

Section 1.PART III. TWO “BARBARIAN” LAW CODES

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A. ÆTHELBERHT'S "CODE"

in LISI OLIVER, THE BEGINNINGS OF ENGLISH LAW 60-81
(Toronto, 2002)[†] [footnotes renumbered]

Pis syndon þa domas þe Æðelbirht cyning asette on AGustinus dæge.¹

1. **G**odes feoh 7 ciricean XII gylde. [1]
2. **B**iscope feoh XI gylde.
3. **P**reostes feoh IX gylde.
4. **D**iacones feoh VI gylde.
5. **C**leroces feoh III gylde.
6. **C**iricfriþ II gylde.
7. **M**[æthl]friþ² II gylde.
8. **G**if cyning his leode to him gehateþ 7 heom mon þær yfel gedo, II bóte, 7 cyninge L scillinga. [2]
9. **G**if cyning æt mannes ham drincæþ 7 ðær man lyswæs hwæt gedo, twibote gebete. [3]
10. **G**if frigman cyninge stele, IX gylde forgyld. [4]
11. **G**if in cyninges tune man mannan of slea, L scill gebete. [5]
12. **G**if man frigne mannan of sleahþ, cyninge L scill to drihtinbeage. [6]

[†] Copyright © The University of Toronto Press Incorporated 2002. Boldface in the Anglo-Saxon text indicates that the scribe has decorated the upper-case letter. Although he is not totally consistent, this is a good clue to what he regarded as separate clauses. In the notes have replaced Professor Oliver's boldface renditions of the manuscript text with italics.

¹ This is in red ink, different from the black of the text proper. The diphthong in Latin "Augustinus" is anglicized to a monophthong.

² Only a hook from what could have been the *t* remains legible in the manuscript. The restoration is based on the transcription made by Francis Tate in 1589.

A. ÆTHELBERHT'S "CODE"

in LISI OLIVER, *BEGINNINGS OF ENGLISH LAW 60-81*
(Toronto, 2002)[†] [footnotes renumbered and integrated]

These are the decrees which King Æthelberht set in Augustine's time.

1. God's property and the church's [is to be compensated] with 12-fold compensation.¹
2. A bishop's property [is to be compensated] with 11-fold compensation.
3. A priest's property [is to be compensated] with 9-fold compensation.
4. A deacon's property [is to be compensated] with 6-fold compensation.
5. A cleric's property [is to be compensated] with 3-fold compensation.
6. [Violation of] church peace [is to be compensated] with 2-fold compensation.
7. [Violation of] assembly peace [is to be compensated] with 2-fold compensation.
8. If the king summons his people² to him and a person does any harm to them there, 2[-fold] restitution and 50 shillings to the king.
9. If the king drinks at a person's home, and a person should do anything seriously dishonest³ there, let him pay two[-fold] restitution.
10. If a freeman should steal from the king, let him compensate with 9[-fold] compensation.
11. If a person should kill someone in the king's dwelling,⁴ let him pay 50 shillings.
12. If a person kills a free man, 50 shillings to the king as lord-payment.

[†] Copyright © The University of Toronto Press Incorporated 2002. Professor Oliver's commentary (*id.*, 82-116) is not reproduced here, but is well worth looking at if one is puzzling over the possible meaning of various provisions. In the notes have replaced Professor Oliver's boldface renditions of the manuscript text with italics.

¹ As discussed in Chapter One, the block of church laws almost surely represents the most recent addition to the body of laws; previous editions have therefore grouped them under a single number. These first seven clauses are syntactically ambiguous, as *gylde* can be technically translated as a dative/instrumental noun (*as compensation*) or a subjunctive verb (*let him compensate*). This block of laws could thus also be translated along the template: [*For*] *God's property and the church, let him pay 12[-fold compensation]*. Other than in these clauses, *gelde* appears in this text four times with a nominal reading (§10, §28.1, §75, §83) and twice with a verbal reading (§30, §70.1). Felix Liebermann, *Die Gesetze der Angelsachsen* (Halle: M. Niemeyer), 3:4 argues for a nominal reading on the basis of other Germanic parallels, where, for example, the term *angylde* 'single compensation' is attested; in his Glossary (*Gesetze*, 2:103) he enters these terms as compounds, such as *siexg~* 'six-fold compensation' or *nigong~* 'nine-fold compensation.' This could be an instrumental use of the dative, or a denominal adverbial suffix, as in *twibote* in §8 and §9 (*Gesetze*, 2:216). As comparative evidence disambiguates the Old English grammatically ambiguous structure, I have followed Liebermann's lead in translating *gylde* as a noun.

² According to J. M. Wallace-Hadrill, *Early Germanic Kingship in England and on the Continent* (Oxford: Clarendon, 1971), 38, the term *leod*, with its Frankish equivalent *leudes*, "may reveal a social rank common to Franks and Kentings; or just possibly one of Augustine's Frankish interpreters may have had a hand in writing down the Kentish vernacular and used an English verbal equivalent of something he was familiar with at home." But the Germanic term is derived from an Indo-European root **leudh-* 'offspring, people' (See Julius Pokorny, *Indogermanisches etymologisches Wörterbuch* (Bern: Francke), 684), and therefore its appearance in written records of the Franks and the Kents could simply be a case of common retention unattested in other remaining Germanic texts. Given the skimpy records which have come down to us in the early West-Germanic vernaculars, I would hesitate to place too much reliance on this term to argue strongly for a Frankish/Kentish connection here.

