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THE TRADITIONAL RULE OF
SUCCESSION IN EARLY IRELAND

Vol. 1
(Text)

Bart Jaski

1994

Trinity College Library Dublin



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THE TRADITIONAL RULE OF SUCCESSION IN EARLY IRELAND

2 Volumes: 1) Text 2) Appendices

by Bart Jaski

Thesis for the degree of PhD in Medieval History

University of Dublin

October 1994

VOLUME 1: TEXT

THE TRADITIONAL RITE OF SUCCESSION IN EARLY IRELAND

2 volumes: 17 text, 21 appendices

by Ron Jess

Thesis for the degree of PhD in Medieval History

University of Dublin



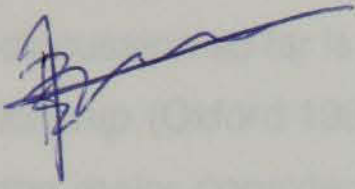
THESIS

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VOLUME 1: TEXT

SUMMARY

This thesis investigates the traditional rules of succession in early Ireland, by using a wide variety of sources which contain references, direct or indirect, to succession. They are mainly from the pre-Norman period, although specific material from the 12th century is also used. This thesis has not been submitted as an exercise for a degree at any other university, and is entirely my own work. I hereby agree that the Library of Trinity College may lend or copy this thesis upon request.



Bart Jaski,

Dublin, October 1994.

SUMMARY

This thesis investigates the traditional rules of succession in early Ireland, by using a wide variety of sources which contain references, direct or indirect, to succession. They are mainly from the pre-Norman period, although specific material from the later period up to the sixteenth century is also considered.

In the first chapter I discuss previous theories on how succession was regulated, which concentrate on the practical outcome of succession, and largely ignore the traditional or customary rules which must have existed. The most complete discussion so far is offered by Thomas Charles-Edwards in his *Early Irish and Welsh kinship* (Oxford 1993), who argues that a person's *febas* (excellence, standing) was the major consideration why a candidate was awarded with the lord- or kingship. In the following chapters I discuss the main elements which contribute to a person's *febas*: his birth-right (descent and seniority) and qualifications (wealth and personal dignity). In chapter 2 the three generation requirement is discussed, which effectively states that one has to be a son and grandson of a lord to be fully recognized as such. This is a practical rule, as one of a family of lords would be best equipped to take the burden of lordship with all its responsibilities, but proper descent was also considered important from the point of view of hereditary qualifications inherited from father to son. Illegitimate sons or sons whose mother was of low birth were debarred from the inheritance and the lordship. Sons of a primary wife were preferred above sons of a betrothed concubine, unless the latter was better qualified to take the lordship. This exception to the rule is more clearly expressed in legal texts which deal with senior rights, which are discussed in chapter 3.

Normally, preference was given to the senior candidate for the lord- or kingship, unless the junior was clearly better qualified. This rule is expressed in a wide variety of sources. In chapter 4 the importance of wealth in connexion with succession is dealt with, and the way a junior candidate or another outsider could hope to reserve the succession for himself and his descendants. With the increasing power of the overkings their sons could act as overlords of certain territories, and through their wealth, support and reputation could exclude those who had a better claim by

virtue of their birth-right and seniority.

The traditional rule, which takes both birth-right and qualifications into account, has the practical objective to select the ablest man for the office of lord or king, but this also renders it impractical, as it made competition open to any member of the ruling family with sufficient support.

In chapter 5 the position of the heir-apparent is discussed, first in the context of the traditional rule of alternation between branches who had an equal claim to the lord- or kingship. The one next in line to hold the office is called the *rígdamna* or *tánaise rí* in the sources, who was given a piece of land as part of his office, but in the annals the first title is used in the loose fashion, and is conferred to any distinguished member of the royal family considered worthy for the office on account of his birth-right or qualifications. The *tánaise rí* (the 'best' *aire forgill*, or the *aire forgill* 'who looks towards (expects) the kingship') also signifies the heir-apparent, but the title can also refer to the king's representative, without implying a right to succession. Even a recognized heir-apparent did not automatically succeed, the lands belonging to his office did not certify that he was the most powerful man in the kingdom besides the king. In the later period the traditional rule appears to have been followed as well.

