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A Life's Worth: Reexamining *Wergild* in the Anglo-Saxon Royal Law Codes (c. 600–1035)

Braden Sides

In the wide and growing world of Anglo-Saxon scholarship, *wergild* has an at once ubiquitous and spectral presence.¹ While compensation, blood-money, and the place of the body in “barbarian” law more generally continue to be subjects of much scholarly interest, it is harder to find even a single piece of scholarship dedicated to the topic, let alone specifically as it appears in the Old English material.² What follows is meant to offer a survey of *wergild* as it appears in the surviving legislation of England’s Anglo-Saxon kings, as well as an attempt to deconstruct the logical underpinning of *wergild*, with the goal finally of tying these various aspects together in order to reach a more nuanced definition for this concept as it exists within these texts and the legislative imaginations of their compilers. Rather than seeing *wergild* as representing a number of different forms of payment linked together only by the name and sums involved, it is intuitively more likely that the compound represents a more limited and exact concept which could be used, rationally, as

- 1 Although a great deal more will be said about the compound below, it should be noted now that Old English (OE) *wergild* is, or is generally thought to be, the amount of money paid in the event of one person killing another. Regarding historical scope, the texts under discussion here are products of the seventh to eleventh centuries, with a significant lacuna between the early-eighth and late-ninth centuries.
- 2 Patrick Wormald, “Feuds and *Wergild*,” in *Medieval England: An Encyclopedia*, ed. Paul Szarmach et al. (New York: Garland Publishing, 1998), 297–98.

we find it in these law codes. This search has so far yielded three major points about the inner workings of *wergild*: that it is an essentially unchanging part of Old English legal vocabulary and so probably a true reflection of Anglo-Saxon customary law, that it functions as an alternative to loss in a highly general sense, and, more tenuously, that it is calculated based on an individual's role in preserving the public peace (*fridð*).

The following discussion will emphasize a certain group of themes central to most uses of *wergild* in these texts, primarily *wergild-as-blood-money* (a sum payable in the case of a homicide or other cause of loss) and *wergild-as-fine* (referring to cases where one pays their own *wergild* as compensation after committing some form of crime). For both *wergild-as-blood-money* and *wergild-as-fine* it should be understood that the terms are used out of convenience and do not adequately represent the entire breadth of either category. Also, there is *wergild's* personal or relative quality, meaning the sum's relationship to the individual to whom it is attached—which here usually means that individual's socio-economic status. This focus comes with the expectation that these key components of *wergild* can, in the end, fit together in the coherent concept this study seeks.

LAW IN ANGLO-SAXON ENGLAND

The Old English law codes at best represent a partial picture of a partial picture. Much of what we might call law in the period almost certainly remained consigned to the realm of orality, and it is probable that more codes once existed than now survive.³ Patrizia Lendinara and Kathleen Casey, among others, have claimed that the contents of the earlier texts are founded in Anglo-Saxon tribal “customary law” supplemented by later kings.⁴ But these law codes may very well be so in name only.⁵ Patrick Wormald, the preeminent scholar of medieval English law, tended to see these texts as attempts to borrow some of the legitimacy and prestige of other law-writing rulers, such as those of Rome, the

3 Wormald, “In Search of King Offa’s ‘Law-Code,’” in *People and Places in Northern Europe 500-1600: Essays in Honour of Peter Hayes Sawyer*, ed. Ian Wood and Niels Lund (Woodbridge: Boydell, 1991), 28.

4 Patrizia Lendinara, “The Kentish Laws,” in *The Anglo-Saxons from the Migration Period to the Eighth Century*, ed. John Hines (Woodbridge: Boydell, 1997), 211; Kathleen Casey “Crime and Punishment: Anglo-Saxon Law Codes,” in *The Middle Ages in Texts and Texture: Reflections on Medieval Sources*, ed. Jason Glenn (Toronto: University of Toronto Press, 2011), 85.

5 Simon Keynes, “Crime and Punishment in the Reign of King Æthelred the Unready,” in *People and Places*, ed. Wood and Lund, 68.

Franks, and even the biblical Solomon.⁶ Further complicating matters, some codes have an unambiguous homiletic quality, such as Æthelred's later legislation and the laws of Cnut, which were often composed, at least in part, by clerics like the infamous Wulfstan of York.⁷

Other scholars, however, have no problem seeing these texts as essentially utilitarian.⁸ While in terms of volume the surviving body of Old English legislation pales when held up against that of the Franks, there are at least some mentions of law-books (*domboc*) being used in Anglo-Saxon England. Bede, for example, claims that the laws of Æthelberht (r. 560-616), written self-consciously after the fashion of the Romans, were in use as late as the eighth century, though Bede's Romanophilic and Romanizing agenda should caution against taking this at face value.⁹ Elsewhere, in an eleventh-century Old English translation of *The Legend of the Seven Sleepers*, a *domboc* has been added by the translator without any precedent in the Latin model, suggesting to James Campbell that such documents were considered natural to the process of law near the end of the period.¹⁰ But instances like these are few and far between. More common are references to reeves, lords, and kings making legal decisions according to their own jurisprudence without consulting any authoritative documents.¹¹ Levi Roach has suggested a compromise between these text-based and oral positions: according to this interpretation, law-books were real sources of practical legislation, but rather than representing hard-and-fast laws according to modern sensibilities, they offered a set of loose guidelines which local officials, especially the king, could interpret and augment as they saw fit.¹²

This near-complete lack of evidence means that it is impossible to assess these positions. By the late tenth century, the Anglo-Saxon "state" had reached a daunting level of administrative efficacy, and it certainly could have promulgated law-books along with the other vernacular texts circulated in Al-

6 Wormald, "Law Books," in *The Cambridge History of the Book in Britain*, vol. 1, c. 400-1100, ed. Richard Gameson (Cambridge: Cambridge University Press), 525.

7 Wormald, *The Making of English Law: King Alfred to the Twelfth Century*, vol. 1, *Legislation and its Limits* (Oxford: Blackwell, 2001), 238.

8 David Pratt, *The Political Thought of King Alfred the Great* (Cambridge: Cambridge University Press, 2007), 217.

9 Lendinara, "Kentish Laws," 212.

10 James Campbell, *Essays in Anglo-Saxon History* (London: Hambledon, 1986), 23.

11 Simon Keynes, "Royal Government and the Written Word in Late Anglo-Saxon England," in *The Uses of Literacy in Early Mediaeval Europe*, ed. Rosamond McKitterick (Cambridge: Cambridge University Press, 1990), 230.

12 Levi Roach, "Law Codes and Legal Norms in Later Anglo-Saxon," *Historical Research* 86 (2013): 479.

fred's court.¹³ We simply have no positive evidence that this actually happened. Thankfully, bypassing these difficulties, our primary concern here is with the *ideas* of law underpinning the compilation of these codes.

