

RESEARCH ARTICLE

The Heriot in Early Medieval England: A Reassessment

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Abstract

This article presents a reassessment of the entire corpus of heriots – a *post obitum* transfer of military equipment and/or money to one's lord – as well as a detailed survey which exposes the high degree of inconsistency between the values of II Cnut and the evidence found across wills and other sources. Rather than seeking to explain away the inconsistencies revealed by this analysis (as previous scholarship has often sought to do), I argue that such variation was a regular feature of heriot payments and, furthermore, that negotiation played a key role in the process, wherein heriot payments were subject to unilateral or bilateral alteration according to the needs of the testator or the recipient. This variability accounts for the disparities found across the corpus. Moreover, it is theorised that the possibility for the negotiation of one's heriot allowed for the use of the heriot as a tool of disproportionate extraction.

Introduction

Around the year 1020, King Cnut issued two law codes, now known as I–II Cnut. Having firmly established his authority over the kingdom of the English, the second part of these complimentary law codes (II Cnut) – which has formed the bedrock of all analyses of the heriot – stipulated the differing levels of war-gear each rank was to supply to their lord upon their death:

[70] (Be hergeate)¹ And gif hwa cwydeleas of þysum life gewite, si hit þurh his gymeleaste, si hit þurh færlicne deað, þonne ne teo se hlaford na mare on his æhta butan his rihtan heregeata.

¹ *Die Gesetze der Angelsachsen*, ed. F. Liebermann, 3 vols. (Halle, 1903–1916) I, 356–60. The translation below follows that of *The Laws of the Kings of England from Edmund to Henry I*, ed. and trans. A. J.

[70,1] Ac beo be his dihte seo æht gescyft swyðe rihte wife 7 cildum
7 nehmagum, ælcum be þære mæðe, þe him to gebyrige.

[71] 7 beon þa heregeata swa fundene, swa hit mæðlic si:

[71a] (Eorles) Eorles swa ðærto gebyrige, þæt syndon VIII hors, IIII gesadelode 7 IIII unsadelode, 7 IIII helmas 7 IIII byrnan & VIII spera 7 eallswa fela scylda 7 IIII swurd 7 twa hund mances goldes.

[71,1] (Kyneges ðeines) 7 syððan cingces þegnas, þe him nyhste syndan: IIII hors, II gesadelode 7 II unsadelode, 7 II swurd 7 IIII spera 7 swa feala scylda 7 helm 7 byrnan 7 L mances goldes.

[71,2] (Oðres ðeines) 7 medemra þegna: hors 7 his geræda 7 his wæpn oððe his healsfang² on Wessexan; 7 on Myrcan II pund 7 on Eastenglan II pund.

[71,3] And cingces þegnes heregeata inne mid Denum, þe his socne hæbbe: IIII pund.

[71,4] 7 gif he to þam cingce furðor cyððe hæbbe: II hors, I gesadelod 7 oðer unsadelod, 7 swurd 7 II spera 7 II scyldas 7 L manes goldes.

[71,5] 7 se ðe læsse mage si: II pund

[...]

[73,4] And gelæste ælc wuduwe þa heregeatu binnan XII monðum, butan hyre ær to onhagige, witeleas.

70. And if one depart from this life without a will, be it through his carelessness, be it through sudden death, then the lord shall take no more from his property than his lawful heriot.

70.1 Moreover, according to his disposition, the property shall be distributed very lawfully to the wife and children and near-kinsmen; to each by their status as appropriate to him.

71. And heriots are to be so determined as befits rank.

Robertson (Cambridge, 1925), pp. 209–11. This version of the text is predominantly from the G manuscript of the code, although some readings, mainly rank titles, from B are added in parentheses. Manuscript G is London, British Library, Cotton Nero A.i, ff. 110–120, and manuscript B, see Cambridge, Corpus Christi College, MS 383, ff. 49v–50r.

² Worth two and a half pounds in Wessex. See N. Brooks, 'Arms, Status, and Warfare in Late-Saxon England', in his *Communities and Warfare, 700–1400* (London, 2000), pp. 138–61, at 147, originally published in *Ethelred the Unready: Papers from the Millenary Conference*, ed. D. Hill, BAR Brit. Ser. 59 (Oxford, 1978), 81–103.

71a. (Earls) An earl's as belongs thereto, namely eight horses, four saddled and four unsaddled, and four helmets and four coats of mail and eight spears and as many shields and four swords and 200 mancuses of gold.

71.1. (King's thegns) And next, the king's thegns, who are closest to him: four horses, two saddled and two unsaddled, and two swords and four spears and as many shields, and a helmet and coat of mail and 50 mancuses of gold.

71.2. (Other thegns) And of lesser/median thegns: a horse and its trappings, and his weapons or his healsfang in Wessex; and two pounds in Mercia and two pounds in East Anglia.

71.3. And the heriot of the king's thegn among the Danes, who has right of jurisdiction; four pounds.

71.4. And if he has a more intimate relationship with the king: two horses, one saddled and one unsaddled, and a sword and two spears and two shields and 50 mancuses of gold.

71.5. And he who is of lower position: two pounds

[...]

73.4 And every widow shall pay the heriots within twelve months without incurring a fine, if it has not been convenient for her to pay earlier.

The codification of the heriot under Cnut offers a window into a deeply stratified society, one with allegedly clear social demarcations. We are presented with various serried ranks of the upper elite: earls; king's thegns; median thegns; the king's thegn among the Danes; he who has a more 'intimate relationship with the king'; and someone of a 'lower position'. All are listed as giving different amounts, their rank manifested through the payment of the *heregeatu*, or heriot – a *post obitum* obligated gift or payment of military equipment by a subordinate to his (or, occasionally, her) lord.

The image of hierarchical order offered in Cnut's codification of the heriot has seduced otherwise cautious historians into systematizing late tenth- and eleventh-century society.³ While Nicholas Brooks admits that the distinctions between the arms of ceorls and thegns favoured by legal historians were in reality much more complex, he strives to fit neatly all the testators whose wills featured heriots into the categories of II Cnut, and in doing so he attempts to explain away differences as being the result of incremental inflation or a testator's affiliation with the Danelaw.⁴ For example, Brooks notes that the 'remaining wills of Æthelred's reign [...] all correspond to Cnut's rates in their

³ R. Abels, 'Heriot', *The Blackwell Encyclopedia of Anglo-Saxon England*, ed. M. Lapidge, J. Blair, S. Keynes and D. Scragg (Oxford, 1999), pp. 235–6; A. Williams, *The World Before Domesday: the English Aristocracy, 900–1066* (London, 2008), pp. 87–130.

⁴ Brooks, 'Arms, Status and Warfare in Late-Saxon England', pp. 142, 144, 149.

provision of main arms, but omit certain items and differ in some others'.⁵ Such an approach flattens the rather sizeable differences between the numerous surviving heriots and the stipulations of II Cnut (for a case in point, see the discussion below concerning the heriot of Ælfric Mordercpe).

Similarly, Ryan Lavelle treads rather cautiously and mentions the inconsistencies, yet he treats the link between rank and heriot payment as relatively stable. For example, while acknowledging that 'the value of a heriot could vary' and that 'ostensibly this was based on a man's rank', Lavelle concludes that heriots 'affirmed [...] thegnly status' and, on these grounds, he assigns testators a rank based on their heriot, the contents of the documents, and other connections.⁶ This is an understandable impulse. After all, the lines must be drawn somewhere in order to have a functioning series of laws, and the values in II Cnut can be presumed to represent a standardised, elite perspective on rank. However, despite the fact that such divisions had some basis in practice, the neat demarcations between various ranks (as observable in many law codes) also originated in an ideological desire to produce a logistically fruitful system of governance.⁷ A significant body of research points to the likelihood that the laws of early medieval England operated as guidelines rather than being strictly prescriptive.⁸ In support of this assertion (as shown in Figure 1), the dispositive evidence reveals that only one recorded heriot fully aligns with the stipulations outlined in II Cnut.

This article proposes that the regulations of II Cnut should be treated with caution and that heriots did not serve to delineate social ranks with any clarity across the tenth and eleventh centuries (c. 900–1070). I provide a reassessment of the entire corpus of heriots as well as a detailed survey which reveals the high degree of inconsistency between the values of II Cnut and the evidence found across wills and other sources. Rather than seeking to explain away these inconsistencies, I argue that such irregularity was a standard feature of heriot payments, as they were likely subject to unilateral or bilateral alteration according to the needs of the testator or the recipient. This variability accounts for the disparities found across the corpus. Moreover, it is suggested that the possibility for the negotiation of one's heriot also opened the door for the use of the

⁵ Brooks, 'Arms, Status and Warfare in Late-Saxon England', p. 148.

⁶ R. Lavelle, *Alfred's Wars: Sources and Interpretations of Anglo-Saxon Warfare in the Viking Age* (Woodbridge, 2010), pp. 114–15, 122–7.

⁷ Patrick Wormald argues repeatedly and strongly that law codes issued in the period were primarily ritual enactments of royal authority with little weight in everyday practice: P. Wormald, 'Lex Scripta and Verbum Regis: Legislation and Germanic Kingship from Euric to Cnut', *Early Medieval Kingship*, ed. P. H. Sawyer and I. N. Wood (Leeds, 1977), pp. 105–38; P. Wormald, 'The Uses of Literacy in Anglo-Saxon England and its Neighbours', *TRHS* 5th ser. 27 (1977), 95–114, at 112; P. Wormald, *Making of Early English Law: King Alfred to the Twelfth Century* (Oxford, 1999), p. 148. For the opposing view, see S. Keynes, 'Royal Government and the Written Word in Late Anglo-Saxon England', *The Uses of Literacy in Medieval Europe*, ed. R. McKitterick (Cambridge, 1990), pp. 231–44.

⁸ C. Cubitt, '“As the Lawbook Teaches”: Reeves, Lawbooks and Urban Life in the Anonymous Old English Legend of the Seven Sleepers', *EHR* 124 (2009), 1021–49; L. Roach, 'Law Codes and Legal Norms in Later Anglo-Saxon England', *Hist. Research* 86 (2013), 465–86; A. Rabin, *Crime and Punishment in Anglo-Saxon England* (Cambridge, 2020), p. 23.

Sawyer Number	Date of will	Rank (if known)	Name	Multi-gift will? ⁹ Y/N	Heriot
1182	762		Dunwald	N	NA
146	793 × 796	King	Offa	N	NA
157	801		Swithhun	N	NA
1187	804		Æthelric	N	NA
1500	805 × 832	Reeve at Eastry	Æthelnoth	Y	N
1652	s.ix		Æthelferth	N	NA
1414	833		Werhard	N	NA
1482	833 × 839	Reeve	Abba	Y	N
1510	845 × 853		Badanoth Beotting	Y	N
1514	855		Dunn	N	NA
1200	867 × 870	widow of Ealdorman	Cynethryth (f)	N	NA
1202	870 × 889	Ealdorman/Dux	Alfred	N	NA
1508	871 × 889	Ealdorman	Alfred	Y	NA
1507	896 × 899	King	Alfred	Y	NA
1513	900		Ceolwynn	N	NA
1533	931 × 939		Wulfgar	Y	N
1509	932 × 939		Alfred	N	NA
1526	942 × 951	Bishop	Theodred	Y	200 marks of red gold, 2 silver cups, 4 horses, 2 swords, 4 shields, 4 spears
1504	946 × 947	Ealdorman	Æthelwold	Y?	4 swords, 4 spears, 4 shields, 4 bracelets (2 worth 120 mancuses, 2 worth 80 mancuses), 4 horses & 2 silver cups.
1483	946 × 951	Ealdorman	Ælfgar	Y	2 swords, 2 armlets each of 50 mancuses of gold, 3 stallions, 3 shields, 3 spears
1539	s.x		Wynflaed (f)	Y	NA
1418	946 × 953	Priest	Æthlenoth	N	NA
1419	947 × 955	Priest	Eadwulf	N	NA
1515	951 × 955	King	Eadred	Y	NA

Figure 1. The corpus of early English wills from the eighth to the eleventh century, organised in chronological order, and detailing the presence and contents of heriots. In addition, approximate dates of creation and the names of testators/testatrices are provided. Charters are referred to by their Sawyer number (for further information regarding manuscripts and archives see P. Sawyer, *Anglo-Saxon Charters: an Annotated List and Bibliography* (London, 1968) and S. Keynes *et al.*, *The Electronic Sawyer: Online Catalogue of Anglo-Saxon Charters* (King's College London, 2008), <http://esawyer.lib.cam.ac.uk>).