In the second volume (the appendices) is a transcription and translation (with parallel texts) of the 'Succession Tract' and a text on seniority, extensive genealogical tables and a list of *rígdamna*, *tánaise rí* and *adbar rí* in the annals.

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ACKNOWLEDGEMENTS

Experience teaches that this is the part of a thesis people tend to read first - and not seldom the only part they read - and this is fitting, because it contains information which anyone who cares to read or use this work should know. Although my name is given on the titlepage, there are many people who have contributed, directly or indirectly, to this thesis, and without whom it would have been much poorer, if written at all. I wish to thank all those who have helped me and given their time and kindness during the four years I had the privilege to study at Trinity College, but I want to single out a few names in particular.

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As regards the financial side of my studies, I wish to thank the Graduate Studies Office for giving me a limited scholarship, and CURIA for which I have worked to process texts for the Thesaurus Linguarum Hiberniae. I wish to thank Donnchadh Ó Corráin for involving me with the project, Patricia Kelly, my supervisor of CURIA, for all her support, and the people at the Dublin Institute for Advanced Studies and the Royal Irish Academy for their kindness and excellent research facilities.

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Bart Jaski,

Dublin/Sandycove/Zeist, October 1994.

I alone, of course, bear responsibility for all errors and mistakes which may appear in this work.

ABBREVIATIONS

- AClon* = *The Annals of Clonmacnoise ... translated into English, A.D. 1627 by Conell Mageoghagan.* ed. Denis Murphy (Dublin 1896).
- AConn* = *Annála Connacht. The Annals of Connacht (A.D. 1224-1544).* ed. A. Martin Freeman (Dublin 1944).
- AI* = *The Annals of Inisfallen.* ed. Seán Mac Airt (Dublin 1951).
- AL* = *Ancient laws of Ireland.* 6 vols., ed. W. Hancock et al. (Dublin 1865-1901).
- ALC* = *The Annals of Loch Cé.* 2 vols., ed. W. M. Hennessy (Dublin 1871).
- ALM* = *An Leabhar Muimhneach maraon le suim aguisíní.* IMC. ed. T. Ó Donnchadha (Dublin 1940).
- AT* = 'The Annals of Tigernach'. ed. Whitley Stokes, *RC* 16 (1895) 374-419; 17 (1896) 6-33, 116-263, 337-420; 18 (1897) 9-59, 150-303, 374-91.
- AU* = *Annals of Ulster* vol. i (to A.D. 1131). ed. Seán Mac Airt and Gearóid Mac Niocaill (Dublin 1983); *Annála Uladh. Annals of Ulster.* 4 vols., ed. W. M. Hennessy and B. MacCarthy (Dublin 1887-1901).
- AUi* = *AU* interpolation.
- BB* = *The Book of Ballymote.* facsimile. ed. R. Atkinson (Dublin 1887).
- BBCS* = *Bulletin of the Board of Celtic Studies. Bwletin y Bwrdd Gwybodau Celtaidd* (University of Wales 1921-).
- Berrad Airechta* = transl. Robin Stacey 'Berrad Airechta: an Old Irish tract on suretyship', in T. Charles-Edwards, M. E. Owen and D. B. Walters (eds.), *Lawyers and laymen: studies in the history of law presented to professor Dafydd Jenkins* (Cardiff 1986) 210-33; also ed. in *Bürgschaft* 6-32. (*CIH* 591.8-599.38)
- Bretha Crólige* = ed. D. A. Binchy, 'Bretha Crólige', *Ériu* 12 (1938) 1-77. (*CIH* 2286.24-2305.3)
- Bretha Nemed* = ed. Liam Breatnach, 'The first third of *Bretha Nemed toísech*', *Ériu* 40 (1989) 1-40. (*CIH* 2211.1-2213.29)
- Bürgschaft* = R. Thurneysen, *Die Bürgschaft im irischen Recht.* Abhandlungen der preussischen Akademie der Wissenschaften. Jahrgang 1928. Phil.-Hist. Klasse Nr. 2 (Berlin 1928).