Although the exact letter of the codes might not reflect historical practices, the manner in which *wergild* and other concepts are used likely does reflect how those concepts were understood. These texts must have had some sort of audience: the gesture of composing them, whatever its intent, would otherwise be pointless.¹⁴ Additionally, the wording of many individual laws appears almost idiomatic: they have their own distinctive jargon, meaning they do not make logical sense without preexisting knowledge of the language and processes of law in the period. Even if these texts are expressions of kingly authority, ethnic solidarity, or spiritual ideals, they are framed as laws, and they are occasionally even addressed to those who exercised the law.¹⁵ It may therefore be inferred that they use an established legal vocabulary and traditions intelligible to both their authors and their audience. Even taking a minimalist stance on the intended scope of these codes, if the chapters discussed below did not see real-world use, the language they used, including *wergild* and its relatives, can still be assessed to determine how the authors imagined these terms to function.

One final point should be made before proceeding. *Wergild* and its variants, which usually differ only in the quality of the vowel in *-gild*, are rather rare in the corpus of Old English royal laws. Throughout the texts, however, variants of *wer* and *gild*, and especially the former, often appear by themselves. For *wer* (literally, “man”), it is fair to say that it should be understood as synonymous with the fuller compound, as its use in the laws would be nonsensical otherwise. *Gild* is more problematic. Meaning “gold,” and by extension “price,” *gild* could almost be understood to stand by itself in these texts, which are rife with terms referring to various sorts of fines and payments. However, there are cases in which *wer*, *gild* and the fuller compound alternate within a single chapter, indicating that they function as synonyms. Finally, though there are several chapters that do not use these words but which can plausibly be said to feature *wergild*, these will by and large be omitted from this study. The reason for this is simple: nowhere in these codes is a definition given for *wergild*. As stated above, this essay is intended in part to establish a definition of that term, and so

13 Keynes, “Royal Government and the Written Word,” 228. However, some scholars have questioned this interpretation of the tenth-century upswing in vernacular literature: see, e.g., Malcolm R. Godden, “Did King Alfred Write Anything,” *Medium Ævum* 76 (2007): 1–23; Janet Bately, “Did King Alfred Actually Translate Anything,” *Medium Ævum* 78 (2009): 189–215.

14 Wormald, *Legislation and Its Limits*, 482.

15 F. L. Attenborough, *The Laws of the Earliest English Kings* (Cambridge: Cambridge University Press, 1922), 115.

to include anything not expressly labeled as such in the codes would involve circular reasoning.

THE KENTISH LAWS

The first surviving code, or, rather, set of codes, is the so-called Kentish Laws. While these texts differ in their scope and probable intent, they will be treated together here for the sake of brevity and because they diverge in some important directions from the West-Saxon corpus which will be the focus of most of this paper. Æðelberht's code, probably produced *c.* 600 and certainly after his conversion to Christianity, is by far the longest of these documents. It seems likely that Æðelberht took his inspiration from Latinate models from the continental, sub-Roman world like the *Lex Salica* of the Franks or the codes of the Langobards.¹⁶

Æðelberht's laws present an anomalous perspective on *wergild* and status relative to the rest of the corpus. Æðelberht 24 alone out of all the chapters under discussion here directly prescribes (rather than mentions) the value of a *wergild* for an Anglo-Saxon. According to this chapter, a *medume leodgeld* (*leod* and *wer* being synonymous, both meaning "man"), or 100 *scillinga*, is to be paid as compensation in the event of a slaying.¹⁷ It may be significant that no explicit mention is made in this tract to *wergild* being dependent on status, as is done in later texts. However, in 31, it is prescribed that a freeman who sleeps with the wife of another freeman must pay his *wergild* and procure another wife for the offended husband.¹⁸ Frederick Attenborough and Lisi Oliver both agree that the possessive pronoun *his* is ambiguous here and could refer either to the adulterer or the adulteress's *wergild* (*wif* being grammatically neuter).¹⁹ Whether or not this is the case, that *wergild* is indeed something that is possessed, as is implied by the genitive *his*, allows for the possibility that the sum is relative to

16 Giorgio Ausenda and Samuel Barnish, "A Comparative Discussion of Langobardic Feud and Blood-Money Compensation with Parallels from Contemporary Anthropology and from Medieval History," in *The Langobards before the Frankish Conquest: An Ethnographic Perspective*, ed. Giorgio Ausenda et al. (Woodbridge: Boydell, 2009), 315-16.

17 Lisi Oliver, *The Beginnings of English Law* (Toronto: University of Toronto Press, 2002), 67. It should not be assumed from this remark that ethnic identities play a significant role in these texts or that an idea of a singular Anglo-Saxon people is anywhere expressed therein. "Anglo-Saxon" is used here because elsewhere in the corpus the native Britons are prescribed particular *wergild*-values. This anomalous need for prescription is likely symptomatic of the Britons' continued status as "others" in the Anglo-Saxon kingdoms, a status reflected in the word most often used to describe them in these texts, *wealh* (c.f. "Welsh"), but which also means "foreigner" and "slave."

18 Oliver, *Beginnings of English Law*, 69.

19 Oliver, *Beginnings of English Law*, 69; Attenborough, *The Laws of the Earliest English Kings*, 31.

the possessing individual, and could vary according to some measure of status.

The essential character of *wergild* as outlined by Æðelberht's code continues in that of Hlothhere and Eadric, though here we see higher status begin to factor explicitly in its calculation. The first two chapters of this code relate what action is to be taken should a servant kill either a nobleman or a freeman, and what is to be done should the killer then escape.²⁰ For a nobleman (*eorlcundne*) a *wergild* of 300 shillings is to be paid, and for a freeman, 100 shillings with an additional *manwyrþ* added to the payment. This term, *manwyrþ*, is unique to this code and would appear to be an implicit component of *wergild*, but not a synonym, as a nobleman's *wergild* is composed of three discrete *manwyrþ*. Should the guilty servant then escape, an additional *manwyrþ*, assumedly that of the servant, is to be paid in both cases.

The final Kentish code, that of Wihtred, only mentions *wergild* twice, but the way it appears in one of these instances is fairly remarkable. Wihtred 21 states that an apprehended thief might be released in return for his *wergild*.²¹ This is the first unambiguous instance in the codes of someone paying their own *wergild* to avoid punishment: the most prevalent form of *wergild*-as-fine in these texts. Yet it is unclear to whom the thief is meant to pay their *wergild*. Most likely, it is owed to the king as it is he who decides whether the thief will be allowed to pay his *wergild* or must be executed or sold into slavery. And in Wihtred 20, it is stated that no *wergild* should be paid for someone slain in the act of thieving, which makes this chapter the first to mention someone being denied the protection of *wergild* in the texts.²²

With the exceptions of Æðelberht 31 and Wihtred 21, *wergild* functions as blood-money in every case where it is mentioned in the Kentish Laws. The relationship between the Wihtred chapter and the rest of the Kentish material is not immediately obvious. It would appear that, rather than functioning as blood-money, the compound is here being used as something resembling a fine paid by an individual (or their family, friends, etc.) to a higher governing power as an alternative to a capital sentence. One way of potentially framing this anomaly is that it represents *wergild* working in reverse. In essence it is still compensation for a person or their life, but instead of compensation for the loss of that life, it is compensation for that life's continuation. This is a use of *wergild* that later codes will reiterate, one of the principle uses of *wergild* that must be considered in the model this study is attempting to form.