⁹ For the purposes of this table, I have distinguished between wills which bequeath one item and those which bequeath many, thus seemingly acting as a more comprehensive testament. For the former, I have deemed it unlikely that we should expect to see a heriot.

1506	941 × 958		Æthelweard	N	NA
1491	955 × 958	Bishop	Ælfsige	Y	unspecified (and return of estate lent to him)
1524	s.x		Ordnoth (and wife)	N	NA
1496	957 × 958		Æthelgard	N	NA
1512	970 × 984		Brihtric Grim	N	NA
1484	966 × 975		Ælfgifu (f)	Y	Multiple estates, 2 armlets each worth 120 mancuses, drinking cup, 6 horses, 6 spears, 6 shields
1485	968 × 971	Ealdorman	Ælfheah	Y	300 mancuses of gold, dish (£3), a drinking cup (£3), short sword, scabbard worth/adorned with 8 mancuses of gold, 6 swords, 6 horses with trappings, 6 spears & 6 shields
1498	977 × 982	Ealdorman	Æthelmaer	Y	4 armrings worth 100 mancuses of gold, 4 swords, 8 horses (4 saddled, 4 unsaddled), 4 helmets, 4 byrnies, 8 spears, 8 shields
1511	975 × 987		Brihtric and Ælfswith	Y	Armlet of 80 mancuses of gold, sword worth the same amount, 4 horses (2 saddled), two swords and sheaths, 2 hawks and all his staghounds. Additionally, 1 armlet of 30 mancuses and a stallion were given to the queen.
1809	985		Æthelgifu (f)	N	NA
1503a	986		Æthelstan Mannessune	Y	N
1505	post-987		Æthelwold	Y	Armlet of 30 mancuses, 2 scabbards, 2 swords, 2 horses, 2 shields, 2 spears.

Figure 1. Continued.

1494	962 × 991		Æthelflaed (f)	Y	Perhaps – estates at Lambourn, Cholsey and Reading, four armlets of 200 mancuses of gold, 4 robes, 4 cups, 4 bowls, & 4 horses
1501	960 × 994		Æthelric of Bocking	Y	60 mancuses of gold, sword & belt, 2 horses, 2 shields & 2 spears
1522	998 (15 April)		Leofwine	Y	N
939	995 × 999		Æthelric of Bocking	N	Wife supplied heriot listed above
1807	957 × 1016		Ælfhelm & Æffe	N	NA
1487	975 × 1016	Ealdorman	Ælfhelm Polga	Y	100 mancuses of gold, 2 swords, 4 shields, 4 spears, 4 horses (two saddled & 2 unsaddled)
1493	978 × 1016		Ærnketel and Wulfrun	N	NA
1538	984 × 1001		Wulfwaru (f)	Y	NA
1808	990 × 1000		Ælfhild (f)	N	NA
1455	990 × 1005	Abbot	Wulfric	N	NA
1810	995 × 1001		Wulfgifu (f)	N	NA
1495	c. 1000		Æthelflaed (f)	N	NA
1534	c. 1000		Wulfgeat	Y	2 horses, 2 swords, 4 shields, 4 spears & 10 mares with 10 colts
1497	956 × 1002		Æthelgifu (f)	Y	Gifts to both lord and lady
1486	1000 × 1002		Æfflaed (f)	Y	Perhaps – 8 estates, 2 armlets worth 2 pounds, 2 drinking cups and a silver vessel.
1536	1002 × 1004	Thegn/ Ealdorman	Wulfric Spott	Y	200 mancuses of gold, 2 silver-hilted swords, 4 horses (2 saddled, 2 unsaddled), and the weapons due with them.
1488	1002 × 1005	Archbishop	Ælfric	Y	What was due – though he also, unbidden, grants to his lord his best ship and 60 helmets and 60 coats of mail.

Figure 1. Continued.

1518	1007 × 1013		Godric	N	Land at Terrington
1503	1014	Ætheling	Æthelstan	Y	NA
1492	1008 × 1015	Bishop	Ælfwold	Y	4 horses (2 saddled & 2 unsaddled), 4 shields, 4 spears, 2 helmets and 2 byrnies
1520	1017 × 1035		Leofflaed, wife of Oswig (f)	Y	NA
1465	1032 × 1035	Priest	Eadsige	N	NA
1523	1017 × 1035	Priest	Mantat	N	NA
1527	s.xi (pre-1038)		Thurketel of Palgrave	Y	N
1528	s.xi		Thurketel Heyng	Y	Due heriot
1489	1035 × 1040	Bishop	Ælfric	Y	2 marks of gold?
1224	c. 1040		Stigand	N	NA
1537	1022 × 1043		Wulfsige	Y	2 horses, 1 helmet, 1 coat of mail, 1 sword, 1 spear inlaid with gold.
1532	1026 × 1046/c. 1050		Wulf/Ulf	Y	N
1471	1045		Athelric Bigga	N	NA
1490	1042 × 1043		Ælfric Moderscope	Y	1 mark of gold
1521	1035 × 1044		Leofgifu (f)	Y	2 marks of gold?
1530	1042 × 1043		Thurstan	N	NA
1531	1043 × 1045		Thurstan	Y	2 marks of gold, 2 horses with trappings, 1 helmet, 1 coat of mail, 1 sword, 2 shields, 2 spears. Additional 2 marks of gold to be raised via sale of estate.
1470	1043 × 1047		Wulfgeat and wife	N	NA
1535	1044 × 1053		Wulfgyth (f)	Y	Due heriot
1516	s.xi		Eadwine	Y	N
1608	1044 × 1052		Oswulf and Leofrun	N	NA
1502	1048 × 1050		Æthelric Bigga	N	NA
1517	c. 1050		Eadwine of Caddington	Y	4 horses (2 saddled & 2 unsaddled), 2 swords.
1519	1052 × 1066		Ketel	Y	1 helmet, 1 coat of mail, 1 horse with harness, 1 sword and 1 spear.

Figure 1. Continued.

1235	1053 × 1066		Oswulf and Æthelgyth	N	NA
1499	1047 × 1070	Bishop	Æthelmaer	N	NA
1234	1052 × 1070		Brihtmaer	N	NA
1529	s.xi		Thurkil and Æthelgyth	N	NA
1525	s.x–sxi		Siflaed (f)	Y	NA
<i>Pet 27</i>	1066 × 1069		Ulf and Madselin	Y	N

Figure 1. Continued.

heriot as a tool of disproportionate extraction, and especially so as a wider pool of society was drawn into paying the impost. The categorisations of II Cnut bear the hallmarks of Archbishop Wulfstan II of York's influence, acting not only as a method for the crown to access wealth but, importantly, also as a way to impose legal limitations upon the predations of avaricious overlords (including the king) and an attempt to further legislate in support of social hierarchy.

Explaining away Difference

Detailed academic discussion of heriots in England is relatively sparse.¹⁰ Given that heriots have been taken as indicative of the hierarchy of early medieval England, there are many references to them in an extensive body of literature. The tendency to treat the regulations of II Cnut as indicative of everyday practice is a wide-ranging problem that seeps into many otherwise excellent studies of the period. For example, Ann Williams's superb study of the nobility of tenth- and eleventh-century England takes II Cnut to be broadly accurate and focuses on what heriots can tell us about material culture.¹¹ Where heriots have been given substantial treatment in the works of Nicholas Brooks, Richard Abels or Ryan Lavelle, such analyses have predominantly centred upon what heriots can tell us about military matters.¹² Most recently, the author of this article has examined elsewhere the social factors that prompted the adoption of the heriot among

¹⁰ *Gesetze* II, 500–2; H. M. Chadwick, *Anglo-Saxon Institutions* (Cambridge, 1905), p. 376; *Anglo-Saxon Wills*, ed. and trans. D. Whitelock (Cambridge, 1930), p. 100; E. John, 'Beowulf and the Margins of Literacy', *Bull. of the John Rylands Lib.* 56 (1974), 338–422, at 409–11; Brooks, 'Arms, Status and Warfare in Late-Saxon England', pp. 138–61; R. Abels, *Lordship and Military Obligation in Anglo-Saxon England* (London, 1988), pp. 137–8, 149, 265–6; Abels, 'Heriot', pp. 235–6; Williams, *The World Before Domesday*, esp. pp. 105–21; Lavelle, *Alfred's Wars*, pp. 114–28; S. Pracy, 'Both to Bind and to Loosen: Royal Power and the Heriots of Ealdormen and Bishops', *The Reigns of Edmund, Eadred and Eadwig, 939–959. New Interpretations*, ed. M. Blanchard and C. Reidel (Woodbridge, 2024), pp. 80–97.

¹¹ Williams, *The World Before Domesday*, pp. 87–130.

¹² Brooks, 'Arms, Status and Warfare in Late-Saxon England', pp. 138–61; Abels, *Lordship and Military Obligation*, pp. 137–8, 149, 265–6; Abels, 'Heriot', pp. 235–6; Lavelle, *Alfred's Wars*, pp. 114–5. See also R. Abels, 'English Logistics and Military Administration, 871–1066: the Impact of the Viking Wars', *Military Aspects of Scandinavian Society in a European Perspective, AD 1–1300*, ed. A. Nørgård Jørgensen and B. L. Clausen (Copenhagen, 1997), pp. 257–65, at 260.

ealdormen and bishops in the 940s, though examination of the role of the heriot among a wider social spectrum was beyond the remit of the paper in question.¹³ Overall, the issues surrounding the heriots listed in II Cnut have not received sustained scrutiny.

