Ine required an oath to be sworn against the validity of the attempted escape.

Finally, Mercia also likely had its own laws against thievery. It will likely remain unknown what Offa's code prescribed in the event of a thief dying in custody. However, a law that likely belonged to Offa's code suggests that a punishment for thievery was present in Mercia. As the following Mercian law stated,

6.1 If he wishes to redeem his hand, and if it is
decided to give him permission to do so, he shall
paw such fine as is appropriate to his *wergild*.(6.1.
*Gif he tha hand lesan wille him mon thaet gethafian
wille gelde swa to his were belimpe.)¹⁹⁴*

Offa's code allowed thieves to save their hand by paying for their hand's *wergild*. If the king approved of this fine, the thief was allowed to keep his appendage. While the earliest *wergild* laws did not include thievery, the later law code had

¹⁹³ Attenborough, *The Laws of the Earliest English Kings*, 41.

¹⁹⁴ *Ibid.*, 73.

several laws on the subject. The inclusion represents another shift in Anglo-Saxon society. With the growth of wealth and towns in Anglo-Saxon society, the concern for an individual's property also grew.¹⁹⁵ Early Anglo-Saxon worked to subdue this issue by including thievery within the tradition of *wergild*.¹⁹⁶

Influence of the King

One addition made by the later laws is how they increased royal authority and legitimacy. The codes written after the first laws often times functioned to increase the king's power and wealth. The law's details and specific nature differed between kingdoms; however they all had two main goals. One, to stop needless killing and blood feuds from ravaging the population; two, to increase the king's power, influence, and wealth. Often times, laws that pertained to *wergild* expanded the king's influence outside of his hall.

For example, the Kentish code states,

21. If a person seizes a free man having [the goods
in] hand, then the king rules one of three things:
either one should kill him, or sell him across the sea,
or release him in return for his *wergild*. (21. *Gif man
frigne man aet haebbendre handa gefo, thanne
wealde secyning threora anes: oththe hine man*

¹⁹⁵ Levi Roach, *Kingship and Consent in Anglo-Saxon England, 871-978: Assemblies and the State in the Early Middle Ages* (Cambridge, UK: Cambridge University Press, 2013), 109.

¹⁹⁶ *Ibid.*, 110.

*cwelle, oththe ofer sea selle, oththe hine his wergilde
alese).*¹⁹⁷

The king determined the individual's fate. It was at the king's discretion whether or not an individual was sentenced to death, sold into slavery, or live by paying their *wergild*. This was an extension of the king's power from earlier law codes where the king's authority laid only within his halls.

The extended power of the king was also present in Wessex, as the king not only intervened on legal matters but he also used the law for his own gain. For example,

23. If anyone slays a foreigner, the king shall have two-thirds of his *wergild*, and his son or relatives one-third. (23. *Gif mon eltheodine ofslea, se cyning ah twaedne dael weres thriddan dael sunu oththe maegas.*)¹⁹⁸

Like the kings of Kent, Ine interjected himself into Wessex legal matter. However, the king was not only acting as a judge in this law, but also was securing a portion of the *wergild* that was paid to a victim's family. Ine's code allowed the king to fill his coffers with *wergild* payments while simultaneously interjecting himself into the legal proceeding. The later laws saw, at least a perceived, importance of the king within Anglo-Saxon society, something that

¹⁹⁷ Oliver, *The Beginnings of English law*, 160-163.

¹⁹⁸ Attenborough, *Laws of the Earliest English Kings*, 40.

the first written laws did not include. It was this importance of the king that allowed William to create a viable argument for feudalism in England. The blueprint for a strong monarchy was provided by the Anglo-Saxons, long before Alfred came to power.

Conclusion

Wergild grew exponentially between the formation of the first written law code and those that followed. The later laws emphasized both material wealth as well as land ownership in the settlement of disputes. They also integrated oaths into the legal system. Later *wergild* laws also gave more power to the king within society, allowed the king to secure revenue through additional means, protected the population from decimation, prevented needless feuding over murder and assault, as well as act as a judge for some of the legal cases. Furthermore, *wergild* defined the various social boundaries and strengthened the divide between earls and freemen.¹⁹⁹ The kings who came after conversion to Christianity modified the laws to conform to their needs and specific traditions. The importance of these modifications represented in Anglo-Saxon law lies in the fact that they continue to impact England's history for centuries. The social structure, emphasis placed on land, and importance of the king would be lasting characteristics in Anglo-Saxon England and would help to make the William of Normandy's administrative conquest successful. Elements favored by the Norman administration were already present in Anglo-Saxon England, and

¹⁹⁹ Preston, *King Alfred's Book of Laws*, 8.

identifiable in the early law codes, such as the importance of the king, emphasis on land ownership, land worker relations, and the value of land over money.²⁰⁰

The secondary works pertaining to *wergild* typically focus on the disparity between the fines that were present in the various kingdoms. Lisi Oliver and H. M. Chadwick emphasize the difference in fines in their works.²⁰¹ Other secondary work, such as Pollock and Maitland's *History of English Law*, only scratch the surface of *wergild* and neglect to discuss the nuances of the various legal codes.²⁰² A dedicated examination of the early *wergild* laws was non-existent up to now. Historians have also neglected a detailed comparison of the variations present in the law codes. The laws from Wessex in particular have been neglected. This thesis fills the scholarly void by examining the major early *wergild* laws from across Anglo-Saxon England. Each law is explained and connected with the concept as a whole. Furthermore, the major differences between the first law code of Kent, and the subsequent codes, ignored from secondary works regarding the laws of Anglo-Saxon England, are highlighted and exemplify the fact that there were major differences in *wergild* from its first recording to the later law codes.

Finally, these first legal codes highlight the social structure that would be reformed over the next three centuries and eventually utilized by William the Conqueror after his invasion of England. The division of classes, partitioning of

²⁰⁰ David Carpenter, *The Struggle for Master: The Penguin History of Britain 1066-1284* (New York, NY: Penguin Publishing, 2003), 40-67.

²⁰¹ Oliver, *Beginnings of English Law*, 58. Chadwick, *Anglo-Saxon Institutions*, 403.

²⁰² Pollock and Maitland, *History of English Law*, 103.

land, and emphasis on the King's power are all present in these early laws, and would be used by William to great effect. The first legal codes find their value in the precedent they created.

As the medieval period continues to be a source for pop and historical fiction concepts such as *wergild* will continue to be brought to the forefront of modern society. In fact, this thesis was inspired by the use of *wergild* in several modern television and book series, such as History Channel's *Vikings* and Netflix's adaptation of *The Last Kingdom*. These shows as well as other, make reference to *wergild* and the legal systems used by those cultures, however they do not address the finer details of the practice. The gaps within the secondary literature that are noted above as well as the continued use of medieval themes in pop-culture create a unique environment for other scholars to examine topics such as *wergild*.

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