- Cáin Aicillne* = ed. R. Thurneysen, 'Aus dem irischen Recht i: 1. Das Unfrei-Lehen', *ZCP* 14 (1923) 335-94; 'Aus dem irischen Recht iii: 5. Zur Überlieferung und zur Ausgabe der Texte über das Unfrei-Lehen und das Frei-Lehen', *ZCP* 15 (1925) 302-76: 370-4; 'Aus dem irischen Recht iv: 6. Zu den bisherigen Ausgaben der irische Rechtstexte', *ZCP* 16 (1927) 167-230: 205-10. (*CIH* 479.23-502.6; 1778.34-1804.11)
- Cáin Sóerraith* = ed. R. Thurneysen, 'Aus dem irischen Recht ii: 2. Das Frei-Lehen', *ZCP* 15 (1925) 238-60; 'Aus dem irischen Recht iii: 5. Zur Überlieferung und zur Ausgabe der Texte über das Unfrei-Lehen und das Frei-Lehen', *ibid.*, 302-76: 374-6; 'Aus dem irischen Recht iv: 6. Zu den bisherigen Ausgaben der irische Rechtstexte', *ZCP* 16 (1927) 167-230: 211-3. (*CIH* 1770.15-1778.33)
- Caithr. T.* = *Caithréim Thoirdhealbhaigh* by Seán Mac Craith. *The triumphs of Turlough*. 2 vols., ed. Standish Hayes O'Grady. ITS 26-7 (London [1924-5] 1929).
- CCF* = *Cóic Conara Fugill. Die fünf Wege zum Urteil*. ed. R. Thurneysen. Abhandlungen der preussischen Akademie der Wissenschaften. Jahrgang 1925. Phil.-Hist. Klasse Nr. 7 (Berlin 1927).
- CCH* = *Collectio Canonum Hibernensis. Die irische Kanonensammlung*. ed. H. Wasserschleben (second ed., Leipzig 1885).
- CG* = *Críth Gablach*. MMIS xi. ed. D. A. Binchy (Dublin 1941). (*CIH* 563.1-570.32; 777.6-783.38) References are to line numbers.
- CGH* = *Corpus Genealogiarum Hiberniae*. vol. 1. ed. M. A. O'Brien (Dublin 1962).
- CIH* = *Corpus Iuris Hibernici*. 6 vols., ed. D. A. Binchy (Dublin 1978).
- CL* = *Cáin Lánamna*, 'Die Regelung der Paare', ed. R. Thurneysen, in *SEIL*, 1-80. (*CIH* 502.29-519.35)
- CMCS* = *Cambridge Medieval Celtic Studies* (University of Cambridge 1981 -)
- Cogadh* = *Cogadh Gaedhil re Gallaibh. The war of the Gaedhil with the Gall*. ed. J. H. Todd (London 1867).
- CS* = *Chronicum Scotorum. A chronicle of Irish affairs ... to 1150*. ed. W. M. Hennessy (London 1866).
- Di Astud Chor* = ed. Neil McLeod, in *Early Irish contract law*. Sydney Series in Celtic Studies 1 (Sydney 1993).