The leading proponent of the straightforward utility of the values listed in II Cnut is the historian Nicholas Brooks. Brooks argues that Cnut's codification of the heriot followed a long series of successive increases that began in King Edmund's reign (r. 939–946) and ranged across the tenth century. He proposes three distinct phases: i) King Edmund, ii) Kings Eadred (r. 946–955), Eadwig (r. 955–959) and Edgar (r. 959–975), and iii) King Æthelred (r. 978–1013 & 1014–1016) onwards. This is based upon the heriots of ealdormen across these phases, which saw an increase from four horses to six and, finally, to eight, respectively. Escalations in the quantity of war-gear extracted were, he argues, exacerbated by the increasing military threat posed by the Scandinavian kingdoms during the reign of King Æthelred.¹⁴ Thus, Brooks identifies the year 1008 as a pivotal moment of transformation, after which – he theorises – the precise nature of the war-gear requested via the heriot changed.¹⁵ This would, according to Brooks's line of argumentation, partly explain the disparity between some heriots and the stipulations of Cnut. According to Brooks, some of those that do not align with II Cnut simply lay earlier in the chronology of the incremental increases. While Brooks's argument has merit, and it may be that there was a degree of inflation in the size of the heriot levied across the tenth century, the data is by no means as consistent as portrayed. The heriot of Ælfgar – whose will is one of the three comprising the small group which survive from phase ii – only provides half of what the other two testators in the phase rendered to their lord.¹⁶ Given that the other two wills were issued by an ealdorman and member of the royal family, Brooks concludes that this represents the value of war-gear provided by someone at the level of a king's thegn. However, Ælfgar was almost certainly ealdorman of Essex by the time the will was issued, something that Brooks himself notes.¹⁷ His reasoning for thinking that Ælfgar's will represents the value of a king's thegn stems solely from backdating the practices of II Cnut: 'In Cnut's reign the heriot for the king's thegn was approximately half that of the earl, so it would seem that Ælfgar's heriot should be considered that of a king's thegn.'¹⁸ The pattern of increases identified by Brooks lies on uneasy foundations, and, importantly, throughout the tenth century and beyond, not everyone of the same rank paid the same heriot. Brooks's approach, therefore, does not provide a convincing explanation for the differences between recorded heriots and the values in II Cnut.

¹³ Pracy, 'Both to Bind and to Loosen', pp. 80–97.

¹⁴ Brooks, 'Arms, Status and Warfare in Late-Saxon England', pp. 150–1.

¹⁵ Brooks, 'Arms, Status and Warfare in Late-Saxon England', p. 151.

¹⁶ S 1483 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, ii., pp. 6–9.

¹⁷ Brooks, 'Arms, Status and Warfare in Late-Saxon England', p. 150.

¹⁸ *Ibid.*

Another approach to explaining the discrepancies between the values recorded in wills is to assert that they do more or less tally. Accordingly, Brooks depicts heriots which loosely align as fitting the specifications of II Cnut – the additional money and items were merely there either to supplement the shortfalls or augment the heriot for an undisclosed reason.¹⁹ However, no such distinction is made between the heriot and the supplementary or augmenting gifts in the wills. Richard Abels remarks that the ‘growth of royal power in the tenth century helped regularise the payment of heriots, though regional differences persisted.’²⁰ ‘Regularise’ is a strong word to describe a corpus in which the overwhelming majority of heriots simply do not match those stipulated in II Cnut, even when regional differences are taken into account, which I discuss further below. At best, the surviving heriots very loosely fit the categories of II Cnut, though this generous reading relies on presupposing that the ranks of the testators – which remain undocumented – corresponded in some way to those specified in II Cnut.

Ryan Lavelle follows this latter path in his treatment of the heriot. In assessing the social standing of testators, Lavelle assigns the individuals a value ‘from 1 (minor thegn) through to 5 (archbishop or ætheling), with ealdorman ranked in the middle’.²¹ These values were derived both from the contents of their heriot and ‘by connections to royal figures and significant religious houses as well as land in more than one shire’.²² Lavelle prudently acknowledges that ‘there is room for debate in addressing the social standing of such figures’, and the ‘landed wealth measurements [measured here in terms of the number of estates bequeathed]’ used alongside these rankings are ‘somewhat less arbitrary’.²³ After comparing the land holdings of each testator with the heriots that were paid, Lavelle concludes that there is ‘no direct correlation’ and, therefore, the ‘link between heriot and status was evidently not a matter of wealth but of rank’.²⁴ However, there can be no clarity about the rank of the majority of testators, for most do not declare their titles. The data presented by Lavelle shows neither a strong correlation between the size of the heriots and landed assets nor between heriots and the rank assigned to them in the study.²⁵ Accordingly, the heriots

¹⁹ Brooks, ‘Arms, Status and Warfare in Late-Saxon England’, pp. 144–51.

²⁰ Abels, ‘Heriot’, p. 235.

²¹ Lavelle, *Alfred’s Wars*, p. 122.

²² *Ibid.*

²³ Lavelle, *Alfred’s Wars*, pp. 122–3.

²⁴ Lavelle, *Alfred’s Wars*, pp. 123, 128.

²⁵ These methodological issues are potentially exacerbated by the omission of some key items in certain wills. For example, S 1511 records the following: ‘Ærest his kynehlaforde ænne beah . on hundehtotigan mancysan godes ; 7 an handsecs . on ealswa miclan . 7 feweor hors ; twa gerædede . 7 twa sweord gefetelsode . 7 twegen hafocas ; 7 ealle his headorhundas ; 7 ðære hlæfdian . ænne beah on ðrittigan mancysan godes ; 7 ænne stedan . to forespræce . þæt se cwyde standan moste’ (First, to his royal lord an armlet of eighty mancuses of gold and a short sword of the same value, and four horses, two with harness, and two sheathed swords, and two hawks and all his staghounds. And to the queen an armlet of thirty mancuses of gold, and a stallion, for her advocacy that the will might stand). Lavelle notes only ‘1 armlet of 80 mancuses of gold; (+ 1 armlet of 30 mancuses to queen)’, ‘1 short sword’ and ‘2 ?sheathed swords’, and ‘2 hawks with staghounds (+ stallion to queen)’. Therefore, the four horses, two of which were harnessed, are omitted. Likewise, S 1537 records the following: ‘And ic

which survive cannot be easily categorised by either rank or wealth. Heriots which survive are, I suggest, the product of changing pressures upon the relationship between lord and retainer and the will-making process more generally.

As will be shown below, very few surviving heriots fit the gradations of II Cnut. Further confusing the picture, numerous wills make no mention of the heriot, and rarely can we be sure of testators' ranks. The discrepancies cannot be laid solely at the foot of a) inflation, b) regional discrepancies, or c) supplementary or augmenting gifts. Writing the nuances of how the heriot was levied back into the history of the period is, I argue, necessary and need not be a frustrating enterprise. Certainly, it disrupts the neat social demarcations that scholars (and medieval ideologues) tend to favour, but a social landscape dominated by a spectrum of heriot payments better reflects the growing complexity of society in tenth- and eleventh-century England. Moreover, the attempt to regulate social boundaries in II Cnut fits well within the broader political ambitions of the drafter of the law code: Archbishop Wulfstan II of York.

The Hand of Wulfstan

Before exploring the corpus in further detail and drawing out the pressures which affected the gifting and levying of heriots, we must confront the role of Wulfstan in the composition of II Cnut. Though his involvement was disputed for some time, the general consensus currently remains that Wulfstan was intimately involved in the crafting of I–II Cnut and, therefore, in the regulation of heriots.²⁶

I–II Cnut drew heavily upon Cnut's 1018 code, issued somewhat hastily in Oxford. As A. G. Kennedy has shown, the 1018 code combines elements from the laws of King Æthelred – the composition of which saw Wulfstan's involvement – with many of the ideas explored in Wulfstan's homilies and political tracts (such as *On Justice, Virtue and the Law* and *The Institutes of Polity*), all the while seeking to stress a return to the supposed stability and just rule of King Edgar.²⁷ Some two

an mine kynelouerd .II. hors. and Helm and brinie. 7 an Swerd and a goldwreken spere' (And I grant to my royal lord two horses and a helmet and a coat of mail, and a sword and a spear inlaid with gold'). Lavelle lists this heriot as comprising '1 sword, 1 spear inlaid with gold', '1 helmet, 1 mailcoat (1 mailcoat to brother's children)' and '2 saddled horses to brother's children'. While he is quite right to note that the testator of S 1537 does give two horses with harnesses to his nephews, two horses are also given to his lord as part of his heriot. These omissions may affect the data compiled. It is, of course, human to err; I have certainly made similar errors in previous iterations of this paper and also run into some difficulties ascertaining what comprised part of the heriot. There is, undeniably, a degree of subjective judgement involved. Lavelle, *Alfred's Wars*, pp. 124–7. See also S 1511 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xi, pp. 26–9, and S 1537 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xxvii., pp. 74–5.

²⁶ The involvement of Wulfstan in shaping the laws of Cnut has generally been accepted since D. Whitelock, 'Wulfstan and the Laws of Cnut', *EHR* 63 (1948), 433–52.

²⁷ A. G. Kennedy, 'Cnut's Law Code of 1018', *ASE* 11 (1983), 57–81. See also N. Marafioti, 'The Legacy of King Edgar in the Laws of Archbishop Wulfstan', *Remembering the Medieval Present: Generative Uses of*

thirds of the 1018 code made its way into I Cnut, though it was reworked to give it a strong homiletic flavour.²⁸ The only sources to have made their way into I Cnut which were not heavily processed by Wulfstan are ‘four quotations/references from II Edgar and one from Alfred’s code’.²⁹ In short, I Cnut can comfortably be understood as the distillation of the political thought and ecclesiastical pronouncements espoused throughout Wulfstan’s career.³⁰

While still undoubtedly shaped by Wulfstan, II Cnut is less easy to categorise. Both Patrick Wormald and Pauline Stafford treat I–II Cnut as a single composition and stress that both display the same guiding principles.³¹ Mary Richards, in contrast, argues that II Cnut is characterised by its ‘piecemeal organization’ and ‘abrupt transitions between certain sections’, suggesting that it was ‘a work in progress rather than a finished compendium’.³² Richards’s position is well summarised in her observation that in II Cnut, Wulfstan ‘struggles to control a mass of material, a third of which is not his own’.³³ Whatever the case may be for the law code as a whole, the section focusing upon heriots is easier to approach.

M. K. Lawson suggests that the clauses which concern the heriot ‘can be regarded as [the] codification’ of earlier practices.³⁴ In particular, he notes that the heriots listed are ‘not from any known legislation, but possibly operative in Æthelred’s time’.³⁵ Here Lawson draws on the work of Brooks, which, as we have seen, is not reliable on this matter. Nonetheless, the section (II Cnut 69–82) in which the regulation of heriots is found (II Cnut 70–71.5 & 73.4) – with its focus on the direction of agents of the crown and payments/fines – cannot be linked with Wulfstan’s other writings. Richards points out that this group of clauses actually contains ‘a law from Cnut’s 1018 code (16.1) requiring widows to wait one year before making a decision to remarry, a position that Wulfstan himself had not taken’.³⁶ Though Richards is quite correct – Wulfstan forcefully argued that widows should not remarry in his *Institutes of Polity* – it would be erroneous to infer that Wulfstan was not integral to the shaping of these laws. Stephanie Hollis notes that while ‘II Cnut’s legislation on widows incorporates modifications imposed on Wulfstan’s pursuit of moral imperatives by Cnut’s other advisors, particularly by his secular advisors, but possibly also by some of his ecclesiastical advisors [...] Wulfstan’s success in enshrining his own particular preoccupations

England’s Pre-Conquest Past, 10th to 15th Centuries, ed. J. P. Gates and B. T. O’Camb (Leiden, 2019), pp. 21–50, at 22–3.

²⁸ M. K. Lawson, ‘Archbishop Wulfstan and the Homiletic Element in the Laws of Æthelred II and Cnut’, *EHR* 102 (1992), 565–86.