⁴ See Christine Fell, "A 'friwif lofbore' Revisited," *Anglo-Saxon England* 13 (1984): 157-66 for the interpretation of *lyswæc* as 'seriously dishonest.'

⁵ Whitelock translates *tun* as 'estate'; see, however, discussion in Commentary under *Theft*.

SEC. III.A	ERROR! REFERENCE SOURCE NOT FOUND. ÆTHELBERHT'S "CODE"	III-4
13.	Gif cyninges ambiht smið oþþe laadrincmannan ofslehð, [med]uman leodgelde ¹ forgelde.	[7]
14.	Cyninges mundbyrd, L scillinga.	[8]
15.	Gif frigman freum stelþ, III gebete, 7 cyning age þæt wite 7 ealle þa æhtan.	[9]
16.	Gif man wið cyninges mægdenman geligeþ, L scillinga gebete.	[10]
	16.1. Gif hio grindende þeowa sio, XXV scillinga gebete.	[11]
	16.2. Sio þridde, XII scillingas.	
17.	Cyninges fedesl, XX scillinga forgelde.	[12]
18.	Gif on eorles tune man mannan /Iv/ ² ofslæhþ, XII scillt gebete.	[13]
19.	Gif wið eorles birele man geligeþ, XII scillt gebete.	[14]
20.	Ceorles mundbyrd, VI scillingas.	[15]
21.	Gif wið ceorles birelan man geligeþ, VI scillingum ³ gebete.	[16]
	21.1. Aet þære oþere ðeowan, ⁴ L scætta.	
	21.2. Aet þare þriddan, XXX scætta.	
22.	Gif man in mannes tún ærest geirneþ, VI scillingum gebete.	[17]
	22.1. Se þe æfter irneþ, III scillingas.	
	22.2. Siððan gehwylc scilling.	

¹ Thus restored by Liebermann, presumably on the model of §24. The lower part of the *d* in [med] is still legible in the manuscript.

² There is a space here roughly equal to the length of the verb *ofslæhþ*.

³ Nasal extension line above *u*. This is the first use of the archaic Dative of Quantity; see the discussion in Chapter One.

⁴ *n* added later above *a*.

13. If [a person] kills the king's official [?] smith¹ or ?herald/guide, let him pay an ordinary person-price.²
14. [For violation of] the king's protection, 50 shillings.³
15. If a freeman steals from a freeman, let him pay 3[-fold], and the king obtains that fine or all the possessions.⁴
16. If a man lies with the king's maiden, let him pay 50 shillings.
 - 16.1. If she should be a "grinding" slave, let him pay 25 shillings.⁵
 - 16.2. If she should be [of the] third [rank], 12 shillings.⁶
17. [For] feeding of the king, let him pay 20 shillings.⁷
18. If a person kills someone in a nobleman's dwelling, let him pay 12 shillings.
19. If a person lies with a nobleman's cupbearer,⁸ let him pay 12 shillings.
20. [For violation of] a freeman's protection, 6 shillings.⁹
21. If a person lies with a freeman's cupbearer,¹⁰ let him pay with 6 shillings.
 - 21.1. For that second [rank of female slave], 50 sceattas.¹¹
 - 21.2. For that third [rank], 30 sceattas.
22. If a person breaks [as the] first into someone's dwelling, let him pay with 6 shillings.
 - 22.1. He who breaks in next, 3 shillings.
 - 22.2. Afterwards, each a shilling.

¹ Liebermann takes *ambiht smið* as a compound meaning 'official smith'; as in other medieval manuscripts, the scribe often leaves a space between the component elements of compounds. The manuscript break between the two elements could, however, represent a word boundary, giving the meaning of 'official [or] smith.' Whether *laadrinc man* should be interpreted as 'lead-warrior man [=guide]' or 'bringing-warrior-man [=herald/messenger]' is unclear, although Old Norse parallels seem to give preference to the latter. See discussion in Commentary under *King*.

² This term provides a literal—if somewhat inelegant—translation of the Kentish *leodgeld*. Unlike the *wergild* 'man-price' of §31, the first component of this compound is gender-neutral. I think it is likely that the two are, in fact, synonyms, but maintain the distinction in translations to preserve the difference inherent in the manuscript.

³ The 'king's protection' is the right to peace for members of the king's household, retinue, and guests. Injury or damage done to any of these constitutes a violation of protection.

⁴ Griffith translates: "the king shall take the fine and all the [stolen] goods." But it makes no sense to assume that the stolen goods would not be returned to the original owner. Following Liebermann and Whitelock, I take the second 7 here to be the adversative 'or' rather than the conjunctive 'and.' See parallels in §§23, 30, 80.

⁵ The "grinding slave" is responsible for the production of meal from grain; see discussion in Commentary under *King*.

⁶ *sio* can either be a 3rd person singular subjunctive or a feminine demonstrative modifying *bridde*. In the latter case, the clause would read "[For] the third [rank]..." I have chosen the former, as it parallels the use of *sio* in §16.1.

⁷ The term *fedesl* 'feeding' probably refers to the responsibility of the king's subjects to provide him with sustenance: the *feorm* of later texts. Should a person default that duty or wish to commute it to a monetary payment, he owes 20 shillings. See Lisi Oliver, "Cyninges fedesl: The Feeding of the King in Æthelberht ch. 12," *Anglo-Saxon England* (1998): 59-75, and references therein.