Æðelberht 31 is also difficult to fit into this picture, since it never explicitly or implicitly mentions death. However, it is still possible to draw some connections between its governing logic and the other, more recognizably

20 Oliver, *Beginnings of English Law*, 167.

21 Oliver, *Beginnings of English Law*, 163.

22 Oliver, *Beginnings of English Law*, 161.

blood-money chapters. If the mortal quality usually considered inherent to *wergild* is left aside and the relevant aspect of the offence is instead seen as the loss of an individual to the party who receives the payment, the use of *wergild* here begins to make sense. Even if the unfaithful wife is not necessarily being killed off in this chapter, her husband is still losing her in a sense: given the reference to a new wife, it is understood that they will now be divorced. Viewing it as such, the ambiguity of the pronoun *his* can possibly be resolved, since the chapter only makes sense (compared to the other uses of *wergild* as horizontal restitution in the Kentish Laws) if it refers to the *wergild* of the wife.

The description of *wergild* as being a collection of “person-prices” is unique to the Kentish codes, though we cannot rule out the possibility that such logic informed the later texts but simply goes unmentioned. What does carry over throughout the codes is that *wergild* scales with the status of the individual, though the ratios vary between the Kentish and West-Saxon legislation. The higher one’s status, the larger the *wergild* to which one was entitled. And because *wergild* reflects status, to be denied a *wergild*, as in Wihtrud 20, can be interpreted as being formally denied the protection of one’s normal status. In other words, since either the collective body of customary law or the authority of the kingship have denied the thief the protection of potential repercussions for violence performed against them, any such violence is legitimized by the presence of this third, authoritative party in the otherwise horizontally directed dispute.²³

The Kentish Laws represent the earliest example of written law in England. However, “England,” as far as the sixth and seventh centuries are concerned, is not a label of much significance. Chronology, dialect, and geography separate the Kentish and West-Saxon traditions. The compounds *leodgyld* and *manwyrð* disappear, as does any chapter related to Æðelberht 31. The two traditions are probably best understood as distinct but related. Yet despite this difference in milieux, there are some striking similarities in how the two traditions employ the compound *wergild*. For the moment, it should be noted that *wergild*-as-blood-money and -as-fine both appear in these more ancient texts, and that in at least one instance, neither real or threatened death is involved, only a more general sort of loss. In texts under such suspicion of artifice as the Old English royal law codes, where the two surviving and arguably isolated traditions overlap, one is most likely to find the core of legal norms, of customary law, which this study seeks, including the intrinsic properties of *wergild*.

23 Guy Halsall, “Violence and Society in the Early Medieval West: An Introductory Survey,” in *Violence and Society in the Early Medieval West*, ed. Guy Halsall (Woodridge: Boydell, 1998), 8-16.

INE (R. 688–725)

Our earliest surviving non-Kentish text, Ine's code, will be the first of the West-Saxon corpus examined here.²⁴ The most immediate difference between Ine's code and the Kentish texts is its scope. Compared to even the laws of Æðelberht, the most substantial of that corpus, Ine's laws cover a greater variety of offenses, with the consequence of furnishing a comparatively large number of *wergild*-related chapters. About a fourth of the code's almost eighty chapters mention the compound, and so it would be unreasonable to address them all here. Instead, enough will be supplied to give the general sense of how *wergild* appears and functions in this code. About a fourth of these chapters involve thieves, and a couple of these closely resemble (at least in their implications) chapters from Wihtried. However, the wording and form of the Ine chapters are quite different from their Kentish equivalents, suggesting that they are not direct borrowings.

Norms found in Wihtried are repeated in Ine's chapter 12, which states that a thief may forgo "dying the death" if he redeems himself with his *wergild*, and chapters 20 and 21, which state that no *wergild* may be collected for someone who entered a forest without proper warning and was subsequently killed under the suspicion of thieving.²⁵ The underlying logic of 12—that someone who would otherwise face capital punishment may redeem himself with his *wergild*—may also lay behind Ine 15, which relates that anyone accused of taking part in a raid must redeem himself with his own *wergild* or an equivalent oath. Ine 30 appears to function similarly: it states that a commoner accused of harboring a fugitive must swear an oath equal to his own *wergild*, and if he fails to do this must pay that *wergild*.²⁶ If the chapter called for the payment of the thief's *wergild*, it could be understood to have a similar undergirding as chapters 11, 29, and 36 (examined below), but that the accomplice's *wergild* is being paid indicates a different sort of logic. The lack of any statement concerning what sort of consequences would follow if no oath or payment was made in the latter two of these chapters allows for at least two distinct readings. Either these are examples of *wergild* being used essentially as a fine for a serious offense (but one which did not warrant execution), or the threat of execution is implicit. In the latter case, like Ine 12 and Wihtried 21, this is an example of *wergild* payments

24 It should be recognized, however, that the code only survives as an appendix to Alfred, and this particular reality of its survival ought to color its interpretation somewhat.

While this does of course open up the chance of the text being in some way fabricated or modified, Wormald, *Legislation and Its Limits*, 278, dismisses this by citing several places where these texts actively contradict each other and generally takes it as being genuinely representative of an earlier tradition.

25 Attenborough, *Laws of the Earliest Kings*, 27–29.

26 Attenborough, *Laws of the Earliest Kings*, 47.

being employed to waive or compensate for the death penalty. With only the information provided in the code, it is impossible to say with any certainty which of these is the case, though the lack of other codes clearly claiming that a full *wergild* payment might alternate with a non-capital punishment appears to make the latter more probable. But, of course, these are not all-inclusive documents, and so any argument based on negative evidence should be treated with great skepticism.

Chapters 23 and 27, uniquely in this code, detail to whom *wergild* payments should or should not be made in certain circumstances. Ine 23 deals explicitly with foreigners and what should happen if they are killed while in England.²⁷ It claims that certain percentages of the slain man's *wergild* ought to be payed to the king (who got the lion's share, two thirds) and the dead man's kin (who received one third) if he has any. If he is without relatives, then the local *gesip* gets the other third instead.²⁸ However, if the dead man was under the protection of an abbot or abbess, then all three parties (king, abbot or abbess, and *gesip*) all receive one third. This is the most direct evidence for *wergild* having gone to whoever was offering a slain individual protection, or was otherwise responsible for them, an idea central to the discussion of *wergild*-as-blood-money below. Ine 27 reveals a similar logic, claiming that anyone who disowns a child, and so implicitly denies that child the protection of the sib, loses any right to that child's *wergild*.²⁹ The offer of protection then would appear to be central to how the *wergild* system was thought to function. As shown in what follows, however, protection is not the only relationship underpinning those chapters which involve the payment of *wergild*, but instead is merely one of several relevant interpersonal relationships.