²⁹ M. P. Richards, ‘I–II Cnut: Wulfstan’s Summa?’, *English Law Before Magna Carta: Felix Liebermann and Die Gesetze der Angelsachsen*, ed. S. Jurasinski, L. Oliver and A. Rabin (Leiden, 2010), pp. 137–56, at 140. See also P. Wormald, *Making of Early English Law*, pp. 356–60.

³⁰ Richards, ‘I–II Cnut: Wulfstan’s Summa?’, p. 138.

³¹ P. Wormald, ‘Archbishop Wulfstan: Eleventh-Century State-Builders’, *Wulfstan, Archbishop of York: the Proceedings of the Second Alcuin Conference*, ed. M. Townend (Turnhout, 2004), pp. 9–27, at 20; P. Stafford, ‘The Laws of Cnut and the History of Anglo-Saxon Royal Promises’, *ASE* 10 (1982), 173–90, at 174–6.

³² Richards, ‘I–II Cnut: Wulfstan’s Summa?’, p. 155.

³³ Richards, ‘I–II Cnut: Wulfstan’s Summa?’, pp. 146–7.

³⁴ Lawson, ‘Homiletic Element’, p. 581, n. 4.

³⁵ *Ibid.*

³⁶ Richards, ‘I–II Cnut: Wulfstan’s Summa?’, p. 154.

in the legislation he drafted for Cnut is unquestionable'.³⁷ This aligns well with Wormald's observation:

It is not impossible of course that those of Cnut's laws that seem least Wulfstanian were contributed by fellow members of the king's council. But even the 'alleviatory' clauses [II Cnut 69–83.2], of which this looks most likely, were introduced by the unmissable Wulfstanism, 'ealles to swyðe'. Because nothing is (yet) known to be from Wulfstan's pen that is not more or less overtly ecclesiastical in interest, it remains uncertain whether we can credit Wulfstan with Cnut's most secular decrees. One thing does seem sure [...] The vision thereby encapsulated is securely his.³⁸

All in all, the origin for these laws may lie in committee meetings, and, in a sense, Wulfstan was not the author *per se*, but he was the drafter of the law code. Thus, this ecclesiast bearing a 'dominant personality with an overriding vision' was able to pull elements of II Cnut in a direction he favoured.³⁹

A significant body of literature now addresses the fiery ecclesiast's strong vision of how to remake early medieval England into a 'holy society'.⁴⁰ Legislative practices which combined ecclesiastical and secular elements were seen by Wulfstan as 'integral to the realization of his holy society'.⁴¹ Under his oversight, laws 'designed to repress sin and crime became increasingly fused with a pastoral tradition striving for moral and spiritual rearmament'.⁴² One important aspect for the realisation of this vision was that each discrete rank abided by the obligations laid upon them, that individuals sought to move through society in prescribed ways and that lords treated their subordinates fairly.⁴³ Through the medium of the royal proclamation, Wulfstan exhorted sheriffs and reeves not to collect money via unjust taxes.⁴⁴ It is well documented that Wulfstan sought to reset society according to a more just and ordered imagined past and was not afraid to alter various facts as needed.⁴⁵ The heriot boundaries of II Cnut align well with such desires.

³⁷ S. Hollis, "'The Protection of God and the King': Wulfstan's Legislation on Widows", *Wulfstan, Archbishop of York*, ed. Townend, pp. 443–60, at 459–60.

³⁸ Wormald, *Making of Early English Law*, p. 364.

³⁹ Hollis, 'The Protection of God and the King', p. 459.

⁴⁰ The following is not a comprehensive selection: P. Wormald, 'Archbishop Wulfstan and the Holiness of Society', in his *Legal Culture in the Early Medieval West: Law as Text, Image and Experience* (London, 1999), pp. 225–51; A. Rabin, 'The Wolf's Testimony of the English: Law and Witness in the *Sermo Lupi ad Anglos*', *JEGP* 105 (2006), 388–414; J. P. Gates, 'Preaching, Politics and Episcopal Reform in Wulfstan's Early Writings', *EME* 23 (2015), 93–116.

⁴¹ C. Shields-Más, 'Royal Reeves, Royal Authority, and the "Holy Society" in Archbishop Wulfstan's Writings', *Law, Literature, and Social Regulation in Early Medieval England*, ed. A. Adair and A. Rabin (Woodbridge, 2023), pp. 198–221, at 204. See also *Wulfstan: Old English Legal Writings*, ed. and trans. A. Rabin (Cambridge, MA, 2020), p. xiii; E. Stanley, 'Wulfstan and Ælfric: "The True Difference between the Law and the Gospel"', *Wulfstan, Archbishop of York*, ed. Townend, pp. 429–41, at 433–8.

⁴² Wormald, *Making of Early English Law*, p. 364.

⁴³ A. Rabin, *The Political Writings of Archbishop Wulfstan of York* (Manchester, 2015), p. 65.

⁴⁴ *The Laws of the Kings of England*, ed. and trans. Robertson, pp. 150–1.

⁴⁵ Wormald, *Making of Early English Law*, p. 71; Rabin, *The Political Writings of Archbishop Wulfstan of York*, p. 67; D. Sukhino-Khomenko, "'Thrymsa, a Coin [not] in Circulation in Northern England":

The heriot was a ceremonial obligation which reinforced vertical bonds of lordship and might be turned to the purpose of demarcating social boundaries. Furthermore, it was an ideal tool for regularising a complex society that had been highly destabilised during Æthelred's reign.⁴⁶ As Lawson notes, II Cnut likely saw the codification of previous social practices, but the degree to which Wulfstan reshaped this transaction between superordinate and subordinate in the drafting process should not be minimised.⁴⁷ Indeed, the use of *riht* in specific clauses of the heriot regulations chimes well with what Hollis describes as the 'relentless binary oppositions' of '*riht* versus *unriht*', which are found throughout Wulfstan's work.⁴⁸ This, too, is compelling evidence of his hand in shaping the heriot regulations.

That the levying of the heriot was codified under Cnut and not before is therefore entirely fitting with the political atmosphere of the early eleventh century. II Cnut and the heriot regulations sit at the nexus of a series of social and political pressures. This does not, of course, mean that Wulfstan invented figures with no relationship whatsoever to social practice. However, the effort to tie certain values to corresponding ranks and to regularise social relations fits well with Wulfstan's other efforts to regulate the social hierarchy and ensure proper relations between lord and subject. The laws of II Cnut must be approached bearing all of this in mind, and it would be highly incautious to assume that the heriots in the law code are representative of everyday practice.

Corpus

Eighty-two early English wills survive in dispositive documents, namely charters in which the belongings of an individual and to whom they are to be bestowed are discretely laid out.⁴⁹ Two survive from the eighth century, twelve from the ninth,

Source Criticism of Archbishop Wulfstan's *Norðleoda laga* and its Monetary Systems in the Way of Social History (England, 10–11th Centuries)', *Proslogion: Stud. in Med. and Early Mod. Soc. Hist. and Culture* 6 (2021), 8–41.

⁴⁶ Alongside military incursions, Æthelred's reign was characterised by the imposition of heavy exactions, corruption and factionalism, especially in his youth. Among others, see: P. Stafford, 'The Reign of Æthelred II, a Study in the Limitations on Royal Policy and Action', *Ethelred*, ed. Hill, pp. 15–46; S. Keynes, *The Diplomas of King Æthelred 'the Unready' 978–1016: a Study in their Use as Historical Evidence* (Cambridge, 1980); P. Stafford, 'The Laws of Cnut and the History of Anglo-Saxon Royal Promises', *ASE* 10 (1982), 173–90; C. Insley, 'Politics, Conflict and Kinship in Early Eleventh-Century Mercia', *Midland Hist.* 25 (2000), 28–42; R. Lavelle, *Æthelred II King of the English 978–1016* (Stroud, 2002); A. Williams, *Æthelred the Unready: the Ill-Counselled King* (London, 2003); L. Roach, *Æthelred the Unready* (New Haven, CT, 2016); C. Cubitt, 'Reassessing the Reign of King Æthelred the Unready', *ANS* 42 (2020), 1–28.

⁴⁷ See above, p. 13, n. 34.

⁴⁸ Hollis, 'The Protection of God and the King', p. 459. For more on the regular appearance of the term *riht*, see: Shields-Más, 'Royal Reeves, Royal Authority, and the "Holy Society"', pp. 204–5.

⁴⁹ The surveys of both Linda Tollerton and Brooks omit a few wills. See Figure 1 for what appears to be the complete corpus of heriots organised in chronological order, dating errors notwithstanding, and listed by their Sawyer number. Note that S 939 is a confirmation of S 1501, rather than a will in its own right. For more detail, see Brooks, 'Arms, Status and Warfare in Late-Saxon England', pp. 138–61; L. Tollerton, *Wills and Will-Making in Anglo-Saxon England* (York, 2011).

twenty-five from the tenth, and forty-three from the eleventh. Of these, twenty-five charters dating from the 940s to the 1060s can be confidently identified as recording a heriot in some form or another. In addition to the eighty-two wills surviving in charter form, ninety-two survive only in narrative form in the *Liber Eliensis* and the *Chronicon Abbatiae Rameseiensis*, both composed in the twelfth century though likely drawing upon earlier material.⁵⁰ Of the ninety-two wills reported in narrative accounts, only two mention a heriot. Wills surviving in both charter and narrative forms contribute to this analysis. Numbered among the testators of early English wills were athelings, ealdormen and bishops. Testatrices were present in twenty-four wills: nine alongside their husbands and fifteen in their own right. Only in the wills surviving in charter form is it possible to find a full description of the contents of these heriot payments.

A good example of the form these heriots take can be found in the will of Thurstan, son of Wine (composed 1043 × 1045):

And ic an mine kinelouerd for mine Hergete to marc goldes and to hors. and sadelfate and Helm and brinie and Suerd and to scheldes and to speren. And ic wille þat men selle þat lond at Bidicheseye. and nime of þat lond to marc goldes to þe kinges heregete.⁵¹

Helpfully, this charter makes evident that these items are intended to fulfil the obligation of the heriot. Both money and war-gear are bequeathed to his royal lord, with additional landed assets being liquidated to boost the overall value. A will produced by a certain Eadwine of Caddington around 1050 also made explicit the purpose of a gift to his lord: '7 seððan his hlaforde him to heregeaton .iiii. hors, .ii. gesadelode 7 .ii. <u>ngesadelode, et .ii. sweord'.⁵² Other examples include the wills of Bishop Theodred of London (942 × 951), Ealdorman Æthelmær (971 × 982), Æthelwold (post-987), Archbishop Ælfric (1002 × 1005), and Ketel (1052 × 1066).⁵³ However, this declaration that the purpose of these grants was to render a heriot to the testator's lord is not ubiquitous in the sources which survive. The majority simply include a clause which lists items – often war-related paraphernalia – that are bequeathed to a lord. Thus, there is a bit of room for interpretation. For example, Ælfheah, Ealdorman of Wessex, granted to his royal lord

⁵⁰ *Liber Eliensis: a History of the Isle of Ely from the Seventh Century to the Twelfth*, trans. J. Fairweather (Woodbridge, 2005); *Chronicon abbatiae rameseiensis*, trans. W. D. Macray (London, 1886). See also J. Paxton, 'Textual Communities in the English Fenlands: a Lay Audience for Monastic Chronicles', *ANS* 26 (2003), 123–38.