⁸ This figure is a woman—the noun is feminine—despite the fact that the modern *butler*, derived from *birele*, is almost always male.

⁹ Whitelock, *EHD*, 392 states that the sense of *ceorl*, which I translate as 'freeman' throughout, is 'peasant proprietor.'

¹⁰ See parallel in §19.

¹¹ The Kentish *shilling* was a gold piece containing 20 *sceattas*; the *sceatta* was a smaller gold piece equal in weight to a grain of barley. See discussion in Commentary under *Monetary System*.

23. Gif man mannan wæpnum bebyrēþ ðær ceas weorð, 7 man nænig yfel ne gedep, VI scillingum gebete. [18]
 23.1. Gif wegreaþ sy¹ gedón, VI scillingum gebete. [19]
 23.2. Gif man þone man of slæhð, XX scillingum gebete. [20]
24. Gif man mannan ofslæhð, medume leodgeld C scillinga gebete. [21]
 24.1. Gif man mannan ofslæhð, æt openum græfe, XX scillinga forgelde, 7 in XL nihta ealne leod² forgelde. [22]
 24.2. Gif bana of lande gewiteþ, ða magas healfne leod forgelde. [23]
25. Gif man frigne man geb[inde]þ,³ XX scill gebete. [24]
26. Gif man ceorlæs hlafætan ofslæhð, VI scillingum gebete. [25]
27. Gif læt ofslæhð, þone selestan LXXX sch⁴ forgelde. [26]
 27.1. Gif þane oþerne ofslæhð, LX scillingum forgelde.
 27.2. Ðane þridan, XL scillingum forgelde(n).⁵
28. Gif friman edorbrecþe gedep, VI scillingum gebete. [27]
 28.1. Gif man inne feoh genimeþ, se man III gelde gebete. [28]
29. Gif friman edor gegangeð, IIII scillingum gebete. /2r/ [29]
30. Gif man mannan ofslea, agene scætte 7 unfacne feo gehwilce gelde. [30]
31. Gif friman wið fries mannes wif geligeþ, his wergilde abicge, 7 oðer wif his agenum scætte begete 7 ðæm oðrum æt þam⁶ gebrenge. [31]
32. Gif man rihthamscyld þurh stinð, mid weorðe forgelde. [32]
33. Gif feaxfang geweorð, L sceatta to bote. [33]
34. Gif banes blice weorðep, III scillingum gebete. [34]

¹ *i* changed to *y* by scribe.

² Manuscript reads *leo_d*.

³ Thus restored by Liebermann, presumably on the model of §81. The lower part of all characters is still visible.

⁴ Added later above last *x* of numeral.

⁵ I follow Liebermann in emending this to the singular *forgelde*.

⁶ Liebermann suggests emending this to *ham* 'home'; see fn to translation.

23. If a person provides someone with weapons where strife arises, but¹ he does no harm, let him pay with 6 shillings.
- 23.1. If highway robbery should be done, let him [i.e., the one who provided the weapons] pay with 6 shillings.
- 23.2. If a person kills that man [who is being robbed] let him [i.e., the one who provided the weapons] pay with 20 shillings.
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].
25. If a person binds a freeman, let him pay [with] 20 shillings.
26. If a person kills a freeman's loaf-eater,² let him pay with 6 shillings.
27. If [a person] kills a freedman³ of the first rank, let him pay [with] 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.
28. If a freeman breaks into an enclosure,⁴ let him pay with 6 shillings.
- 28.1. If a person takes property therein, let that man pay 3[-fold] as compensation.
29. If a freeman enters an enclosure [?with intention to rob], let him pay with 4 shillings.
30. If a person should kill someone, let him pay [with] his own money or⁵ unblemished property, whichever.
31. If a freeman lies with a free man's wife, let him buy [him/her] off [with] his/her wergild⁶ and obtain another wife [for the husband] [with] his own money and bring her to the other man at home.⁷
32. If a person pierces through the rihthamscyld,⁸ let him pay with [its] worth.
33. If seizing of hair occurs, 50 sceattas as restitution.
34. If exposure of a bone occurs, let him pay with 3 shillings.

¹ Another adversative use of 7 'and'; see parallels in §§15, 30 and 80.

² Etymologically, the members of the household center themselves around the *hlaf* 'loaf': the *hlaford* 'lord' (< guardian of the loaf), the *hlæfdige* 'lady' (< shaper of the loaf) and the *hlæfæta* 'dependent' (< eater of the loaf).

³ The exact ramifications of the rank *læt* are unclear, as the term occurs nowhere else in Old English; this designation may also include indigenous Welshmen. See discussion in Commentary under *Freedman*.

⁴ *edorbrycþ* literally means 'fence-breaking'; that is, breaking through the fence surrounding an enclosure, thereby violating the security of the property (and it is thus translated by Liebermann, *Gesetze*, 2:60). See discussion in Commentary under *Breaking and Entering*.

⁵ Another example of the adversative 7; see parallels in §§15, 23, 80.

⁶ As *wif* is neuter and the possessive pronoun *his* can be masculine or neuter, it is grammatically ambiguous whether the *wergild* is that of the man or the woman.

⁷ As stated in the fn to the edition, Liebermann suggests an emendation to *ham* 'home.' I am not convinced this is necessary. Modern German still retains the idiom "bei ihm," which is more familiar perhaps in the French "chez lui," in both instances meaning roughly "at his home." Although we do not find this idiom elsewhere in English, as we have no text which predates this one, I would not rule out the possibility that we are seeing here the remnants of an idiomatic use of the pronoun which does not survive long in the Anglo-Saxon territories. The choice of one interpretation over the other does not materially affect the translation.