An interesting series of chapters in this code relates what is to be done when someone, either purposefully or not, causes another person to become lost to that person's protectors or prosecutors and subsequently must pay the lost person's *wergild*. Ine 11 and Ine 36 fall into this category. 11 prescribes that should someone sell "his agene geled" ("their own countryman") overseas, they must pay for that person with the sold individual's *wergild*. Most explicitly of all those examined in this study, this chapter establishes the relationship between the loss as opposed to death of an individual and *wergild*. This can also be seen in the other two chapters, but with more difficulty. Ine 29 states that if anyone lends another man's servant a weapon or horse, and that servant then

27 Attenborough, *Laws of the Earliest Kings*, 43.

28 Like many words for status or social institutions, *gesip* lacks an easy Modern English analogue. *Sip* means, more or less, "journey," and the prefix *ge-*, when attached to a noun, often has an associative force. "A travel companion," would seem the most literal translation. Its use in the laws, however, seems to indicate that it had come to refer to a local official or land holder with some jural powers or responsibilities.

29 Attenborough, *Laws of the Earliest Kings*, 45.

flees, the lender must pay a percentage of that servant's *wergild* depending on the particular good, apparently judged by the extent to which that good would facilitate escape. Lending a horse thus brought the most significant payment. 36 plausibly demonstrates similar logic. It claims that anyone who captures or has a thief brought to him and then lets said thief escape must pay for the thief with that thief's *wergild*. It seems likely that this payment was intended for the king, as the accompanying sub-chapter relates that the king could decide if an *ealdormon* ("nobleman") so accused must forfeit their shire or would be pardoned. Held up against the others, the general dynamic of this chapter appears to be similar to 11 and 29: the payer of the *wergild* must compensate another individual, who was nominally responsible for a third party, for the loss they caused of that third party with that same third party's *wergild*. This is a facet of *wergild* which most scholarly accounts overlook and will be explored in greater depth below.

These chapters are of special interest when attempting to understand *wergild's* blood-money function. While homicide is still central to *wergild's* usage, it has become apparent that killing was not the only action that would make one liable to pay another's *wergild*. Rather, our definition must be expanded to include the loss of a person in a more general sense, an idea touched upon in the examination above of *Æðelberht* 31. Moreover, by this point it is possible to comment on the relationship between the killed or taken person and those entitled to collect their *wergild*. This correlation appears to have been one principally of customary jurisdiction over the lost person in a highly general sense, either as part of their household or sib in *Æthelberht* 31 or Ine 11 and 29, or the right to punish that person in Ine 36.

ALFRED (R. 871-900)

Alfred's law codes pick up where Ine left off two centuries earlier. Alfred's reign is well-known for its effort to encourage lay literacy, and David Pratt sees this text primarily in this light, as an educational tool for the West-Saxon aristocracy. He therefore cites Asser's *Life of Alfred*, which equates the ability to exercise law justly with acquiring wisdom through reading.³⁰ However, this text, though incomplete in its surviving form, never mentions Alfred's *domboc* explicitly, let alone in this function, and so this argument remains tenuous.

Though comparable to Ine in number of chapters, Alfred's code focuses significantly less on *wergild*—only about ten or so chapters mention it clearly. One quite striking difference in how *wergild* is depicted in Alfred compared to previous texts is that *wergild* sums, in the form of the 200-, 600-, and 1200-shil-

30 Pratt, *Political Thought of King Alfred*, 232.

ling scheme common to the West-Saxon corpus, occasionally replace the more familiar terms for status. Though in Ine the responses for certain crimes were stated as being relative to an individual's acknowledged status, here the characteristic that determines the response is more directly articulated as the sum of the individual's *wergild*. This is the case in Alfred 10, 39, and 40, which cover what is to be done in the case of sleeping with another man's wife, fighting in another's house, and breaking into another's fortification.³¹ In all cases, compensation sums are listed scaling with the victim's *wergild*, which are rendered as *cyrlic monn* ("commoner"), *syxhyndum men* ("six-hundred men") and *twelfhyndum men* ("twelve-hundred men") respectively. Thus a scale mentioned in Ine when it was expedient to show a reference for the derived fines suddenly plays a central role in how Alfred's laws depict class consciousness. Alfred 40 is especially noteworthy, insofar as it very closely resembles Ine 45, even in some of the higher status sums, though replacing *þegn* and *gesibcund* with *twelfhyndum* and *syxhyndum men* and adding *cyrlic monn*.³² This replacing of named statuses with *wergild* sums can also be read in Alfred 11.5 (which deals with rape), Alfred 23.2 (on dog attacks), and Alfred 6.1 (stating that a convicted thief can keep the hand which he would otherwise lose by paying a portion of his *wergild*).³³ In all three of these cases the fine to be paid scales with the *wergild* of the relevant party, and though named rank is mentioned in part of the former, the latter two are content to let the *wergild* value stand by itself. While there is nothing in these chapters which claims that *wergild* determined status, it is clear that the two are being more directly conflated here than in Ine or the Kentish Laws.

Alfred 4, however, is notoriously unlike anything else in the royal legal corpus. It states that one who plots against the life of his lord or king must swear an oath equal in value to the *wergild* of his lord or king.³⁴ Though not a universal rule, this construction of swearing an oath equal in value to a *wergild* payment has usually been used in the laws as an equivalent to actually paying the *wergild*. This is the only moment in the entirety of the extant Anglo-Saxon royal legal corpus where the mere threat of homicide is explicitly said to call for compensation equivalent with actually killing someone. Intriguing as this might be, it must be remembered that these codes are likely to be in part expressions of royal pretensions to authority, and thus chapters so concerned with the status of the king warrant additional hesitation when considering their relationship to historical legal norms. The most that can be taken away from this

31 Pratt, *Political Thought of King Alfred*, 71 and 81-82.

32 Pratt, *Political Thought of King Alfred*, 83.

33 Pratt, *Political Thought of King Alfred*, 75.

34 Pratt, *Political Thought of King Alfred*, 65.

chapter is that *wergild* could conceivably have such a function in the mind of its Anglo-Saxon author.