⁵¹ 'And I grant to my royal lord as heriot two marks of gold and two horses and trappings, and a helmet and a coat of mail and a sword and two shields and two spears. And I desire that the estate at *Bidicheseye* shall be sold, and that two marks of gold shall be taken from the estate for the king's heriot': Text and translation of S 1531 follows that of *Anglo-Saxon Wills*, ed. and trans. Whitelock, pp. 80–1.

⁵² 'And then to his lord, as heriot to him, four horses, two saddled and two unsaddled, and two swords': S 1517 in S. Keynes, 'A Lost Cartulary of St. Albans Abbey', *ASE* 22 (1993), 223–34, at 276–7.

⁵³ S 1526, S 1498, S 1505, S 1488, and S 1519 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, i, x., xii., xviii., xxxiv., pp. 2–5, 24–5, 30, 52–3, 88–91.

þæra hundtwæntiga hida æt Wyrðæ and þæs landæs æt Coccham and æt þæcham. and æt Ceolæs wyrðæ. And æt Incgenæsham. and æt Ægelesbyrig and æt Wændofron. And þreo hund mancusa goldæs. and annæ dics an þrym pundom. And anæ soppcuppan an þrym pundan 7 an handsex. and þæræ lecge is hundehtati mancussa goldæs. 7 *seax swurð and seax hors. mid geredan. and swa fæla spæra and scylda.* And he gean Ælfriðæ ðæs cyninges wifæ his gefæðeran. þæs landæs æt Scyræburnan ealswa hit stænt. And þam ylðran æþælingæ þæs cyngæs suna. and hiræ þritiga mancussa goldæs and anæs swurdæs. And þam gincgran ðæs landes æt Wolcnæstedæ.⁵⁴

One could argue that only the war gear – ‘7 seax swurð and seax hors. mid geredan. and swa fæla spæra and scylda’ – destined for the king should be counted as Ælfheah’s heriot. However, the land, money and other expensive items seem to form part of the same body of material. If one were to be even more cautious, it is not unreasonable to query if the gifts to the queen and their sons should also be considered as part of the heriot.

Some of these heriots – such as those of Ælfhelm (‘Polga’ or ‘of Wratting’) and Ealdorman Æthelmær – are relatively close to the stipulations of II Cnut, though only one – that of Ketel – matches the stipulations exactly.⁵⁵ In the former, Ælfhelm gave to ‘his hlaforde. an hund mancusa goldes. 7 twa swurd. 7 feorwer scyldas. 7 feower speru. 7 feower hors. twa gerædode. twa ungerædode.’⁵⁶ Given that the will in which this heriot is found has been dated to between 975 and 1016, it seems reasonable to draw a comparison with these items and those listed in II Cnut. This heriot appears to lie somewhere between the king’s thegn’s – Ælfhelm’s heriot omits a helmet and a coat of mail but includes 50 extra mancuses of gold – and the individual who has a ‘more intimate’ relationship with the king (exceeding this category by fifty mancuses of gold, two horses, one sword, two spears and two shields). Æthelmær bequeathed ‘IIII beagus on ðrym hund mancesum goldes and IIII sweord and VIII hors feower gerædode and IIII ungerædode and IIII helmas and IIII byrnan and VIII speru and VIII scyldas’.⁵⁷ Dated to the beginning of the third quarter of the tenth century, this heriot is roughly contemporary to that of Ælfhelm. Possessing the stature of ealdorman,

⁵⁴ ‘the hundred and twenty hides at Worth and the estates at Cookham, Thatcham, Chelworth, Inglesham, Aylesbury, and Wendover; and three hundred mancuses of gold and a dish of three pounds and a drinking-cup of three pounds and a short sword; and [on] the scabbard there are eighty mancuses of gold; and six swords and six horses with trappings and as many spears and shields. And to Ælfthryth the king’s wife, his *gefædere*, he grants the estate at Shirburn (?) just as it stands; and to the elder ætheling, the king’s son and her’s, thirty mancuses of gold and a sword; and to the younger the estate at Walkhampstead’. Emphasis mine. S 1485 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, ix., pp. 22–5.

⁵⁵ Assuming that Ketel’s helmet, coat of mail, sword and spear constitute his ‘weapons’.

⁵⁶ ‘his lord a hundred mancuses of gold and two swords and four shields and four spears and four horses, two of them harnessed and two unharnessed.’ S 1487 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xiii., pp. 30–1.

⁵⁷ ‘four armlets of three hundred mancuses of gold, four swords and eight horses, four with trappings and four without trappings, and four helmets and four mailcoats and eight spears and eight shields’: S 1498 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, x., pp. 26–7.

Æthelmær has a heriot similar to that prescribed for an earl in II Cnut, falling short of what was expected only by one hundred mancuses. Just before the Norman Conquest, Ketel bequeathed a ‘helm and a brenie . and hors . and gereade . and sverd and spere’.⁵⁸ Out of all the surviving heriots, this seems to align the most with royal regulations, plausibly fulfilling the requirements of a *medemra begn* (ordinary thegn). Given these three examples, it is fair to say that there is *some* correlation between the laws of Cnut and the practice of the heriot. II Cnut was not some flight of fantasy by Wulfstan or the *witan*. However, these examples provide the high-water mark of this correlative pattern. Further comparison between recorded heriots and the stipulations of II Cnut reveals a much weaker relationship than one might be led to believe based upon these examples.

There are numerous examples of heriots which do not bear a strong relationship with the laws of Cnut. Around the year 1000, a certain Wulfgeat – who claimed land from Herefordshire to Staffordshire – declared a heriot of ‘II hors 7 II sweord 7 III scyldas 7 IIII spera 7 x mæran mid x coltan’.⁵⁹ He supplied the weapons of a king’s thegn, but instead of providing four horses, he gave only two and supplied ten mares and ten colts. This heriot does not align with any of the ranks specified in II Cnut unless we assume that the twenty mares and colts equalled the value of two (presumably adult, male) horses. In the second quarter of the eleventh century – well after II Cnut was issued at Winchester – the will of Wulfsgie indicates that he rendered ‘II hors and Helm and brinie . 7 an Swerd and a goldwreken spere’.⁶⁰ This exceeds what was expected of a thegn by quite some way, yet it also falls short of the goods required of a king’s thegn. If we look to Norfolk around the year 1040, it is recorded that Ælfric Modercope paid a heriot of only one mark. He paid the equivalent of just under half a pound, which was less than half of what II Cnut stipulated he was due to pay as a median thegn.⁶¹ In contrast to the examples provided above, these cases indicate that the relationship between the laws of II Cnut and the values which survive in heriots is far from linear. These are not the only cases of such discrepancy, for – as noted above – arguably only one recorded heriot aligns *exactly* with II Cnut. Even a more generous approach, which allows for the kinds of small differences discussed above, still finds that four fifths of the corpus of heriots simply *do not* align with the stipulations of II Cnut.

Brooks seeks to explain away such discrepancies through reference to incremental inflation or a testator’s location within or affiliation with the Danelaw. Both were, in his estimation, to blame for the existence of non-standardised heriots. This line of reasoning is, however, simply not sustainable across the entire corpus. As discussed above, the argument for inflation is underpinned by some faulty assumptions.⁶² Similarly, the testator’s locations

⁵⁸ ‘a helmet, and a mailcoat, and horse, and harness, and sword and spear’: S 1519 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xxxiv., pp. 88–9.

⁵⁹ ‘two horses, two swords, four shields, four spears, and ten mares and ten colts’: S 1534 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xix., pp. 56–7.

⁶⁰ ‘two horses and a helmet and a coat of mail, and a sword and a spear inlaid with gold’: S 1537 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xxvii., pp. 74–5.

⁶¹ S 1490 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xxviii., pp. 74–5.

⁶² See p. 10.

do not account for the discrepancies identified. Returning to the will of Eadwine of Caddington, it lists estates at Caddington, Streatley, Watford, Sundon, Putnoe, Barley, Weston and Knebworth. Given that these manors lay on the cusp of the border between Mercia and the Danelaw, it is possible that his lord – and thus the determination of his due heriot – resided in either region. Yet, it hardly matters, for Eadwine's heriot of 'four horses, two saddled and two unsaddled, and two swords' does not match any of the heriots specified in II Cnut.⁶³ If Eadwine and his lord were subject to the jurisdiction of Mercian law – a likely possibility given that the majority of his estates favoured the Mercian side of the divide – then his heriot lay somewhere between a king's thegn and a lesser thegn. If he was subject to the practices of the Danelaw – a region stretching from London to the north of England – then his heriot did not conform to that of a king's thegn, a thegn with an 'intimate' relationship with the king, or someone of lesser position. These examples are not exceptions but instead represent the norm. Brooks frames heriots such as these as fitting the conditions of II Cnut, arguing that all further money and items were only included to either make up for the shortfalls or enhance the payment for an unknowable reason.⁶⁴ However, as shown above, no such distinction is made between the heriot and the additional gifts in the wills. While other scholars acknowledge the variety, they have also routinely minimised the matter. There is no circumventing that only one recorded heriot definitively matches the exact specifications laid out in II Cnut.

The Role of the Heriot In Lord–Subject Relations

To invert an observation made by Abels (quoted above), the growth of royal power catalysed attempts to regularise the payment of heriots in the tenth century precisely because differences in practice persisted.⁶⁵ II Cnut informs us not so much about normative expectations concerning the heriot, but rather the manner by which the legislative body wished to regulate it. This could be seen as the splitting of scholarly hairs, as II Cnut must have had some relationship to normative practice or else it likely would not have been accepted by the wider politically active community. However, the body of recorded heriots is equally, if not more, informative about the actual implementation of the heriot. In short, using II Cnut as the definitive statement as to how heriots worked in the period is to judge this matter *a priori* and diminishes the value of the actual data which records such transactions.

On balance, it is reasonable to conclude that either II Cnut was largely ignored or, at best, served as a very loose set of guidelines regardless of the ambitions of Wulfstan and the *witan*. The corpus of extant heriots can, therefore, be productively approached without the presence of II Cnut exerting an overbearing effect upon our interpretations. This line of thought is valuable because it opens other

⁶³ S 1517 in Keynes, 'A Lost Cartulary of St. Albans Abbey', pp. 276–7. See above for Old English, p. 16.

⁶⁴ Brooks, 'Arms, Status and Warfare in Late-Saxon England', pp. 144–51.

⁶⁵ See above for quote, p. 11.

possibilities when examining the social dimensions of the heriot in the tenth and eleventh centuries. There were likely many factors that determined the value of a heriot payment. As centred in scholarly discussion, one of these was probably rank. Another factor that has not been discussed in detail is the role of negotiation. Lavelle notes that ‘the variations in what was provided suggest that these heriots also reflected the give and take of relations between lords and their commended men’.⁶⁶ The following will build upon Lavelle’s observation, suggesting a variety of ways this can inform our understanding of the micro-politics between (and beyond) lords and subjects.