⁸ This word appears nowhere else in Old English, and its meaning is uncertain. See discussion in Commentary under *rihthamscyld*.

35. Gif banes bite weorð, IIII scillingum gebete. [35]
36. Gif sio uterre hion gebrocen weorðeþ, X scillingum gebete. [36]
- 36.1. Gif butu sien, XX scillingum gebete. [37]
37. Gif eaxle gelæmed weorþeð, XXX sciH gebete. [38]
38. Gif oþer eare nawiht¹ gehereð, XXV sciH gebete. [39]
39. Gif eare of weorð² aslagen, XII sciH gebete. [40]
40. Gif eare þirel weorðeþ, III sciH gebete. [41]
41. Gif eare sceard weorðeþ, VI sciH gebete. [42]
42. Gif eage of weorð, L scillingum³ gebete. [43]
43. Gif muð oþþe eage woh weorðeþ, XII sciH gebete. [44]
44. Gif nasu ðyrel weorð, VIIII scillingum gebete. [45]
- 44.1. Gif hit sio an hleore, III sciH gebete. [46]
- 44.2. Gif butu ðyrelle sien, VI sciH gebete. [47]
45. Gif nasu ælcor sceard weorð, gehwylc VI sciH gebete. [48]
46. Gif ðirel weorþ, VI sciH gebete.⁴ [49]
47. Se þe cinban forslæhð, mid XX scillingum forgelde. [50]
48. Æt þam feower toðum fyrestum, æt gehwylcum VI scillingas. [51]
- 48.1. Se toþ se þanne /2v/ bi standeþ, IIII sciH. [52]
- 48.2. Se þe ðonne bi ðam standeþ, III sciH. [52.1]
- 48.3. And⁵ þonne siþþan gehwylc, scilling. [53]
49. Gif spræc awyrd weorþ, XII scillingas. [53]
50. Gif widobane gebroce[n]⁶ weorðeþ, VI sciH gebete. [53.1]
51. Se þe earm þurh stinð, VI scillingum gebete. [54]
52. Gif earm forbrocen weorð, VI sciH gebete. [54.1]
53. Gif þuman of aslæhð, XX sciH. [54.2]
54. Gif ðuman nægl of weorðeþ, III sciH gebete. [54.3]
55. Gif man scytefinger of aslæhð, VIIII sciH gebete. [54.3]
56. Gif man middelfinger of aslæhð, IIII sciH gebete. [54.3]

¹ Changed from *nowiht* by scribe.

² *o* on erasure.

³ There is a character above the line which Liebermann reads as an open *a*, and thus renders the term *scillinga*. However, the scribe never uses such a character elsewhere, and furthermore, this cannot account for the long tail off the *a*. It seems far more likely that this is a *u* with an appended nasal suspension stroke, giving a dative plural *scillingum*; note that this is within the section in which the "Dative of Quantity" is used. (See discussion in Chapter One under *Chronological Layering*.)

⁴ Liebermann postulates that a word may be missing from this clause. This seems likely, as §44 has already dealt with the piercing of the nose, and the amounts of restitution are different in the two clauses.

⁵ Changed from *ond* by scribe.

⁶ Manuscript reads *gebroced*.

35. If cutting of a bone occurs, let him pay with 4 shillings.
36. If the outer *hion* [?=covering of the skull]¹ becomes broken, let him pay with 10 shillings.
- 36.1. If both [?outer covering and skull] should be [broken], let him pay with 20 shillings.
37. If a shoulder becomes lamed, let him pay [with] 30 shillings.
38. If either ear hears nothing, let him pay [with] 25 shillings.
39. If an ear becomes struck off, let him pay [with] 12 shillings.
40. If an ear becomes pierced, let him pay [with] 3 shillings.
41. If an ear becomes gashed, let him pay [with] 6 shillings.
42. If an eye becomes gouged out, let him pay [with] 50 shillings.
43. If mouth or eye becomes damaged, let him pay [with] 12 shillings.
44. If a nose becomes pierced, let him pay with 9 shillings.
- 44.1. If it [i.e., the piercing] should be on the cheek, let him pay [with] 3 shillings.
- 44.2. If both [cheeks] should be pierced, let him pay [with] 6 shillings.
45. If a nose becomes gashed otherwise, let him pay [with] 6 shillings for each [gash].
46. If [?it] becomes pierced, let him pay [with] 6 shillings.²
47. He who breaks a jawbone, let him pay with 20 shillings.
48. For the foremost four teeth, for each 6 shillings.
- 48.1. [For] that tooth which is beside there, 4 shillings.
- 48.2. [For] that [tooth] which is beside that one, 3 shillings.
- 48.3. And [for] each of the others, a shilling.
49. If speech becomes damaged, 12 shillings.
50. If a collarbone becomes damaged, let him pay [with] 6 shillings.
51. He who stabs through an arm, let him pay with 6 shillings.
52. If an arm becomes broken, let him pay [with] 6 shillings.
53. If [a person] strikes off a thumb, 20 shillings.
54. If a thumbnail becomes off, let him pay [with] 3 shillings.
55. If a person strikes off a shooting finger [=forefinger], let him pay [with] 9 shillings.
56. If a person strikes off a middle finger, let him pay [with] 4 shillings.

¹ The term *hion* appears nowhere else in Old English, and its meaning is uncertain. See discussion in Commentary under *Personal Injury*.