EDWARD THE ELDER (R. 900-925) AND ÆTHELSTAN (R. 925-939)

West-Saxon law after Alfred is marked by a couple of noteworthy trends. Written law becomes less a product of group deliberation and longstanding customs and more one of royal will, and the codes themselves become shorter and narrower in scope.³⁵ As Wormald has noted, these laws come to resemble Carolingian capitularies in their unabashed, vertically imposed assertions of royal governance.³⁶ This focus on the imposition of power and punishment from above has the added consequence of pushing legislation regulating horizontally organized tensions—and thus a large part of *wergild*'s role—ever more into the margins.

Of the two tracts attributable to Edward the Elder, only II Edward contains a chapter pertinent to *wergild*. II Edward 6 states that should a convicted thief be slain after giving himself over to penal slavery and being renounced by his kin, no *wergild* is to be paid for him.³⁷ This once again indicates that a kin group loses any right to the *wergild* of someone they have disowned. Conversely, the understanding here (continued from previous codes) appears to be that *wergild* was payable to those who offered an individual protection or were responsible for him during their lifetime.

Law production under Æthelstan was especially fruitful, even if his own personal pen was not. Seven codes bear his name, of which Æthelstan I, II and V are the “royal” or “official” ones. The provenance of the rest remains rather suspect, although a clerical origin seems likely. Æthelstan's laws contain only four chapters featuring *wergild*. II Æthelstan 1.1 and 1.4 both state that thieves may be ransomed for their *wergild* by their family, either from execution or, at the king's discretion, prison.³⁸ II Æthelstan 3.1 relates that a lord who aids one of his slaves in committing theft must forfeit his own *wergild* for the first offence and all he possesses if there is a second.³⁹ Both of these laws are part of an ever-growing list of instances in which a convicted criminal of some description is made to pay their own *wergild*. Likewise, mirroring Ine 30, II Æthelstan 20.8 states that one who has harbored a fugitive is required to pay the fugitive's *wergild* or swear an oath of equivalent value.⁴⁰ Neither of these codes offer this

35 Wormald, *Legislation and Its Limits*, 288. It is probably not coincidental that this is also a period of profound West-Saxon expansion.

36 Wormald, *Legislation and Its Limits*, 290.

37 Attenborough, *Laws of the Earliest English Kings*, 121.

38 Attenborough, *Laws of the Earliest English Kings*, 127.

39 Attenborough, *Laws of the Earliest English Kings*, 129-31.

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

study any remarkable innovations, and not much needs to be said about them here. They do, however, reinforce a couple of points already established: that *wergild* payments were made to those who were responsible for an individual, and that convicted criminals may pay their *wergilds*, presumably to the king or local lord, as an acceptable alternative to execution.

EDMUND (R. 939-946) AND EDGAR (R. 959-975)

There are three codes attributed to Edmund and four to Edgar, and, again, these laws offer little material relating to *wergild*. Edmund has only two relevant chapters confined to one code: II Edmund 1 and 7. The first has a couple significant points to offer. In the chapter's main body, it is stated that a killer will be the target of vendetta unless, "with the help of his friends [*freonda*], he pays compensation for [the killing]."⁴¹ This has some noteworthy implications when compared with 1.1, which reads, "[If] his kindred abandon him and will not pay compensation on his behalf, ... all the kindred, except the delinquent, shall be free from vendetta." *Freonda* requires some explanation. Though the ancestor of Modern English "friend," the scope of Old English *freond* was much greater, containing all those people with whom one enjoyed certain practical and reciprocal relationships, including the duties of protection and vendetta.⁴² This included not only the sib, but an extended artificial kin group of associates, neighbors, and friends. And not only is *wergild* payable to those who were responsible for the slain individual, but it was also to be, at least in part, paid by those whose were responsible for him should he commit an act which called for the payment of *wergild*. The refusal to help a member of the kindred pay a *wergild* was then equivalent to, or at least a step towards, formally abandoning them, an act which freed the rest of the kindred from suffering repercussions on behalf of the homicide, though they would almost certainly lose the right to the disowned homicide's *wergild* should he be slain.

In Edgar's four codes, *wergild* also only comes up twice. Both of these appear in III Edgar, and, since both are potentially problematic to the model of *wergild* developed so far, they warrant closer treatment. The first, III Edgar 2.2, states that "no man shall forfeit more than his *wergild* for any offence for which compensation [*botwyrþum*] may be paid."⁴³ If one of the central components to *wergild* is its relative, personal quality, then this code would at first seem to undermine much of what has been established in earlier codes, since in cases

41 A. J. Robertson, *The Laws of the Kings of England from Edmund to Henry I* (Cambridge: Cambridge University Press, 2009), 9.

42 Thomas Charles-Edwards, "Anglo-Saxon Kinship Revisited," in *The Anglo-Saxons*, ed. Hines, 171-72.

43 Robertson, *Laws of the Kings of England*, 25.

where individuals of higher status were killed by individuals of lower status this would appear to render this relative aspect void. But this rests on translating *botwyrþum* (as Robertson does) as encompassing compensation payments in general, including the payment of another individual's *wergild*. The word itself, however, likely has a much more specific meaning. The root word of the compound, *bot*, literally means "a making-good, a restoration," but its use in the codes distinguishes it as a form of payment in an altogether separate category from *wergild*.⁴⁴ The most common use of *bot* in the Anglo-Saxon royal laws is in the lists of bodily injuries and their appropriate compensations in Alfred and Ine's codes, and for the most part the word appears in reference to monetary payments smaller than that for (and distinct from) *wergild*.⁴⁵ And while *wergild* does alternate with both *wer* and *gild*, it never alternates with *bot* in any law in the Old English corpus. The broad header *botwyrþum* almost certainly does not encompass *wergild*.

III Edgar 4 states that a man who falsely accuses another, and can be proven to have done so, shall have his tongue cut out unless he can "mid his were forgelde" ("pay/make good with his *wergild*").⁴⁶ Deviating from every other chapter examined until now, here *wergild* is substituting for a punishment that is, if corporal, not capital. And unlike Alfred 32, which covers the same offense and also prescribes cutting out the offender's tongue should no financial compensation be made, *wergild* is not being used as a scale for determining a fine, but rather, is itself being paid in full. This is the only instance in the extant royal law codes where this occurs, save for the word-for-word reiteration of this chapter in II Cnut. This is an exception which will receive additional treatment below.

ÆTHELRED (R. 978-1013)

The laws of Æthelred the Unready are somewhat fraught. There are around ten of them, but even Wormald seems unsure about how many separate codes the material attributed to Æthelred actually include.⁴⁷ Viewing them as a group of ten, two sub-groups appear: I-IV, which are secular and more pragmatic texts, and V-X, which are more ecclesiastical and sermonic in nature. This distinction can largely be traced to Archbishop Wulfstan of York, who appears to have had a hand in shaping, or even outright writing, the later laws. The

44 Angus Cameron, Ashley Crandell Amos, Antonette diPaolo Healey, et al., *Dictionary of Old English: A to G Online*, University of Toronto: <http://tapor.library.utoronto.ca/doi> (accessed 23 April 2016).