Practices comparable to male engagement with the heriot can be found across late-antique and early medieval Europe. Such counterparts can be located from seventh-century Lombardic law, which stated that *gasindii* – a service aristocracy who acted as bodyguards or retainers attached to a king or duke – were to return any arms they had been gifted back to their donor following their death. Similarly, the twelfth-century practices of the *liget* and the *relevium* in Normandy consisted of a payment of military equipment or a payment to a lord in order to inherit land.⁶⁷ In each case, military paraphernalia and/or money was rendered to a lord as part of the relationship between superordinate and subordinate. In some cases, it not only affected lord–subject relations, but it served to secure the inheritance of property. Regarding England, Brooks is adamant that it remained a ceremonial act focused on military relations and that ‘there is no hint in pre-Conquest sources that the Anglo-Saxon heriot was ever a payment by an heir to secure a lease of land from a lord.’⁶⁸ On this matter, Brooks has slowly become an outlier. Abels notes that ‘by the end of the Anglo-Saxon period heriots had become associated with tenurial succession [... and a] lord’s reception of a heriot payment obliged him, in general, to support the deceased’s testamentary bequests.’⁶⁹ Lavelle, while not explicitly addressing this issue of inheritance, echoes this latter sentiment, remarking that ‘if a man wished to ensure his lord’s favour in making a will, it was better to err on the side of post-mortem generosity’.⁷⁰ More recently, I have examined this phenomenon of *quid pro quo* in relation to the adoption of heriots among the upper echelons of society (i.e., ealdormen and bishops), noting that ‘in the tenth and eleventh centuries, the heriot – made under compulsion or not – served to fortify such vertical relations’ and that ‘the need to seek and secure permission to make a will through the use of military paraphernalia appears to have trickled down into the thegnhood’.⁷¹ As scholars have moved away from Brooks’s earlier views, there is increasingly visible empirical evidence that land was withheld from those who would inherit an estate until the heriot was rendered in full.

⁶⁶ Lavelle, *Alfred’s Wars*, p. 122. The emphasis on commended men is curious given that the primary form of lordship was probably tenurial. See S. Baxter, ‘Lordship and Justice in Late Anglo-Saxon England: the Judicial Functions of Soke and Commendation Revisited’, *Early Medieval Studies in Memory of Patrick Wormald*, ed. S. Baxter, C. Karkov, J. Nelson and D. Pelteret (Farnham, 2009), pp. 383–419.

⁶⁷ G. Halsall, *Warfare and Society in the Barbarian West, 450–900* (London, 2003), p. 48.

⁶⁸ Brooks, ‘Arms, Status, and Warfare in Late-Saxon England’, p. 161.

⁶⁹ Abels, ‘Heriot’, pp. 235–6.

⁷⁰ Lavelle, *Alfred’s Wars*, p. 122.

⁷¹ Pracy, ‘Both to Bind and to Loosen’, pp. 88–9.

In II Cnut 73.4, it is stated that ‘every widow shall pay the heriots within twelve months without incurring a fine, if it has not been convenient for her to pay earlier’.⁷² After this period of grace had expired and a widow had still yet to pay her husband’s heriot, we may presume a fine was to be paid. Likewise, we may also deduce that it was standard practice to take castigatory measures until a testator’s heriot was paid by his kin. Thanks to the survival of a detailed series of charters, it is possible to see this process play out, and the punitive measure could involve withholding land from an inheritor. Towards the close of the tenth century, Æthelric of Bocking declared the following:

þ[æt] is ærest *sona* minum hlaforde . syxti mancusa goldes . 7 mines swyrdes mid fetele . 7 þarto twa hors . 7 twa torgan . 7 twegen francan [...] 7 ic geann þæs landes æt Rægene be westan . into s[an]c[t]e Paule þam bisceope to geleohtenne . 7 þar on Godes folce cristendom to dælenne [...] Nu bidde ic þone bisceop Ælfstan . þ[æt] he amundige mine lafe 7 þa þincg þe ic hyre læfe . 7 gif him god lifes geunne lencg þonne unc þ[æt] he gefultumige þ[æt] ælc þara þinga stande þe ic gecweden hæbbe.⁷³

It is worth noting the unusual inclusion of the adverb *sona* (italicised above), which emphasises that this heriot should be paid as soon as possible. The reason for Æthelric’s anxiety is made clear in a charter which followed his death:

Her swutelað on þison gewrite hu Æðelred kyning geuðe þ[æt] Æþerices cwyde æt Boccinge standan moste. hit wæs manegon earon ær Æðeric forðferde þ[æt] ðam kincge wæs gesæd þ[æt] he wære on þam unræde þ[æt] man sceolde on Eastsexon Swegen underfon ða he ærest þyder mid flotan com [...] þa wæs he þisse spæce ægþer ge on life . ge æfter ungeladod ge ungebett oð his laf his hergeatu þam cincge to Cocham brohte þær he his witan widan gesomnod hæfde.⁷⁴

⁷² See above for Old English, p. 2.

⁷³ ‘First of all, *straightaway*, to my lord sixty mancuses of gold, and my sword with the belt, and in addition two horses, and two round shields, and two javelins [...] And I grant the estate to the west of Rayne to St Paul’s for the bishop, for the provision of lights and for the communication of Christianity to God’s people there [...] Now I pray Bishop Ælfstan that he will protect my widow and the things that I leave to her, and, if God grant him longer life than us, that he will help to secure that each of the bequests which I have made may stand’: S 1501 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xvi (i), pp. 42–3. Note that Dorothy Whitelock omits the word *sona* in her translation, hence its addition here.

⁷⁴ ‘It is shown here in this document how King Ethelred granted that the will of Æthelric of Bocking should stand. It was many years before Æthelric had died that the King was told that he was concerned in the treacherous plan that Swegn should be received in Essex when first he came there with a fleet [...] Then, both during his life and afterwards, he was neither cleared of this charge, nor was the crime atoned for, until his widow brought his heriot to the King at Cookham, where he had gathered his council from far and wide.’: S 939 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xvi (2), pp. 44–5. On the robust style of Æthelred’s early reign, see: S. Keynes, *The Diplomas of King Æthelred the Unready*, pp. 176–208; C. Cubitt, ‘The Politics of Remorse: Penance and Royal Piety in the Reign of Æthelred the Unready’, *Hist. Research* 85 (2012), 179–92; L. Roach, *Æthelred the Unready*, pp. 100–22.

The delivery of Æthelric's heriot did not wholly settle the dispute, for Æthelred raised the matter of treachery before the *witan*, seeking to seize the entire contents of the will, and it was only with the help of several advocates that Æthelric's widow was able to set things right and the land was disbursed to the beneficiaries. Still, the payment of the heriot was envisaged by Æthelric and his wife as a way to make amends and, perhaps, to remind Æthelred of his lordly obligations to honour the testament of the deceased.

Though the above is, arguably, a rather extreme example involving possible treason, more mundane examples are found elsewhere. The will of Leofgifu, issued in the second quarter of the eleventh century, granted to the king 'to marc goldes for min eruenmen to 7 gealeaste þat gold'.⁷⁵ While the will does not expressly say that the payment is a heriot, it fits the broader pattern, as the two marks of gold are to be paid to her royal lord so that her heirs could inherit what was bequeathed.

In the *Liber Eliensis*, we find two examples of testators who failed to leave adequate arrangements to pay their heriots. Eadric *Longus* (probably meaning 'the Tall'), apparently wishing to alienate his estates at Hauxton and Newton from his kin, bequeathed them to King Edgar. Eadric confirmed this by sending a chirograph of his will to the king. These estates were then purchased from the king for two hundred mancuses by Bishop Æthelwold. However, the bishop failed to secure the charters and pay the 'relevationes [...] de illis terris' before King Edgar died, providing an opportunity for Eadric's dispossessed family to undo the testament.⁷⁶ They seized the charters and all three hides at Newton. With the charters for both properties in the hands of Eadric's kinsmen, the bishop appears to have been quite apprehensive, fearing that his purchase would face further contestation. Finally, Ealdorman Byrhtnoth – the second ealdorman to become involved in the case – settled the affair by mediating a compromise in which the charters were restored to the bishop.⁷⁷ The importance of written documentation is made stark, as is the role of the heriot.⁷⁸ Heriots were, therefore, inheritable by whoever took hold of the land after an individual's death if the original testator failed to make arrangements on their own behalf. In the case above, King Edgar appears to have withheld the charters until Æthelwold had accounted for the missing heriot. If he had been able to arrange for the payment sooner, he might have avoided the entire fiasco.

The second account is that of Leofsige, from whom Bishop Æthelwold bought two hides at Kensworth for £4. Æthelwold paid Leofsige – one of his leading men – the first instalment of sixty shillings in the witness of Ælfweard of Stodham. However, before the second payment of twenty shillings could be paid, Leofsige died. As his lord, Æthelwold never made the second payment and

⁷⁵ 'two marks of gold - my heirs are to succeed to the inheritance and pay the gold': S 1521 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xxix., pp. 76–7.

⁷⁶ 'heriots [...] in respect to those properties': *Liber Eliensis*, trans. J. Fairweather, ii.27, p. 123. Latin found in *Liber Eliensis*, ed. E. O. Blake, Camden Soc. 3rd ser. 92 (London, 1962), ii.27, p. 101.

⁷⁷ *Liber Eliensis*, ed. and trans. Fairweather, ii.27, p. 124.

⁷⁸ Cf. II Cnut 70 on intestacy.

inherited the rest of the land in lieu of Leofsige's failure to supply his heriot.⁷⁹ In the volatile and competitive landscape of early English local politics, even a bishop could fall foul of the predations of others, and Æthelwold eventually lost the land through the pillage and violence of others. The fact remains that lords were enthusiastic to lay claim to what they were owed or, at least, what they felt they were owed, even if a testator was hard pressed to honour such demands.

The seriousness of failing to deliver one's heriot prompted will-makers to adopt suitable precautions in the eleventh century. Ælfric Modercope bequeathed one mark of gold for his heriot and stipulated 'þat schal Godric mine brother lesten'.⁸⁰ Ælfric's cautiousness concerning this matter may simply be down to the fact that he was planning to go abroad and wished to be certain his heriot would be paid if he did not return. In the bequest of a certain Godric (unrelated to Ælfric), the estate of Thorington was given to his brother Eadnoth, the Abbot of Ramsey. He asked that his brother 'adquietet eam de seruitio quod heregeat Anglice Latine releuatio haereditatis, dicitur, quae ab haeredibus liberis post mortem patrum dominis solet impendi'.⁸¹ The association between the Anglo-Norman relief and the heriot is not important here; that explanation was likely added when it was copied into its fourteenth-century form. The underlying purpose – to transfer both the estate and its heriot to Godric's brother – is presumed original to the early eleventh-century document from which it is taken. As we have seen before, this passage suggests that an outstanding heriot was transferable along with a testator's estates. Around the year 1000, Ælfhelm Polga granted the manor of Stockton to his agnate Leofsige with the following proviso: 'ic gean him 7 his wiue þæs lands æt Stoctune . wið an hund mancusa goldes . 7 ic wylle þ[æt] man selle minum hlaforde þ[æt] gold . to minum heregeatum'.⁸² Confusingly, Ælfhelm had already specified in his will that 'a hundred mancuses of gold and two swords and four shields and four spear and four horses, two of them saddled and two unsaddled' would be given to his lord to settle his heriot.⁸³ It could be that, in giving Leofsige the land, responsibility for part of the heriot was transferred to him. Hence, the hundred mancuses were to be paid straight to the lord rather than to Ælfhelm's wife. Alternatively, Ælfhelm may have sold the land to Leofsige to generate the funds to pay for his agreed heriot. This latter need to liquidate assets in order to pay a heriot was definitely the case in Thurstan's decision in the 1040s to sell an estate *post-obitum*, with two

⁷⁹ *Liber Eliensis*, trans. Fairweather, ii.49a, pp. 139–40. On land disputes, see A. G. Kennedy, 'Disputes about bocland: the Forum for their Adjudication', *ASE* 14 (1985), 175–95; A. G. Kennedy, 'Law and Litigation in the *Libellus Æthelwoldi episcopi*', *ASE* 24 (1995), 131–83.