² See footnote to §46 in the Old English text. On the basis of other Germanic parallels, Liebermann suggests that the word *protu* 'throat' may have been inadvertently omitted by the scribe because of the *p* of the following *pirel*. See Liebermann, *Gesetze*, 3:11.

57. Gif man goldfinger of aslæhð, VI sciH gebete. [54.4]
58. Gif man þone¹ lytlan² finger of aslæhð, XI sciH gebete. [54.5]
59. Æt þam neglum gehwylcum, scilling. [55]
60. Æt þam lærestan whitewamme, III scillingas. [56]
- 60.1. And³ æt þam maran, VI sciH.
61. Gif man oþerne mid fyste in naso slæhð, III sciH. [57]
- 61.1. Gif dynt sie, scilling. [58]
- 61.2. Gif he heahre handa dyntes onfehð, sciH forgelde. [58.1]
- 61.3. Gif dynt sweart sie buton wædum, XXX scætta gebete. [59]
- 61.4. Gif hit sie binnan wædum, gehwylc XX scætta gebete. [60]
62. Gif hrif wund⁴ weorðeþ, XII sciH gebete. [61]
- 62.1. Gif he þurhðirel weorðeþ, XX sciH gebete. [61.1]
63. Gif man gegemed weorðeþ, XXX sciH gebete. [62]
- 63.1. Gif man cearwund sie, XXX sciH gebete. [63]
64. Gif man gekyndelice lim awyrdeþ, þrym leudgeldum hine /3r/ man forgelde. [64]
- 64.1. Gif he þurhstinð, VI sciH gebete. [64.1]
- 64.2. Gif man inbestinð, VI sciH gebete. [64.2]
65. Gif þeoh gebrocen weorðeþ, XII scillingum gebete. [65]
- 65.1. Gif he healt weorð, þær motan freond seman. [65.1]

¹ The demonstrative here serves to close the section enumerating damage to the fingers.

² *i* made into *y* by scribe.

³ Changed from *ond* by scribe.

⁴ Either *hrif* is the subject of the verb with *wund* serving as predicate, or the two form a compound subject; see parallel §68 and footnote to translation.

57. If a person strikes off a goldfinger [i.e., ringfinger], let him pay [with] 6 shillings.
58. If a person strikes off the little finger, let him pay [with] 11 shillings.
59. For each of the nails, a shilling.
60. For the least disfigurement of the appearance, 3 shillings.
- 60.1. And for the greater, 6 shillings.
61. If a person strikes another in the nose with [his] fist, 3 shillings.
- 61.1. If it should be a blow, a shilling.
- 61.2. If he receives a blow [from] a raised hand, let him [who struck the blow] pay a shilling.¹
- 61.3. If the [bruise which arises from the] blow should be black outside the clothing, let him pay 30 sceattas [in addition].
- 61.4. If it should be inside the clothing, let him pay 20 sceattas [in addition] for each [bruise].
62. If the abdomen becomes wounded, let him pay [with] 12 shillings.²
- 62.1. If he becomes pierced through, let him pay [with] 20 shillings.³
63. If a person becomes cured [after having been wounded], let him [i.e., the person who caused the wound] pay [with] 30 shillings.
- 63.1. If a person should be grievously wounded, let him pay [with] 30 shillings.⁴
64. If a person damages the genital organ, let him pay him with three person-prices.
- 64.1. If he stabs through [it], let him pay [with] 6 shillings.
- 64.2. If a person stabs into [it], let him pay [with] 6 shillings.⁵
65. If a thigh becomes broken, let him pay with 12 shillings.
- 65.1. If he becomes lame, then friends⁶ must arbitrate.

¹ It is not clear what distinguishes these different types of blow. I am tempted to take §61.1 as the same as §61.2, inserted by scribal oversight; note that the amounts of restitution are identical. Then the crucial distinction would be between §61 and §61.2. Liebermann suggests that §61.2 may be struck with the open hand as opposed to a fist. Possible also is that the difference is between a right-handed and left-handed blow: Grimm claims that the Norse cognate of *heah* was used to distinguish the right hand. See Jacob Grimm, "Review of Thorpe, Ancient Laws," in *Kleinere Schrifte* (Hildesheim/Zürich/New York, 1991), 318-9. But I think the interpretation is likely more straightforward: a blow delivered with raised hand is restituted by a(n additional) shilling because the windup literally allows it to deliver more punch.

² This could also be translated: "If an abdominal-wound occurs..." As *hrif* appears rarely as the first element of a compound, I have chosen to take it as the subject of the verb with *wund* as a predicate adjective.

³ That is, the wound goes right through the injured man. *he* cannot refer to either the stomach (*hrif*, neuter) or the wound (*wund*, feminine).

⁴ See discussion of these clauses in Commentary under *Personal Injury*.

⁵ Liebermann, *Gesetze*, 3:13, points out that these sums seem remarkably small compared to the fine stipulated for damage to the penis and speculates that perhaps §64.1 and §64.2 refer to another body part which has been omitted in the copying. But one could also interpret these clauses as referring to the scrotum as a whole; this eliminates the discrepancy, since the scrotum can be pierced without impairing the ability to engender children.