45 Stanley Rubin, "The *Bot*, or Composition in Anglo-Saxon Law: A Reassessment," *Journal of Legal History* 17 (1996), 145-47.

46 Robertson, *Laws of the Kings of England*, 25.

47 Wormald, *Legislation and Its Limits*, 321.

instances of *wergild* in this troubled body of texts largely serve to expand and reinforce the trends identified above regarding the rules governing to whom *wergild* payments ought to be paid and the relationship between *wergild* and status.

I Æthelred 1 is concerned primarily with what should to be done when one accused of a crime has no surety. 1.5 prescribes that if the accused is convicted, he shall pay the accuser *twygylde* or “double-value,” an ambiguous term, and “his *wergild* to his lord.”⁴⁸ The following sub-chapter states that “on the second occasion he shall not be able to make amends except by his head,” so presumably failure to “make amends” for the first offence would also involve capital punishment. 1.7 also relates that the *wergild* of the offender should be paid to “the lord who is entitled to the fines incurred by him.”⁴⁹ Where earlier uses of *wergild-as-fine* are usually ambiguous regarding who receives the payment, this chapter explicitly states that it goes to the lord under whose jurisdiction the offender falls. Beyond this, this chapter reinforces the use of *wergild* as a substitution for the death penalty otherwise called for in response to certain crimes.

1.11 states that “if a man is accused [of anything violating the law] and escapes, the lord shall pay his *wergild* to the king.”⁵⁰ The employment of *wergild* here would appear to follow similar logic as that behind Ine 36 on aiding in the escape of thieves. This is not to say that there is a direct link between the two, but only that both are evidence that *wergild* can be used in this way—as a substitution for bringing a criminal to justice when this has been rendered impossible from the actions or inactions of the one required to make the *wergild* payment.

As for those mentions in the later, ecclesiastically-colored codes, VI Æthelred 38 simply reads: “If anyone is guilty of offering obstruction anywhere to the law of Christ or the king he shall pay either *wergild* or fine according to the nature of the offence, and if he offers resistance and so acts as to bring about his own death, no compensation is to be paid for him.”⁵¹ Aside from reinforcing the notion that lawbreakers are to be denied their *wergild*, this chapter simply states that if someone should do something requiring a fine or *wergild* then the offender must pay the fine or *wergild*. The words “of Christ or the king” of course betray the clerical bent of these later codes, and such biases are likewise apparent in those other chapters featuring *wergild*. For instance, V Æthelred 9, VI Æthelred 5.3, and VIII Æthelred 28 prescribe that a priest who “turn[s] from marriage and observe[s] celibacy” and otherwise “orders his own life aright according to the teachings of canon law” will be entitled to the

48 Wormald, *Legislation and Its Limits*, 53.

49 Wormald, *Legislation and Its Limits*, 53.

50 Wormald, *Legislation and Its Limits*, 55.

51 Wormald, *Legislation and Its Limits*, 103.

wergild of a *þegn*, though the exact sum is not mentioned.⁵² Very little has been said regarding *wergild* and status in the later codes, but here some evidence suggests that certain *wergilds* and certain statuses came together as a package deal. However, it bears noting that the priest in this situation is not being made a *þegn*, but is merely granted the *wergild* of a *þegn*. The sum was associated with the rank, not the reverse—a point which has been ambiguous since the shift in Alfred. The feasibility of this code’s real-world viability does not complicate this picture. The observation is grounded in the reality that whoever composed this code imagined one’s *wergild* to be determined by one’s rank, not whether or not priests were actually entitled to a *þegn’s wergild*.

CNUT SWEYNSSON (R. 1016-1035)

The laws of Cnut the Great, England’s Viking king and the producer of the last codes considered here, are distinct from the codes discussed above. His laws are “memorials,” largely given over to reiterating word-for-word the laws of previous Anglo-Saxon kings in what amounts to a grand assertion of the Danish king’s constructed Englishness.⁵³ II Cnut, the only one of his codes to feature *wergild* in any significant way, contains around fifteen relevant chapters, but this number is deceptively large. Quite a few of these are straightforward borrowings from other codes, such as II Cnut 16, which reiterates Edgar’s law on perjurers, and II Cnut 30 and 31, which restate many of the sub-chapters of I Æthelred 1.⁵⁴

A significant number, however, do show more originality, though it is also possible they came from a code not covered by this study or which no longer survives. Chapter 29, recalling Ine 30 without simply reiterating it as in previous laws, prescribes that “if anyone comes upon a thief and of his own accord lets him escape without raising the hue and cry, he shall make compensation by the payment of the thief’s *wergild*.”⁵⁵ The remaining uses of *wergild* all fall under the category of fine already established, but, much like the later codes of Æthelred, are of a decidedly clerical flavor. Thus 51 states that anyone who commits incest may be required to pay their *wergild* depending on the degree of relation, 52 calls for anyone who has done violence against a widow to redeem themselves with their *wergild*, 61 relates that anyone who performs undue acts of violence while in the army must forfeit either their life or their *wergild*,

52 Wormald, *Legislation and Its Limits*, 83, 92, and 125.

53 Wormald, *Legislation and Its Limits*, 349.

54 Robertson, *Laws of the Kings of England*, 183 and 189–93.

55 Robertson, *Laws of the Kings of England*, 189.

and 73a.1 commands that any husband who marries again while too recently a widower must pay his *wergild* to his king or lord.⁵⁶

Though its scope calls into question its applicability, chapter 83, the second to last of the entire code, also falls into this group. It reads: “He who violates the law which the king has now granted to all men, whether he be a Dane or an Englishman, shall forfeit his *wergild* to the king.”⁵⁷ Read in terms of the theory proposed above regarding the consequences of crimes that call for the payment of one’s own *wergild*, this chapter is essentially claiming that all infractions against the king’s laws are now capital offences. But this appears to contradict items elsewhere in this code, which prescribe all manner of other punishments for any number of infractions. It is tempting to think that this law is rhetorical and represents a pronouncement of the ultimate legislative authority and authoritative power of the new Anglo-Danish kingship. Thankfully, whether or not this is the case, as far as this study is concerned the use of *wergild* in this law does not present anything novel. Here as elsewhere, a particular crime or set of crimes is deemed answerable by the payment of *wergild* to the king, probably with a capital sentence as an alternative. Despite its strangeness, then, its use of *wergild* is still recognizable when compared to the rest the codes discussed above.

BLOOD-MONEY, FINE, AND RELATIVE WORTH

Among the three major themes laid out at the start of this essay, *wergild*-as-blood-money is the most familiar from earlier scholarship and so is an obvious starting point. Before constructing a fuller outline of this idea, however, it is worth looking outside of the codes discussed above and considering what these payments might have done for those involved and how they fit into the social dynamics of Anglo-Saxon England.