⁸⁰ 'that Godric, my brother, is to pay': S 1490 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xxviii., pp. 74–5.

⁸¹ 'may acquit/discharge it of the service which in English is called *heregeat* or in Latin, a relief of inheritance, which is to be paid to the lords by free heirs after the death of their fathers.': S 1518 in KCD, 928, iv, p. 266.

⁸² 'I grant to him and his wife the estate at Stockton for a hundred mancuses of gold, and I wish that the gold be given to my lord in payment of my heriot': S 1487 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xiii., pp. 32–3.

⁸³ S 1487 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xiii., pp. 30–1. For the Old English see above.

marks of gold being taken to pay his heriot to the king.⁸⁴ We might even speculate that Wulfsige's early- to mid-eleventh-century gift of land, two horses, one coat of mail and one cloak to his nephews was an attempt to prepare them against such future demands.⁸⁵ In short, the heriot was not a duty one lightly shirked, even if it was particularly onerous, and a sensible testator made allowances for its extraction in their wills.

Given that the majority of extant wills render a heriot to the king rather than a lord of a lower stature, concerns regarding this obligation extended beyond one's duty to intermediary lords all the way to one's duty to the king.⁸⁶ Some of the king's direct subordinates struggled to pay the heriot, selling land to generate enough income to pay what was expected and falling short of the 'normative' values espoused in II Cnut – a stark contrast to those who carefully paid in excess. This significant degree of variability in the amounts of war-gear transferred suggests that heriots were not paid at said 'normative' values even between king and subject. We could, perhaps, conceptualise some of the recorded heriots found in wills as instances of overpayment *and*, importantly, some as underpayments. It is certainly not controversial to suggest that some testators unilaterally increased their heriot, seeking to either ensure beyond doubt that their will was supported or to gain additional influence for themselves or their family. After all, it is worth remembering most wills were declared in public well in advance of a testator's death. If these were, in some sense, overpayments or underpayments in relation to II Cnut, the law code was perhaps something closer to an initial reference point by which testators could orient their gift-giving practices, seemingly serving only as the very beginning of a longer process of negotiation.⁸⁷ After all, even the king himself does not appear to have ensured conformity of practice with his own law code, and took as much or as little as was dictated by the circumstances. If one is minded to understand that II Cnut potentially operated as an initial starting point for guiding the size of heriots bequeathed, it cannot be overlooked that the overwhelming majority of the final payments do not align with its guidance, presumably having moved in relation to the power balance between the parties, and other contextual factors. Thus it remains impractical to directly link heriots in extant wills to the ranks stipulated in II Cnut. The heriots which survive were a product of a whole array of social and economic influences.

⁸⁴ S 1531 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xxxi., pp. 80–4.

⁸⁵ See n. 60.

⁸⁶ See Lavelle, *Alfred's Wars*, p. 115. See also S 1490 and S 1519 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xxviii. and xxxiv., pp. 74–5, 88–9. It is also worth noting an entry in *Domesday Book* suggesting that by the end of the eleventh century, if one did not render a heriot to one's king, it was common practice to give it to the local sheriff (DB NOTT S 3): 'Tainus habens plusquam .vi. maneria non dat terrae releuacionem nisi regi tantum .viii. librae. Si habet .vi. tantum uel minus : uicecomiti dat releuacionem .iii. markas argenti ubicumque maneat in burgo uel extra' (A thane who has more than six manors does not pay death-duty on his land, save only to the King, £8. If he has only six or less, he pays death-duty to the Sheriff, 3 silver marks, wherever he may live, within the Borough or outside). References to *Domesday Book* are cited by county and Phillimore reference. For example, 'DB CORN 4,17' would indicate *Domesday Book*, VI, Cornwall, ed. F. Thorn and C. Thorn (Chichester, 1979), §4,17.

⁸⁷ Though unprovable, it may even have been that testators spent quite some time negotiating their heriot with their lord.

Bearing all of this in mind, we can go beyond Lavelle's statement that some wished to 'err on the side of post-mortem generosity' and theorise that some heriots were extracted from unwilling testators and potentially at higher rates than they would have liked.⁸⁸ Moreover, some testators may have sought to withhold their heriot. The mention of a fine in II Cnut strongly suggests that the failure, avoidance or outright refusal to pay the heriot was common enough to warrant the implementation of regulation. Unless we imagine that the king and his agents were chasing and punishing every person who paid anything less than the values of II Cnut, it seems likely that even kings were willing to indulge in a little give-and-take in the settlement of heriots.⁸⁹ Receiving any heriot was probably better than receiving nothing at all.

There was, of course, a limit to how much a lord of any standing could seek to withdraw from their subordinates without risking destabilising the entire system. Still, clause 70 of II Cnut notes that 'if one depart from this life without a will [...] then the lord shall take no more from his property than his lawful heriot'.⁹⁰ So, while only one testament survives that definitively concerned the payment of a heriot to a lord other than a king – in that case an archbishop – this legislation indicates that some lords sought to claim as much as they could.⁹¹ Though a highly speculative example, the will of the wealthy and influential Wulfric Spott records his decision to bequeath *heregeatland* to Burton Abbey, which may point to the lordly exaction of the heriot. This heriot-land was not part of Wulfric's own heriot, which was recorded much earlier in the document, but might instead refer to land that he had acquired via a subordinate's attempt to pay the heriot due to him or even the subordinate's forfeiture of this parcel of land to cover what they owed to Wulfric.⁹²

Such concerns about lordly exactions may even have related to the king and, specifically, Cnut's predecessor Æthelred. The case of Æthelric of Bocking may indicate an overzealous and punitive king – something which aligns with the youthful indiscretions and land grabs of Æthelred's early reign.⁹³ Bearing this and the prophylactic nature of wills in mind, it is worth entertaining the possibility that heriots specified in wills sought to prove either a) that the

⁸⁸ Lavelle, *Alfred's Wars*, p. 122.

⁸⁹ On the limits of royal power, see R. Abels, "'The Crimes by which Wulfbald Ruined Himself with His Lord': the Limits of State Action in Late Anglo-Saxon England", *Reading Med. Stud.* 40 (2014), 42–53. Do note, however, that several clauses of II Cnut suggest that the drafter, Wulfstan, certainly imagined the crown taking a punitive approach to several legal matters. See I Cnut 8.2 in which the king's reeve, bishop's reeve and the reeve of the lord of the manor are to take 90 per cent of a person's produce if they refused to render their tithes: *The Laws of the Kings of England*, ed. and trans. Robertson, pp. 164–5. See also A. Rabin, 'Witnessing Kingship: Royal Power and the Legal Subject in the Old English Laws', *Kingship, Legislation and Power in Anglo-Saxon England*, ed. G. R. Owen-Crocker and B. W. Schneider (Woodbridge, 2013), pp. 219–36.

⁹⁰ For the Old English, see above, p. 1.

⁹¹ S 1519 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xxxiv., pp. 88–9.

⁹² S 1536 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xvii., pp. 48–9. Cf. the example below in which *Domesday* customs for Herefordshire stipulate that the king could take a burgess's land if they died intestate (n. 103).

⁹³ Keynes, *The Diplomas of King Æthelred the 'Unready'*, pp. 176–208; Cubitt, 'Penance and Royal Piety in the Reign of Æthelred the Unready', pp. 179–92; Roach, *Æthelred the Unready*, pp. 100–22.

subordinate had paid in excess of the 'lawful heriot' as determined in the laws or b) that the subordinate had reached an agreement with their lord to pay less and wanted to ensure that, upon the testator's death, the superordinate did not renege on the deal.⁹⁴ Thus, the two eleventh-century wills which concisely declare that they would supply to their lord their *rihte heregete/riyte heriet* – or 'due heriot' – might either serve as statements that they were not concerned about a greedy lord and expected them to follow due process or the exact opposite, with the phrase acting as an exhortation to take only what was due.⁹⁵ In this way, these wills may have deliberately echoed the rhetoric, if not the amounts, of II Cnut 70, and implored their lords to behave appropriately, hoping that the wider community and local custom would form a check on extortive actions. The problem of corrupt agents of the Crown taking too much money still plagued the kingdom more than five years after II Cnut, for Cnut's *Proclamation of 1027* notes that sheriffs and reeves should not collect money via 'iniqua exactione'.⁹⁶ Despite such apparent concern for his subjects, Cnut proclaims in the same document that if various dues were not paid, then they were to be exacted 'secundum leges, in quem culpa cadit, districte absque uenia comparabit'.⁹⁷ Those who followed the rules had nothing to fear, as long as they could afford it.

The potential for the heriot to be demanded in an extortive manner increased in the eleventh century, especially as the number of minor thegns proliferated.⁹⁸ Heriots began – at least as far as can be discerned from the written record – among the highest of elites, ealdormen and bishops at the beginning of the tenth century.⁹⁹ Slowly but surely this practice was adopted among the thegnhood more widely some fifty or so years later. Will makers knew that their testaments were not binding, and the heriot was one way that less powerful individuals could ensure that an influential advocate might enforce the documents they left behind. In this way, the creation of a will concerned the reinforcing of *inter vivos* relationships just as much as the disposition of *post obitum* gifts. The declaration of a heriot in front of a crowd acted as a nexus of explicit social stratification and revealed both one's social and fiscal aspirations and capabilities to the local

⁹⁴ Lavelle advocates for option 'a'. See Lavelle, *Alfred's Wars*, p. 122. The mention of a lawful heriot may or may not refer to II Cnut. It is entirely plausible that it is rather a call to local, unrecorded custom.

⁹⁵ 'rihte heregete': S 1488 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xviii., pp. 52–5; S 1528 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xxv., pp. 70–1; S 1535 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xix., pp. 84–7.

⁹⁶ 'unjust exactions': *The Laws of the Kings of England*, ed. and trans. Robertson, pp. 150–1.

⁹⁷ 'in accordance with the laws, sternly and without remission, from him who is in fault': *The Laws of the Kings of England*, ed. and trans. Robertson, pp. 152–3.

⁹⁸ On the increasing number of minor thegns, see: J. Campbell, 'England, c. 991', *The Battle of Maldon: Fact and Fiction*, ed. J. Cooper (London, 1983), pp. 1–17; M. R. Godden, 'Money, Power and Morality in Late Anglo-Saxon England', *ASE* 19 (1990), 41–65; J. Gillingham, 'Thegns and Knights in Eleventh-Century England: Who Was Then the Gentleman?', *TRHS* 5 (1995), 129–53; C. Senecal, 'Keeping Up with the Godwinesons: in Pursuit of Aristocratic Status in Late Anglo-Saxon England', *ANS* 23 (2001), 251–65; R. Fleming, 'The New Wealth, the New Rich, and the New Style in Late Anglo-Saxon England', *ANS* 23 (2001), 1–22; P. Coss, *The Origins of the English Gentry* (Cambridge, 2003), pp. 20–3, 38–42.