⁶ The term *freond* can mean either 'friends' or 'kinsmen.' Note, however, that elsewhere in this text 'kinsmen' is rendered by *mægas*. Although D. H. Green, *Language and History in the Early Germanic World* (Cambridge: Cambridge UP, 1998), 57 claims that "the meaning 'kinsman' is clear when *frēond* is employed in a legal context," all his examples are later. Alexander Callander Murray, *Germanic Kinship Structure: Studies in Law and Society in Antiquity and the Early Middle Ages* (Toronto: Pontifical Institute of Medieval Studies, 1983), 136, suggests that this should be seen "not a strict kin group at all, but as a kindred-based group composed of interested relatives, friends and dependents"; similarly Thomas Charles-Edwards, "Anglo-Saxon Kinship Revisited," in *The Anglo-Saxons from the Migration Period to the Eighth Century: An Ethnographic Perspective*, ed. J. Hines (Woodbridge: Boydell, 1997), 180. It is not clear whether this clause refers to friends of the injured man or to representatives chosen by both parties. See discussion in Chapter One under *Chronological Layering*.

66. Gif rib forbrocen weorð, III sciH gebete. [66]
67. Gif man þeoh ðurhstingþ, stice gehwilce VI scillingas. [67]
- 67.1. Gyfe ofer¹ yncc, scilling. [67.1]
- 67.2. Æt twam yncum, twegen.
- 67.3. Ofer þry, III scH.
68. Gif wælt[-]wund² weorðeþ, III scillingas gebete. [68]
69. Gif fot of weorðeþ, L scillingum forgelde(n).³ [69]
70. Gif seo micle⁴ ta of weorðeþ, X scH forgelde(n).⁵ [70]
- 70.1. Æt þam oðrum taum gehwilcum, healf gelde ealswa æt þam fingrum ys cwiden. [71]
71. Gif þare myccelan taan nægl of weorþeð, XXX scætta to bote. [72]
- 71.1. Æt þam oþrum gehwilcum, X scættas gebete. [72.1]
72. Gif friwif locbore leswæs hwæt gedep, XXX sciH gebete. [73]
73. Mægþbot sy⁶ swa friges mannes. [74]
74. Mund þare betstan widuwan eorlcundre, L scillinga gebete. [75]
- 74.1. Ðare oþre, XX scH. [75.1]
- 74.2. Ðare þridan, XII scH.
- 74.3. Þare feorðan, VI scH.
75. Gif man widuwan unagne genimeþ, II gelde seo mund sy.⁷ [76]
76. Gif man⁸ mægþ gebigeð⁹ ceapi, geceapod sy¹⁰ gif hit unfacne is. [77]
- 76.1. Gif hit þonne facne is, ef[t]¹¹ þær æt ham gebrenge, 7 him man his scæt agefe. [77.1]
- 76.2. Gif hio cwic bearn gebyreþ, healfne scæt age gif ceorl ær swylteþ. /3v/ [78]
- 76.3. Gif mid bearnum bugan wille, healfne scæt age. [79]
- 76.4. Gif ceorl agan wile, swa an bearn. [80]
- 76.5. Gif hio bearn ne gebyreþ, fæderingmagas fioh agan 7 morgengyfe. [81]

¹ The *f* is added later in the space following *gy*, and the *e* is then written above the *o* of *ofer*.

² Either *wælt* is the subject of the verb with *wund* serving as predicate, or the two form a compound subject; see §63.1 and §62, both of which contain similar ambiguities.

³ I follow Liebermann's suggestion that this should be emended to the singular *for gelde*; see §27.2.

⁴ Changed from *mycle* by scribe.

⁵ I follow Liebermann's suggestion that this should be emended to the singular *for gelde*; see §27.2 and §69.

⁶ There is a point added later in a different ink to separate *mægþbot* from *sy*. Liebermann says the *y* is on an erasure.

⁷ *y* on an erasure.

⁸ Changed from *mon* by scribe.

⁹ Liebermann reads this as a barred *d*; both in the manuscript and the facsimile it looks to me like any other *ð* written by this scribe.

¹⁰ *y* on an erasure.

¹¹ I follow Liebermann's suggestion in emending the manuscript reading of *ef* to *eft*.

66. If a rib becomes broken, let him pay 3 shillings.¹
67. If a person stabs through a thigh, for each thrust 6 shillings.
- 67.1. If [the width of the wound] is over an inch,² a shilling;
- 67.2. for two inches, two [shillings];
- 67.3. over three [inches], 3 shillings.
68. If a "welt-wound" occurs, let him pay 3 shillings.³
69. If a foot becomes [struck] off, let him pay with 50 shillings.
70. If the big toe becomes [struck] off, let him pay 10 shillings.
- 70.1. For each of the other toes let him pay half the amount already discussed for the fingers.
71. If the big toenail becomes [struck] off, 30 sceattas as restitution.⁴
- 71.1. For each of the others, let him pay 10 sceattas.
72. If a free woman in charge of the locks does anything seriously dishonest,⁵ let her pay 30 shillings.
73. Compensation for [injury to/offense against] a maiden shall be as for a free man.
74. [For violation of] protection of the foremost widow of noble rank, let him pay 50 shillings.
- 74.1. [For a widow] of the second [rank], 20 shillings.
- 74.2. [For a widow] of the third [rank], 12 shillings.
- 74.3. [For a widow] of the fourth [rank], 6 shillings.
75. If a person takes a widow who does not belong to him, the [payment for violation of] protection shall be 2[-fold] as compensation.
76. If a person buys a maiden with a [bride-]price, let the bargain be [valid], if there is no deception.
- 76.1. If there is deception, afterwards let him bring [her to her] home, and let him be given his money.
- 76.2. If she bears a living child, let her obtain half the goods [belonging to the household] if the husband dies first.
- 76.3. If she should wish to dwell with the children, let her obtain half the goods [of the household].⁶
- 76.4. If she should wish to take a man [i.e., another husband], provision as for one child [i.e., the inheritance is split equally between the mother and each of the children].
- 76.5. If she does not bear a child, her paternal kin should obtain [her] property and the morning-gift..⁷

¹ This section seems to have been displaced in the usual top-to-bottom enumeration of the personal injury laws: note that it comes between two clauses concerning injury to the thigh.