The first impression many get from *wergild* and blood-money constructions more generally is that they were a “limp substitute” for reciprocal violence, that is, for the feud.⁵⁸ An idea of feud is, in a sense, central to our understanding of *wergild*, since the two are often framed as alternatives. But feud is clearly not the correct word for the sort of violence referenced in these laws. Guy Halsall has arguably done the most thorough job in rethinking what this sort of violence was and how it affected social order. According to Halsall’s model, when one party wronged another, the offended party made a display of anger that

56 Robertson, *Laws of the Kings of England*, 201, 203, 205, and 211.

57 Robertson, *Laws of the Kings of England*, 217.

58 Valerie Allen, “When Compensation Costs an Arm and a Leg,” in *Capital and Corporal Punishment in Anglo-Saxon England*, ed. Jay Paul Gates and Nicole Marafioti (Woodbridge: Boydell, 2014), 19.

put pressure on the offenders to compensate them through legitimate means such as monetary restitutions like *wergild*.⁵⁹ If this sort of compensation was not paid, then the offending party was obligated to enact what Halsall refers to as “customary vengeance,” with the understanding that failure to respond would invite further predations on the slighted sib’s members and property.⁶⁰ This idea of customary vengeance attempts to approach the meaning of words like *fǣhþe*, which suggests something closer to “animosity” and “vendetta” rather than the drawn out, cyclical pattern of violence inherent to Modern English “feud,” an institution limited mostly to frontier societies.⁶¹

Recent scholarship has also stressed the positive implications of this sort of violence—or at least of potential violence. Paul Hyams uses the term “peace-in-the-feud” to articulate this idea.⁶² Essentially, vendetta in politics like Anglo-Saxon England, which lacked any sort of active policing apparatus, served as a “positive social control” which, through the threat of reciprocal violence, worked to prevent or deter any initial, instigating violent act.⁶³ The role of *wergild* in this sort of social dynamic is similar to customary vengeance, since it has the express function of deterring violence in the first place through the threat of having to suffer through paying it. But beyond this it also has, in theory, the purpose of negating the need for the trauma and disruption inherent in reciprocal violence by acting as a valid and conclusive alternative.

A couple of theories have been put forward to account for how a monetary payment might establish its validity as an alternative to violence. Hyams views the dynamic of customary vengeance as one principally concerned with honor, and he points towards the status-dependent quality of *wergild* to explain its efficacy.⁶⁴ Honor does not exist in a vacuum, but instead is consciously grounded in how one is viewed by others. Killing a member of a kin group would cause a loss of honor if that kin group then failed to respond, since the efficacy of feud as a “positive social control” rests in the threat of it being real: the protection from violence derives from the threat of violence and the failure to follow through with that threat would admit that the sib had no real power to protect its members in the first place. Honor and this protective efficacy are thus, in a limited sense, functionally synonymous. Because *wergild* is relevant to status, the act of paying the *wergild* amounts to a public affirmation of the status

59 Guy Halsall, “Reflections on Early Medieval Violence: The Example of the ‘Blood Feud,’” *Memoria y Civilization: Anuario de historia* 2 (1999): 10.

60 Halsall, “Violence and Society,” 22.

61 John D. Niles, “The Myth of Feud in Anglo-Saxon England,” *Journal of English and Germanic Philology* 114 (2015): 168.

62 Paul R. Hyams, *Rancor and Reconciliation in Medieval England* (Ithaca: Cornell University Press, 2003), 87.

63 Hyams, *Rancor and Reconciliation*, 87.

64 Hyams, *Rancor and Reconciliation*, 79.

and honor of the slighted kin group within their broader community, and thus works to repair that honor.

Valerie Allen offers a different perspective on this process. She claims that the monetary sums, because they are dictated by law, act as a legitimizing third party to the transaction.⁶⁵ Because this sum is dictated and assigned a function by a legitimate power both parties acknowledge, meaning both the law and the kingship, the offended party is able to accept it as an equivalent to the loss they have experienced. Allen and Hyam's models can be taken together, with each representing one side of the exchange. The act of paying the *wergild* of a slain individual recognizes the social and protected status of that individual and their kin, while the act of accepting the payment recognizes the legitimate authority of the law to facilitate the exchange and act as a valid medium for reaffirming the sib's protected status. However, as the analysis above indicates, there is more to *wergild* than restitution for homicide, and our understanding of how this use was imagined by the writers of these codes should be refined by including these other uses in our developing model.

Looking at all of those instances where one is made to pay the *wergild* of another person, loss of life is not as inherent to this usage as most modern references to the concept would suggest. Instead, the event that calls for a *wergild* payment is specifically the loss of an individual to the one receiving the payment. The relationship between the one who has become lost and whose *wergild* is being paid, on the one hand, and the one receiving the payment, on the other, is less clear. The range of relationships underlying the various laws is wide and any proposed link must be general enough to include all of them. One of customary jurisdiction is then a possible (and even probable) answer, accounting for all those cases where a vertical authority is denied access to a criminal, where a vertical authority loses one under its protection, or where a sib is denied access to one of its members.

Less attention has been paid to the fine aspect of *wergild*, but paying one's own *wergild* as a substitute for capital punishment had been a standard use of the concept since the Kentish Laws and continues all the way to II Cnut.⁶⁶ But some qualification is required here. Several of the codes fail to state the consequences entailed when one fails either to pay their *wergild* or give an appropriate oath. That the threat of capital punishment is implicit in these cases can be assumed based on the codes which make this explicit—and these, apart from III Edgar 4, also happen to be the only ones in which an alternative is mentioned at all. Everything that follows must then be recognized as conditional. If we accept the theory that threat of death or otherwise becoming lost (i.e., through

65 Allen, "An Arm and a Leg," 19–20.

66 Robertson, *Laws of the Kings of England*, 197.

imprisonment, exile etc.) to those responsible for the convict is implicit in these codes, then the claims advanced below should be sound.

To make the concept of *wergild*-as-fine compatible with *wergild*-as-blood-money, it seems necessary to understand the latter as representing *wergild* working in reverse. Giving the actors involved a second look, both of the primary uses of *wergild* would appear to share these ideas. Both feature one actor who has committed an infraction answerable for with a legitimate use of violence, either as vendetta or a capital sentence, and another who has lost or stands to lose one under their jurisdiction, either as one of those cases discussed in relation to *wergild* as blood-money, or as a local lord or king who stands to lose one under their authority should a payment equivalent to the that person in some way not be put forward. The only difference between *wergild* as blood-money and *wergild*-as-fine, then, is that, in the latter, the one responsible for causing the loss is also the one that will be lost should some restitution not be made. And *wergild* is in fact best understood as an equivalent: the sum is used as compensation both following a past loss (and so cannot be considered a simple alternative to loss) and also as an alternative to a prospective but nominally assured loss called for by law (and so cannot be a simple compensation for loss). Inevitably this sum is equivalent to the person who stands to be lost as an agent within the collective social fabric of Anglo-Saxon England, but the logic behind this equivalency should be explored in more detail, and it is very likely concerned with the status of the individual in question.