⁹⁹ Pracy, 'Both to Bind and to Loosen', pp. 86–91.

community. As a statement of status, a large list of bequests of – at times undefined – estates would be less compelling than a singular payment of war-gear to a lord. If someone had to default on their proclaimed heriot due to unforeseen circumstances, an amended heriot could act as an open admission of failure. Not only did it indicate that they could not manage their interests successfully but also that they could not be trusted reliably to honour their promises. In the competitive world of thegns – as depicted in the studies of Robin Fleming and Christine Senecal – conspicuous consumption amongst the lower thegnly ranks increased dramatically in the late tenth and early eleventh century.¹⁰⁰ A broad swathe of similarly influential thegns sought desperately to signal their status to their peers. We may presume, in such a setting, that the public airing of the failure or unwillingness to yield a heriot could initiate a form of ‘social death’ and loss of a lord’s largesse. While heriots might offer a potential opportunity to curry favour with a lord and to demonstrate one’s growing power, they could equally create a moment of vulnerability. (Though, as discussed above, some testators seem to have taken the risk of withholding a heriot). Legal expectations, combined with the powerful negotiating position held by those who could advocate on behalf of the less powerful, created the potential for heriots to develop as a tool of extraction.

In the context of this social change, the heriot began to be increasingly commuted into money payments. *Domesday Book* furnishes us with numerous examples of the commutation of the heriot.¹⁰¹ Abels maintains that ‘the nobility often continued to pay this impost in kind’ demonstrating the ‘resistance of the heriot to commutation’ and ‘the persistence of the military ethos among the Anglo-Saxon aristocracy’.¹⁰² If, as Abels argues, the military ethos persisted among the nobility, then it must also have been present among elite ceorls

¹⁰⁰ Fleming, ‘The New Wealth, the New Rich, and the New Style’, pp. 1–22; Senecal, ‘Keeping Up with the Godwinesons’, pp. 251–65. On social competition and the boundaries between ceorls and thegns, see S. Pracy, *Visions of Hierarchy and Inequality in Early Medieval England* (Cambridge, 2025).

¹⁰¹ DB CAM B14; HEF C9; SHR C7; SUR 1, 8. A good example is included in the records of Hereford: ‘Moriente aliquo regis monetario : habebatur rex .xx. solidos de releuamento quod si moreretur non diuiso censu suo : rex habebatur omnem censum’ (When any moneyer of the King died, the King had 20s in death-duty. But if he died without bequeathing his wealth, the King had all his wealth). Abels provided further examples in *Domesday Book* of heriots being paid in cash, citing ‘DB, i. 269 (between the Ribble and Mersey, Lancs), 280b (Notts)’. The information provided can be more precisely located here: DB CHS R1, 40g and NTT S3 (280c rather than 280b). Abels invited comparison of these aforementioned entries with DB, i. 56b (Beds.). It appears that Abels meant to reference DB BRK B10 (there is no 56b in the Bedfordshire volume): ‘Tainus uel miles regis dominicus moriens : pro releuamento dimittebat regi omnia arma sua et equum .i. cum sella alium sine sella : Quod si essent ei canes vel accipitres : praesentabantur regi ut si uellet acceperet’ (At his death, athane or a King’s household man-at-arms sent to the King as death-duty all his arms and horse, one with a saddle, another without a saddle; but if he had dogs or hawks, they were presented to the King, to accept if he wished). The Berkshire entry has been taken to show that the heriot was paid in arms outside the Danelaw. Thus, Abels has argued that the Danelaw played a role in encouraging the heriot to be commuted into cash payments. While some of these entries do line up with the Danelaw, the picture is far from clear. For example, in Shropshire – far from the Danelaw – the heriot was paid in cash (DB SHR C 7). See also Abels, *Lordship and Military Obligation*, pp. 265–6, n. 45.

¹⁰² Abels, *Lordship and Military Obligation*, pp. 137–8; Abels, ‘Heriot’, p. 235.

too, for – after 1066 – burgesses in Herefordshire, Norfolk and Lincolnshire were participating in the heriot system. Depending on their circumstances, some paid in arms and some in cash.¹⁰³ This may, of course, only evidence a sudden and dramatic change in the way the heriot was levied at the end of this period. However, the data from the Domesday survey reveals that wealthy thegns and earls routinely enjoyed leasing their urban properties to burgesses in the time of King Edward the Confessor.¹⁰⁴ So too had lords paid increasing attention to towns and the inhabitants therein, as urban environments became increasingly influential across the course of the eleventh century.¹⁰⁵ As burgesses began to hoard wealth and accrue the trappings of status,¹⁰⁶ it makes sense that lords extended the heriot to these emerging groups even if they did not fit the traditional profile of heriot-paying nobility – especially as ‘thegn-burgesses’ grew as a social group who blurred such boundaries even more.¹⁰⁷ Given the examples discussed above, which show both legislative and practical concerns about lordly predation and/or the need to protect one’s testament from interference, it is entirely possible that lower ranking individuals – such as lordly ceorls and wealthy merchants – had been paying the heriot for quite some time before the Norman Conquest. After all, II Cnut 70 suggests that people with any degree of significant wealth made a bequest of sorts, and lords felt entitled to a payment for upholding such testaments.¹⁰⁸ Thus, the attempts of II Cnut to regulate heriot-making and heriot-taking spoke to a great deal of intersecting social pressures, and its neat demarcations belie a complicated and unclear social landscape. For Wulfstan, whose hand shaped this law code, such a disordered hierarchy – riddled with unjust mechanisms of lordship and reluctant subordinates – went against his vision for an ordered, holy society. The heriot served as

¹⁰³ Williams references DB HEF fo. 181; LINC fo. 336v.; NOR LDB fo. 119, equivalent to Phillimore DB HEF 1,49; LINC S 4; NOR 1, 70; Williams, *The World Before Domesday*, pp. 151, 183. Another account from Herefordshire (HEF C5) notes: ‘Burgensis cum caballo seruiens cum moriebatur habebat rex equum et arma ejus : De eo qui equum non habebat, si moreretur habebat rex aut . x. solidos . aut terram ejus cum domibus . Si quis morte praeuentus non diuisisset quae sua erant : rex habebat omnem ejus pecuniam’ (When a burgess who served with his horse died, the King had his horse and arms. If a man who did not have a horse died, the King either had 10s from him or his land with its houses. If anyone had not bequeathed his possessions because of untimely death, the King had all his property). In Shropshire (DB SHR C7), ‘Burgensis qui in dominio erat regis cum moriebatur : habebat rex . x. solidos de releuamento’ (when a burgess who was in the King’s lordship died, the King had 10s in death-duty).

¹⁰⁴ R. Fleming, ‘Rural Elites and Urban Communities in Late-Saxon England’, *Past & Present* 141 (1993), 3–37, at 6, 8, 9–10.

¹⁰⁵ D. Stocker, ‘Aristocrats, Burgers and Their Markets: Patterns in the Foundation of Lincoln’s Urban Churches’, *Everyday Life in Viking-Age Towns: Social Approaches to Towns in England and Ireland, c. 800–1100*, ed. D. M. Hadley and L. ten Harkel (Oxford, 2013) pp. 119–43, at 139–40.

¹⁰⁶ ‘Burgesses settled around Flaxengate, in Lincoln [...] had begun to eat like thegns’: Fleming, ‘The New Wealth, the New Rich and the New Political Style’, p. 8. See also: D. Stocker, ‘Monuments and Merchants: Irregularities in the Distribution of Stone Sculpture in Lincolnshire and Yorkshire in the Tenth Century’, *Cultures in Contact: Scandinavian Settlement in England in the Ninth and Tenth Centuries*, ed. D. Hadley and J. D. Richards (Turnhout, 2000), pp. 179–212.

¹⁰⁷ Fleming, ‘Rural Elites and Urban Communities’, pp. 33–4. See also C. Loveluck, *Northwest Europe in the Early Middle Ages, 600–1150: a Comparative Archaeology* (Cambridge, 2013), pp. 366–7.

¹⁰⁸ Note that DB HEF C5 (see n. 103) provides evidence that the king could expect to take the property of intestate burgesses.

one of the many tools of the legislative body to whip an undisciplined realm into shape after the failures of the preceding regime.

Conclusion

In the early eleventh-century will of Archbishop Ælfric of Canterbury, who bequeathed an enormous amount of war-gear – including a ship – to his lord, we find evidence that even this very wealthy individual made sure to pay his debts and specify that his due heriot should be disbursed:¹⁰⁹

and he becwað his laford his beste scip 7 þa segelgeræda ðarto . 7 LX . healma
7 LX . beornena [...] And he becwæð þ[æt] man fenge on þe feoh ðe man
hæfde 7 ærest ælcne borh agulde 7 suððan tilode to his hergeatwæn þæs ðe
man habban sceolde . And anes scipes he geuðe þam folce to Cent . 7 oþres to
Wiltunescire.¹¹⁰

It is hard to imagine that someone as wealthy as Ælfric was in financial trouble. However, it is worth noting that he was particularly attentive to ensuring that all his debts and his heriot were paid fully and in an orderly fashion. For those who sat much lower down the social and financial spectrum, the obligation to pay one's heriot and to balance various communal pressures – loyalty to one's lord, the need to display status, and maintain the fiscal stability of one's estates – must have been keenly felt. Such nuances of lord–subject relations can only be seen if the overbearing presence of II Cnut is put into perspective.

While the clauses of II Cnut that detail the heriot were likely composed by committee in a meeting of religious and secular leaders, Wulfstan seems to have kept a firm grip on the process of putting these ideas onto parchment. Wulfstan's preoccupation with creating a just and ordered holy society acted as a powerful lens through which the contents of I–II Cnut were shaped. Bearing this and the practicalities of producing viable law codes in mind, we should be careful not to let II Cnut dominate our understanding of the ways in which the heriot was levied in practice. Contrary to previous treatments of this material, a cautious reassessment of the dispositive evidence yields a corpus in which very few heriots match the stipulations of II Cnut. The law code provided, at most, a nominal value, one which a few wills referenced and utilised for prophylactic reasons, but for most testators the size of their heriot deviated significantly from this normative ideal, instead being affected by social factors beyond their rank.

¹⁰⁹ For an exploration of military role of the archbishops of Canterbury (and specifically Archbishop Ælfric), see C. Insley, 'Naval Warfare, the State, and the Archbishops of Canterbury in the Tenth and Eleventh Centuries', *Haskins Soc. Jnl* 33 (2023), 1–12.

¹¹⁰ 'And he bequeathed to his lord his best ship and the sailing tackle with it, and sixty helmets and sixty coats of mail [...] And he arranged with what money there was should be taken and first every debt paid, and afterwards what was due was to be provided for his heriot. And he granted a ship to the people of Kent and another to Wiltshire': S 1488 in *Anglo-Saxon Wills*, ed. and trans. Whitelock, xviii., pp. 52–3.

As I have argued, if we embrace rather than obfuscate the discrepancies between II Cnut and the wider body of evidence, other social mechanisms that played a role in shaping vertical relations in early medieval England come into focus. Heriots were an obligation that presented both opportunity and risk. They could be turned to one's advantage, and all the equipment that was explicitly listed might serve to demonstrate a testator's generosity and rank in front of an appreciative crowd. Alternatively, it could be a burdensome custom, an exaction that slowly ate away at the finances of lower ranking elites across multiple generations. In some cases, equipment was carefully documented to act as a failsafe against predatory lords, especially as the pool of heriot-providers potentially widened to incorporate groups beyond the thegnhood in the eleventh century. Thus, the micro-political manoeuvrings which surrounded the negotiation of heriots offer a new window into the social fluctuations that emerged around the first millennium, as characterised by the proliferation of minor lords and the rise of super-magnates who would come to dominate the political landscape of England.

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