² A term similarly borrowed from Latin *uncia* 'one-twelfth' is used for measuring the width of wounds in Old Irish law; see discussion in Chapter One under *Chronological Layering*.

³ Previous editors translate this along the lines of "If a sinew becomes wounded ..."; see discussion in Commentary under *Personal Injury*.

⁴ At 20 *sceattas* to the shilling, this represents half the sum for the 3-shilling thumbnail.

⁵ Translation of this passage taken from Christine Fell, "The 'friwif locbore' Revisited," *Anglo-Saxon England* 13 (1984): 157-166. See discussion in Commentary under *Women and Children*.

⁶ For translation of this and the following clause, see Carole A. Hough, "The Early Kentish 'divorce laws': a Reconsideration of Æthelberht, chs. 79 and 80," *Anglo-Saxon England* 23 (1994): 19-34.

⁷ See discussion of these clauses in Commentary under *Women and Children*.

77. Gif man mægþman¹ nede genimeþ, ðam agende L scillinga, 7 eft æt þam agende sinne willan ætgebicge. [82]
- 77.1. Gif hio oþrum mæn in sceat bewyddod sy,² XX scillinga gebete. [83]
- 77.2. Gif gængang³ geweorðeþ, XXXV sciþ, 7 cyninge XV scillingas. [84]
78. Gif man mid esnes cwynan geligeþ be cwicum ceorle, II gebete. [85]
79. Gif esne oþerne⁴ ofslea unsynningne, ealne weorðe forgelde. [86]
80. Gif esnes eage 7 foot of weorðeþ aslagen, ealne weorðe hine forgelde. [87]
81. Gif man mannes esne gebindeþ, VI sciþ⁵ gebete. [88]
82. Ðeowæs wegreafe se III scillingas. [89]
83. Gif þeow⁶ steleþ, II gelde gebete. [90]

¹ *a* is a correction for *o*.

² *y* is on an erasure.

³ Deformed *g* here looks like a later interpolation; it is on an erasure.

⁴ Written above following words.

⁵ As discussed in Chapter One, I would expand this as the dative *scillingum* and connect chronologically the section concerning the *esne* with those sections dealing with the *ceorl* and personal injuries.

⁶ *w* written in another hand.

77. If a person takes a maiden by force: to the owner [of her protection] 50 shillings, and afterwards let him buy from the owner his consent [to marry her].
- 77.1. If she should be betrothed to another man by goods [i.e., the bride-price has been paid], let him pay 20 shillings [to that man as well].
- 77.2. If return [of the stolen maiden] occurs, 35 shillings and 15 shillings to the king.
78. If a person lies with a servant's¹ wife while the husband² is alive, let him pay 2[-fold what he would have paid were she unmarried].
79. If a servant should kill another [who is] guiltless, let him pay [the dead man's master] the entire worth.
80. If a servant's eye or foot becomes struck off, let him pay him [i.e., the servant's master] the entire worth.³
81. If a person binds a person's servant, let him pay [with] 6 shillings.
82. A slave's highway robbery shall be [paid for with] 3 shillings.
83. If a slave steals, let him pay 2[-fold] as compensation..

¹ The *esne*—here translated as 'servant'—"was probably a poor freeman from whom a certain portion of labour could be demanded in consideration of his holdings, or a certain rent ... reserved out of the produce of the hives, flocks or herds committed to his care. He was a poor mercenary, serving for hire, or for his land, but was not of so low a rank as the þeow or wealh." See Joseph Bosworth, *An Anglo-Saxon Dictionary* (Oxford: Clarendon), 1898. F. L. Attenborough, *The Laws of the Earliest English Kings* (Cambridge: University Press, 1922), 178 points out that the original meaning "appears to have been 'harvester' (c.f. Gothic *asans*, 'harvest')."

² The term *ceorl* can mean 'man,' 'freeman' or 'husband,' although the primary sense here is clearly 'husband.'

³ 7 can mean either 'and' or 'or'; the latter seems more likely here, but see discussion in Commentary under *Esne*. Other adversative uses of this ligature can be found in §§15, 23, 30.

a. NOTES ON ÆTHELBERHT'S "CODE"

A TABLE OF WERGELDS

	Aethelberht		Ine
	mundbyrd	wergeld	wergeld
king	50	?	?
eorl	12	300 ^a =6000 ^b	1200=6000 ^c 600=3000
ceorl	6	100=2000	200=1000
læt		80/60/40	
esne=læt			
theow			

a. In Hlothere & Eadric 1.

b. @ 20 pence to the shilling.

c. @ 5 pence to the shilling.

b. NOTES AND QUESTIONS

1. What does this table suggest about social structure in Kent (Aethelberht) and Wessex (Ine) in the seventh century?

2. What did the Anglo-Saxons think about law-making? Consider the following text from the *Prologue* to Alfred's Laws:

I then, King Alfred, have collected these [dooms] and ordered [them] to be written down—[that is to say,] many of those which our predecessors observed and which were also pleasing to me. And those which were not pleasing to me, by the advice of my *witan*, I have rejected, ordering them to be observed only as amended. I have not ventured to put in writing much of my own, being what might please those who shall come after us. So I have here collected the dooms that seemed to me the most just, whether they were from the time of Ine, my kinsman, from that of Offa, king of the Mercians, or from that of Aethelberht, the first of the English to receive baptism; the rest I have discarded. I, then, Alfred, king to the West Saxons, have shown these [dooms] to all my *witan*, who have declared it is the will of all that they be observed.