- DIL = *Dictionary of the Irish language, based on mainly on Old and Middle Irish materials.* ed. E. G. Quin. compact edition (Dublin 1990).
- Díre = see IR.
- EtC = *Études Celtiques* (Paris 1936 -).
- FA = *Fragmentary Annals of Ireland.* ed. J. N. Radner (Dublin 1978).
- Fenagh = *The Book of Fenagh.* eds. W. M. Hennessy and D. H. Kelly (Dublin 1875).
- FM = *Annala Rioghachta Eireann. Annals of the kingdom of Ireland by the Four Masters.* 7 vols., ed. John O'Donovan (Dublin 1848-51).
- G = Genealogies in Appendix 2.
- GC = *Gúbretha Caratniad*, ed. R. Thurneysen, 'Aus dem irischen Recht iii. 4. Die falschen Urteilstsprüche Caratnia's', *ZCP* 15 (1925) 302-70; 'Aus dem irischen Recht iv: Zu den bisherigen Ausgaben der irische Rechtstexte', *ZCP* 16 (1927) 167-230: 214-29; 'Aus dem irischen Recht v. 7. Zu *Gúbretha Caratniad*', *ZCP* 18 (1930) 353-6 (*CIH* 2192-9; 1582)
- GEIL = Fergus Kelly, *A guide to early Irish law* (Dublin 1988).
- Hy *Fiachrach* = *The genealogies, tribes and customs of Hy Fiachrach*, ed. John O'Donovan (Dublin 1844).
- H.2.7. = [The genealogies in H.2.7.], electronic ed. by D. Ó Corráin for CURIA (1989/91).
- IKHK = F. J. Byrne, *Irish kings and high-kings* (London 1973).
- IMC = Irish Manuscripts Commission. Coimisiún Láimhscríbhinní na hEireann (Dublin 1930 -).
- IR = R. Thurneysen, *Irishes Recht* (I. *Díre*. Ein altirischer Rechtstext; II. Zu den unteren Ständen in Irland), *Abhandlungen der preussischen Akademie der Wissenschaften*, 1931. Phil.-Hist. Klasse 2 (Berlin 1931).
- ITS = Irish Texts Society. Cumann na Scríbhneann (London, Dublin 1899 -).
- JCHAS = *Journal of the Cork Historical and Archeological Society* (Cork 1892 -).
- JRSAI = *Journal of the Royal Society of Antiquaries of Ireland* (Dublin 1849 -).
- MMIS = Mediaeval and Modern Irish Series (Dublin 1931 -).

- Laud* = 'The Laud genealogies and tribal histories', ed. K. Meyer, *ZCP* 8 (1911) 291-338, 418-9, and 'The Laud synchronisms', ed. K. Meyer, *ZCP* 9 (1913) 471-85). (See also John Mac Neill, 'Notes on the Laud genealogies', *ZCP* 8 (1911) 411-8).
- Lec.* = *The Book of Lecan. Leabhar Mór Leacáin*. facsimile. ed. Kathleen Mulchrone (Dublin 1937).
- LL* = *The Book of Leinster, formerly Leabar na Núachongbála [Leabhar Laighneach]*. 6 vols., eds. R. I. Best, O. Bergin, M. A. O'Brien and A. O'Sullivan (Dublin 1954-83). References are to line numbers.
- LU* = *Lebor na hUidre. Book of the Dun Cow*. ed. R. I. Best and Osborn Bergin (Dublin 1929). References are to line numbers.
- MA* = *Miscellaneous Irish Annals*. ed. S. Ó hÍnnse (Dublin 1947). Contains 'Mac Carthaigh's Book' and the annals in Rawlinson B. 488.
- NHI* ii = *A new history of Ireland vol. ii: Medieval Ireland 1169-1534*. ed. Art Cosgrove (Oxford 1987).
- NHI* ix = *A new history of Ireland vol. ix: maps, genealogies, lists: a companion to Irish history part II*. eds. T. W. Moody, F. X. Martin and F. J. Byrne (Oxford 1984).
- OClery* = *The O Clery Book of Genealogies*. ed. S. Pender, *Analecta Hibernica* 18 (Dublin 1951).
- O'Dav* = O'Davoren's Glossary, ed. Whitley Stokes, *Archiv für celtische Lexikographie* ii, eds. W. Stokes and K. Meyer (Halle 1904) 197-504; *Ibid.*, iii (Halle 1907) 55. (*CIH* 1466.11-1531.24)
- PPast* = Kim Mc Cone, *Pagan past and christian present in early Irish literature* (Maynooth 1990).
- PRIA* = *Proceedings of the Royal Irish Academy* (Dublin 1836 -).
- RC* = *Revue Celtique* (Paris 1870-1934).
- SEIL* = *Studies in early Irish law*. ed. D. A. Binchy (Dublin 1936).
- SG* = Standish Hayes O'Grady, *Silva Gadelica. A collection of tales in Irish*. 2 vols: i (Irish text) and ii (translation and notes) (Dublin 1892).
- ST* = Succession Tract in Appendix 1. (*CIH* 1289.1-1292.27)
- TBC LL* = *Táin Bó Cúalgne from the Book of Leinster*. ed. Cecile O'Rahilly (Dublin 1967). References are to line numbers.

