

WOMEN IN ÆTHELBERHT'S LAWS

I want to spend the rest of the class on the fascinating but puzzling provisions about women in Æthelberht's laws. What I want to do is to convince you that this is a game that you can play too. I've had some really good papers on these provisions in this course. Many pieces of outside context can be, and have been, brought to bear on these provisions, but the fact is that all that we really know about Æthelberht's Kent is contained in his laws and what Bede tells us about it. The archaeologists can give us a little help, but not much. Perhaps the most important thing that tell us is that this society was very poor. Things were beginning to look up economically, but the society had nothing like the wealth that it had a century later, to say nothing of the 11th or 12th centuries. There is a reason that the Danes didn't bother to invade England until the 9th century. It wasn't worth their while.

Virtually everything that the laws have to say about women is contained in c. 72–78. As we have seen, the laws are arranged in sections by types of persons, churchmen: the king, eorlas, ceorlas (a very long section), women, and then those of lesser status: esnas (?servants, ?hirelings) and þeowas (slaves). What might we make of that arrangement?

There follow c. 72–78, arranged with the translation accompanying the provision rather than being on the opposite page as it is in the *Materials*. Boldface indicates that the scribe of the manuscript thought that a new section began here, though one cannot be sure that he got it right; the numbers on the clauses are modern. The 'other translation' occasionally offered is that of F. L. Attenborough, the standard English translation until Oliver did hers.

72. **Gif friwif locbore leswæs hwæt gedep, XXX scill gebete.**

72. If a free woman in charge of the locks does anything seriously dishonest,¹ let her pay 30 shillings.

[Another translation: If a freeborn woman, with long hair, misconducts herself, she shall pay 30 shillings as compensation.]

Cf. 9. **Gif cyning æt mannes ham drincæþ 7 ðær man lyswæs hwæt gedo, twibote gebete.**

9. If the king drinks at a person's home, and a person should do anything seriously dishonest² there, let him pay two[-fold] restitution.

[Another translation: If the king is feasting at anyone's house, and any sort of offence is committed there, twofold compensation shall be paid.]

73. **Mægþbot sy swa friges mannes.**

73. Compensation for [injury to/offense against] a maiden shall be as for a free man.

74. **Mund þare betstan widuwan eorlcundre, L scillinga gebete.**

74.1. **Ðare oþre, XX scill.**

74.2. **Ðare þridan, XII scill.**

¹ 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*.

² See Christine Fell, "A 'friwif locbore' Revisited," *Anglo-Saxon England* 13 (1984): 157–66 for the interpretation of *lyswæs* as 'seriously dishonest.'

74.3. **Þ**are feorðan, VI scll.

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. **G**if man widuwan unagne genimeþ, II gelde seo mund sy.

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. **G**if man mægþ gebigeð ceapi, geceapod sy gif hit unfacne is.

76. If a person buys a maiden with a [bride-]price, let the bargain be [valid], if there is no deception.

76.1. Gif hit þonne facne is, ef[t] þær æt ham gebrenge, 7 him man his scæt agefe.

76.1 If there is deception, afterwards let him bring [her to her] home, and let him be given his money.

76.2. **G**if hio cwic bearn gebyreþ, healfne scæt age gif ceorl ær swylteþ.

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. **G**if mid bearnum bugan wille, healfne scæt age.

76.3 If she should wish to dwell with the children, let her obtain half the goods [of the household].³

[Another translation: If she wishes to depart with her children, she shall have half the goods.]

76.4. **G**if ceorl agan wile, swa an bearn.

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].

[Another translation: If the husband wishes to keep [the children], she shall have a share of the goods equal to a child's.]

76.5. **G**if hio bearn ne gebyreþ, fæderingmagas fioh agan 7 morgengyfe.

76.5 If she does not bear a child, her paternal kin should obtain [her] property and the morning-gift.

77. **G**if man mægþman nede genimeþ, ðam agende L scillinga, 7 eft æt þam agende sinne willan ætgebicge.

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. **G**if hio oþrum mæn in sceat bewyddod sy, XX scillinga gebete.

³ 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.

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. **Gif** gængang geweorðeþ, XXXV scill, 7 cyninge XV scillingas.

77.2. If return [of the stolen maiden] occurs, 35 shillings and 15 shillings to the king.

78. **Gif** man mid esnes cwynan geligeþ be cwicum ceorle, II gebete.

78. If a person lies with a servant's⁴ wife while the husband⁵ is alive, let him pay 2[-fold what he would have paid were she unmarried].

⁴ 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' (cf. Gothic *asans*, 'harvest')."

⁵ The term *ceorl* can mean 'man,' 'freeman' or 'husband,' although the primary sense here is clearly 'husband.'