3. The most extensive provisions about marriage and the status of women are those in Aethelberht 73–78 (above, pp. 13–15).

4. Provisions about inheritance are scattered throughout the Anglo-Saxon codes. Consider, for example, the provisions from Aethelberht 76.2–76.5 (above, p. 13). Here are the provisions from Ine 38, Alfred 41, 2 Cnut 70:

Ine 38. If a *ceorl* and his wife have a child, and the *ceorl* dies, the mother shall keep her child and bring it up. She shall be given 6s [a year] for its care—a cow in summer and an ox in winter. The relatives shall keep the homestead until the child has grown up.

Alfred 41. We now ordain that any one who has bookland left him by his kinsmen is not to give it outside his kindred if there is written or oral evidence (*gewrit odhdh gewitnes*) that to do so was forbidden by the man who originally acquired it or by those who gave it to him. And this should be proved in the presence of the kindred, and with the witness of the king or of the bishop, by any one [wishing to annul such an alienation].

2 Cnut 70. And if anyone, whether through negligence or through sudden death, departs this life without having made a will, his lord shall take no more of his chattels than his lawful heriot. Rather, by his direction, the goods are to be most justly apportioned to the widow, the children, and the near relatives—to each the share that is rightfully his.

5. One of the great themes in the study of Anglo-Saxon institutions is the decline of the kindred. It's a theme that can be exaggerated. Anglo-Saxon kindreds were small to start off with. The evidence of language suggests a rather narrow group, bilateral terminology but preference for the patriline. Then too, the documents show that the blood feud was still alive at the end of the period. Here are some relevant texts from the dooms:

Abt 30—individual responsibility (above, p. 7).

Alf 42—surrounding the house and demanding justice:

42. We also command that any one knowing his enemy to be at home shall not fight him before demanding justice of him [in court]. If [the accuser] has strength to surround and besiege his enemy inside [the latter's house], let him be held there seven nights and not attacked so long as he will remain inside. Then after seven nights, if the [besieged enemy] will surrender and give up his weapons, let him be kept unharmed for thirty nights while news of him is sent to his kinsmen and friends. . . . If, however, [the accuser] lacks the strength to besiege his enemy, he shall ride to the alderman and ask him for aid; if the latter refuses him aid, he shall ride to the king before beginning a fight. . . . We declare furthermore that one may fight for his lord without incurring blood-feud, if the lord has been attacked. So also the lord may fight for his man. In the same way one may fight for his blood-relative, should the latter be unjustly attacked, except against his own lord—that we do not permit....

2 Aethelstan 2—everyone must have a lord:

2. And with regard to lordless men from whom no justice is to be obtained, we have ordained that their kindred be commanded to settle them in homes where they will be subject to folkright, and to find them lords in the popular court (*folcgemote*). And if, by the day set, the kindred will not or cannot do so, he shall thenceforth be an outlaw, to be treated as a thief by any one who meets him. . . .

Edmund 2.1—further isolating the individual:

2.1. Henceforth, if any man slays another, [we order] that he by himself shall incur the blood-feud, unless he, with the help of his friends, buys it off by paying the full wergeld [of the slain man] within twelve months, no matter of what rank the latter may be. If, however, his kinsmen abandon him, refusing to pay anything in his behalf, then it is my will that the whole kindred, with the sole exception of the actual slayer, be free of the blood-feud so long as they give him neither food nor protection. If, on the other hand, one of his kinsmen later gives him such assistance, the former shall forfeit to the king all that he has, and he shall incur the blood-feud [along with the slayer] because the latter has already been disowned by the kindred. And if any one of the other kindred takes vengeance on any men besides the true slayer, he shall incur the enmity of the king and all of the king's friends, and he shall forfeit all that he has.

B. BOOK OF CONSTITUTIONS OR LAW OF GUNDOBAD

in THE BURGUNDIAN CODE, Contents, Preface, cc. 1-45[†]
(K. F. Drew, trans., 1949; repr. 1972),[†] xi-xv, 17-51¹

CONTENTS

- I. Of the Privilege of Bestowing Gifts Permitted to Fathers, and Concerning Royal Gifts and Gratuities.
- II. Of Murders.
- III. Of the Emancipation of Our Slaves.
- IV. Of Solicitations and Thefts.
- V. Of Those Who Strike Others with Lash or Rod, With A Kick, or with a Blow of the Fist.
- VI. Of Fugitives.
- VII. Of Slaves (*Servi*) and Serfs (*Originarii*) Who Are Accused of Crimes.
- VIII. Of the Commission of Crimes Which Are Charged Against Native Freemen.
- IX. Of Acts of Violence

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¹ The text followed in this translation is that of L. R. de Salis, *Leges Burgundionum (Monumenta Germaniae Historica, Sectio I, Tomus II, Pars I)* (Hanover, 1892) [KFD].