But status itself is not easy to define. The *wergild* grades are generally attributed to the standings of *ceorl*, *geneat/gesid*, and *þegn*, but Anglo-Saxon society featured many tiers and variations beyond these, and what separated these categories from one another is often opaque. Proximity to royal authority, such as attendance at the king's hall, would appear to be one source of status-construction and -maintenance.⁶⁷ But status involves interactions with those on par with and (especially in the case of the higher statuses) those below one's own standing. This reality has led some, such as Christine Senecal, to argue that possibly the most important determiner of status is simply convincing those around you of your status through displays of wealth, with true upward mobility thereby available.⁶⁸ Status was the result of a complex and interweaving network of vertical and horizontal interpersonal relationships, interacting with and supporting one another. Status is undeniably a complex and often less than intuitive construct, and if its connection to *wergild* is to be understood, it is first necessary to identify which facet or facets of status resulted in its role in determining *wergild* gradation.

67 Christine Senecal, "Keeping up with the Godwinesons," *Anglo-Norman Studies* 23 (2000): 252.

68 Senecal, "Keeping up with the Godwinesons," 254.

While these law codes are likely in a sense constructed royal pronouncements, the ways they use *wergild* betray something less contrived or imposed. That the vocabulary of *wergild* in these texts is idiomatic—that it is used so often and so offhandedly without any need to explain its meaning—and the consistency of both the values involved and the underlying uses of the concept all point toward the probability of *wergild* having been a standard piece of legal vocabulary in common use throughout the period. It was thus part of the elusive body of Anglo-Saxon customary law. And while mentions of *wergild* in an Anglo-Saxon context are confined almost entirely to the law codes, *wergild* and similar forms of compensatory payments appear throughout both early medieval “barbarian” Europe and even more broadly, during any number of periods lacking a strong vertical authority capable of enforcing public order.⁶⁹ The answer to the issue of status and why it might dictate the sums involved in the *wergild* system, then, might just lie in the purpose of law itself.

In its most general sense of the word, law comes about when a society finds itself in need of a more secure public order.⁷⁰ In Anglo-Saxon England, this found expression in the idea of *frip*, a word meaning “peace” but with connotations of sanctuary, and more distantly, belonging to a kin group.⁷¹ The relationship between *frip* and law is articulated in the preface to II Edward, which claims that the text resulted from Edward “exhorting all his councilors, when they were at Exeter, to consider how the public peace [*frip*] for which they were responsible could be kept better than it had been.”⁷² The same sort of language is mirrored in the prefaces of III Æthelstan, III Edmund, and IV Edgar 14.1.⁷³ In later Anglo-Saxon England, sanctuary protection, such as that understood in *frip*, was increasingly articulated as an extension of lordly power.⁷⁴ And not only were lords responsible for protecting those under them, but they were also responsible for keeping them in line and maintaining amicable relations among their followers and between their followers and the king.⁷⁵ The social elites, by offering sanctuary and protection as well as restraining men from acts of violence and general lawlessness, played a defining role in

69 See Ausenda and Barnish, “Langobardic Feud and Blood-Money Compensation.”

70 Rebecca V. Colman, “Domestic Peace and Public Order in Anglo-Saxon Law,” in *The Anglo-Saxons: Synthesis and Achievement*, ed. Jon Douglas Woods and David A. E. Pelteret (Waterloo: Wilfrid Laurier University Press, 1985), 50.

71 D. H. Green, *Language and History in the Early Germanic World* (Cambridge: Cambridge University Press, 1998), 42–43.

72 Attenborough, *Laws of the Earliest English Kings*, 119.

73 Attenborough, *Laws of the Earliest English Kings*, 143; Robertson, *Laws of the Kings of England*, 25 and 38.

74 Karl Shoemaker, *Sanctuary and Crime in the Middle Ages* (New York: Fordham University Press, 2011), 91.

75 Barbara Yorke, *Wessex in the Early Middle Ages* (London: Leicester University Press, 1995), 287.

preserving the public order unlike anything those of lower status could feasibly accomplish. And the higher a person was on the social scale, the greater the number of individuals that person was responsible for keeping in line and protecting.

In lieu of this relationship between one's status and their ability to affect public order, the status-dependent element of *wergild* begins to make sense. As part of Anglo-Saxon law, the wergild system itself was propelled by a need to establish public order and security. Most obviously this took the form of a compensatory payment that notionally removed the need for reciprocal violence. But there are other implications beyond this. Turning back to the issue of assigning a monetary equivalent to a person, the link between *wergild* and status likely lays with this relationship between status and public order. The larger the role one played in preserving the public order, which was defined by their recognized status, the greater the protection allotted them by the law whose express purpose is preserving this order. Conversely, the larger their role in preserving this public order, the more they would be liable for should they themselves violate it.

To return to III Edgar 4, regarding perjurers, it seems likely that this troublesome chapter has (like Alfred 4) a certain symbolic or rhetorical character. As the law codes themselves testify, with their scores of references to the practice, the swearing of oaths was a central part of the Anglo-Saxon legal system, and so, like the person of the king, central to maintaining order. It would thus have been in the interests of royal law writers to heighten the weight attached to any violation of that rite. And yet there is still the problem of *wergild* alternating with a non-capital sentence. Without additional research into the neglected topic of muteness in the Anglo-Saxon period, the problem remains largely intractable. It could be, however, that the underlying logic here is that rendering an offender mute would also render him, in a sense, effectively dead—in other words, it would make him unable to carry out the performative utterances necessary to the legal process and so remove the disabled party and their interests from the web of social relationships acting within and burdening the jural framework of Anglo-Saxon England.

CONCLUSION

As the foregoing survey has revealed, *wergild* was a remarkably stable concept in Anglo-Saxon England. From Æthelberht to Cnut, though the sums involved and the details in how the sums are articulated differ between the Kentish and West-Saxon traditions, the same three interrelated facets of *wergild* appear throughout the royal law codes. There is very little variation in these ideas, and where anomalies do occur, they never denote a lasting change.

As early as Æthelberht, one might be required to pay their own *wergild* as compensation for a criminal offence, and as late as Cnut, vendetta between kin groups and resulting *wergild* payments were still imagined to be a facet of life in Anglo-Saxon (or Anglo-Scandinavian) England. We must therefore abandon the received wisdom on this topic, promoted especially by Wormald.⁷⁶ It is no longer possible to maintain that, at some point in the late Anglo-Saxon period, *wergild* fundamentally shifted from compensation for homicide payable to the kin of the deceased to compensation for crime payable to a higher authority.

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76 Wormald, "Feuds and *Wergild*," 297-98.