- TBC* (rec. 1) = *Táin Bó Cúailgne*, Recension I. ed. Cecile O'Rahilly (Dublin 1976).
References are to line numbers.
- TBDD* = *Togail Bruidne Da Derga*. MMIS viii. ed. Eleanor Knott (Dublin 1936);
ed. Whitley Stokes, 'The Destruction of Dá Derga's Hostel', *RC* 22
(1901) 9-61, 165-215, 282-329, 390-437. References are to line
numbers, the paragraphs of the two editions correspond with each
other.
- Todd LS = Todd Lecture Series.
- TSH = Text on Succession in H.3.18 in Appendix 1 (*CIH* 796.22-797.14)
- UM = *The Book of Uí Maine*. facsimile. ed. R. A. S. Macalister (Dublin 1941).
- UR = *Uraicecht na Ríar. The poetic grades in early Irish law*. ed. Liam
Breatnach (Dublin 1987). (*CIH* 2336.1-2341.7)
- VTrip = *The Tripartite Life of Patrick*. 2 vols. ed. W. Stokes (London 1887).
- YBL = *The Yellow Book of Lecan*. facsimile. ed. R. Atkinson (Dublin 1896).
- ZCP = *Zeitschrift für celtische Philologie* (Halle, Tübingen 1897 -).

References to ST are primarily to the original passages, but also to parallel
passages which may give important variants.

Cross references to notes refer to the note itself or to the text the note belongs to.

A NOTE ON THE DATES IN THE ANNALS

In this work I have used *AU* as my main source for the pre-Norman period and *AConn* for the later period. I refer to other annals (*AT/CS/ALC*; *AI/MA*; *FM*; *AClon*; *FA*) if they contain unique or additional information not found in *AU* or *AConn*, to avoid a whole string of references to the various annals after every piece of information.

References are made to the annals for the true year (standardized on *AU*), which is not always the same year as given in the editions. In doubtful cases I use 's.a.'

In *AI*, *AU* (ed. Mac Airt and Mac Niocaill), *ALC* and *AConn* the corrected year is also the true year.

In *CS* (for the section of the year 804 onwards) the year in the edition is also the true year, until the year 904.

CS s.a. 905-957 = 906-958 (true year).

CS s.a. 958 = 959 (first two entries);

CS s.a. 958 = 960 (last two entries).

CS s.a. 959-1058 = 961-1060.

CS s.a. 1059 = 1061, except last entry, = 1062.

CS s.a. 1060 = 1062, except first entry, = 1063.

CS s.a. 1061-1076 = 1064-1079.

CS s.a. 1077-1131 = 1081-1135.

CS s.a. 1141-1150 = true year.

In *AT* (fourth fragment) the true year can be calculated as follows:

(*AU*. 973-1002) = 974-1003 (true year).

(*FM*. 1017) = 1018.

(*AU*. 1018) = 1019.

(*AU*. 1020-1178) = true year.

For *FM* the following scheme applies:

FM s.a. 795-812 = 800-817 (true year).

FM s.a. 813 = 817/8.

FM s.a. 813-6 = 818.

FM s.a. 817-831 = 819-833.

FM s.a. 832-841 = 833-842.

FM s.a. 842 = 843/4.

FM s.a. 843-875 = 845-877.

FM s.a. 875-884 = 878-887.

FM s.a. 885 = 888/9.

FM s.a. 886-888 = 890-892.

FM s.a. 889 = 893/4.

FM s.a. 890-908 = 895-913.

FM s.a. 909-12 = 914

FM s.a. 913-971 = 915-973.

FM s.a. 972-77 [recte 974-979] = 974-9.

FM s.a. 978 [recte 979] = 980.

FM s.a. 979 [recte 980] = 980.

FM s.a. 980 [recte 981] = 981.

FM s.a. 981 [recte 982] = 982, last entry = 983.

FM s.a. 982-1008 = 983-1009.

FM s.a. 1009-1019 [recte 1010-1020] = 1010-20.

From *FM* s.a. 1020 onwards the year in the edition is also the true year, but note the differences with *AT/ALC* in the last decades of the twelfth century.

For *AClon* the year in the ed. is the true year, except where indicated.

INTRODUCTION

The regulation of succession stands at the centre of the early Irish socio-political structure, and touches upon a wide variety of aspects of early Irish society and politics. Historians who have ventured to unravel this regulation and discover the rules of succession have disagreed with each other to a remarkable degree. The lack of a solid rule expressed in a particular document has made the matter subject to interpretation, and with the extensive and sometimes vague material referring to succession the favoured approach has been from one particular angle.

It is my intention to treat the topic in a broad perspective, and to use a wide variety of sources which deal with succession and related matters. The corpus of medieval Irish laws forms my basis for observations on succession made by the legal scribes, which expresses the theory behind succession, the customs or traditions. The 'rules' which can be distilled from their information will then be checked against other sources: the annals, genealogies, saga-literature, poetry, hagiography, etc. This will enable us to compare the theoretical model from the laws with other points of view and with the practical record, and to see if changes in both theory and practice occurred.

I will not restrict myself to setting out the rules, but also try to explain the background of these rules and their connection with other legal principles or current opinions about lord- and kingship. This makes my treatment even more extensive, as this involves discussion of topics such as marriage, legitimacy, clientship, land-inheritance, status, etc. Some of these topics still await a full discussion from historians, and I have often restricted myself to giving a general discussion and making certain observations based on selections from primary and secondary sources. A full treatment cannot be offered, also because the legal corpus still contains a treasure of virtually unexplored material which could not all be taken into account.

For such a broad subject it is almost inevitable that any findings and conclusions will have a certain preliminary character. It is primarily my aim to provide an outline of the traditional rules of succession and their background, and thus provide a basis for further, more detailed discussion.

CHAPTER 1: IRISH REGNAL SUCCESSION

1.1. Introduction.

Early Irish kingship and the Irish system of succession stand in many ways apart from early (and later) medieval kingship and succession on the continent. The Irish political structure is mostly perceived as being fragmented, power being held by numerous provincial and petty kings, without the existence of central Irish kingship on top. The kingship of Tara - anachronistically also referred to as the 'high-kingship of Ireland' - served from the seventh until the tenth century as the focus-point of power in the North and the Midlands, but it never ensured any overall authority for those who held it. Every successive king of Tara had to take hostages from other kings and rival dynasties to ensure that his authority was respected; his title alone did not guarantee that he was automatically obeyed by those who had been subjugated by his predecessor. Power was invested in the person of the king himself: he was the one who made treaties with other kings and received their submission; when he died, these bonds were severed. In this way, no king could expect that others respected his hereditary rights, he had to enforce them by show of force and power, which were the real guarantees to make others acknowledge his rule as king or overking.

The hierarchy of various lords and kings was expressed in mutual genealogical relationships, in which all those dynasties who claimed to have a common ancestor (for example, Niall of the Nine Hostages) were nominally subject to the ruling dynasty or dynasties of that line; in the case of the descendants of Niall, the Uí Néill, there were four, and later two dynasties who claimed the Uí Néill overkingship. Before the sixth or seventh century it is not always sure which dynasties were related to each other in reality, and which were later attached to the main stem out of political reasons, to form federation of genealogically related kings and lords. This process in which the main royal line(s) produced major and minor branches was typical for all the Irish ruling families, either small or great, and this continued to be so until the sixteenth century.

The creation of branches is closely related to the way inheritance and succession were regulated, which was not according to the principle of primogeniture, in which the oldest son would inherit most and succeed, but via a more complex system in which the whole kindred could be involved. This made succession often a complicated affair, especially succession in the overkingship, as an overking who claimed to rule over a number of distantly related branches could not only expect competition from his close relatives, but also from the leaders of the most powerful branches. Claims from rival branches were not easy to quell, they could not be taken away by simply slaying or mutilating their leader. Another one could take his place, which made it necessary to force that rival dynasty into submission time and again. It was the branch as a whole which made the claim to the overkingship, not just a particular individual, and this meant that succession-struggles for the overkingship could last with intervals for centuries. The rivalry between two leading branches of the Uí Néill, Cenél nEógain and Cenél Conaill, for the kingship of Tara, and later for power in the North, continued with changing fortunes for about a millennium.

This system, in which the overkingship of an ancestor-group basically formed the top of the pyramid of the hierarchical Irish political structure, gave way slowly to a less fragmented structure, in which one particular family became paramount within a territory or province, and other dynasties had to be content with the status of major or minor vassals; some lost their noble status altogether.

Already in the early period we see that the overking of the dominating dynasty within a province claims the kingship of the whole province, including peoples of lesser power and status and of different ancestry. Thus Mide and the North were ruled by the descendants of Niall of the Nine Hostages, Connacht by the descendants of Niall's brothers, Airgialla by the descendants of Niall's cousins, Leinster by the descendants of Cú Chorb and Munster by the descendants of Eógan Mór (see G §1). Only in Ulaid the provincial kingship was claimed by two unrelated dynasties, Dál Fiatach and Dál nAraide (G §2-3). These centralizing tendencies continued until even within the ruling dynasties the lordship was left in the hands of one particular family.

The most powerful of the Irish dynasties in the early period, the Uí Néill, became paramount in Ireland, and some of the kings of Tara were even awarded the title of 'king of Ireland' by the annalists in the ninth and tenth centuries. However, in the end neither the kings of Tara nor later kings could establish such a firm and lasting rule that one can speak of a central kingship of Ireland held by one family. In the twelfth century the kings of Connacht were rather successful in taming the provincial kings, and given time and internal stability they might have continued the process which was already completed on a provincial level, and achieved a permanent sway over the whole island. The incoming Anglo-Normans upset this, but the lack of a central kingship of Ireland now proved to be an advantage to the Irish. As power was not permanently invested in one person or institution, the Anglo-Normans could not easily force their rule upon the whole population, and had to achieve this by subjugating the various lordships one by one.

There cannot be any doubt that the very nature of Irish succession promoted fragmentation and succession struggles, and led to instability and decline, but on the whole local power itself was sufficiently stable to survive decades of upheaval and centuries of change. This flexibility is a characteristic of the Irish political system which, perhaps, has not been appreciated so far, and it forms a contrast to what happened on the continent in the early (and later) Middle Ages.

One could argue that on the continent political changes were far more extreme than in Ireland, with rapid successes, large conquests, and equally astounding downfalls. The ruling dynasties of Western Europe were often not as adaptable as their Irish counterparts, and the actions of one man could herald glory or disaster for his successors. The rise and fall of the Merovingians and Carolingians form an excellent illustration of how the unity of the kingdom was sacrificed for the well-being of the king's male offspring. The king of the Franks, Clovis (+ c.511), divided his kingdom between his four sons, thus providing a model to be used by future Merovingian kings, and sowing the seeds of fragmentation and internal rivalry. After two centuries Charles Martel could do away with the Merovingian claims, and pave the way for the construction of a new empire under Charlemagne. This did not prevent the Carolingians from imitating their predecessors: the empire was split up in a number of rival kingdoms, and it only took another two centuries

to show that the Carolingian ruling families were given - just like most of their members - a short time to live.¹

The creation of rival 'branches' or territories is certainly also characteristic for the situation in Ireland, but on a smaller scale. Normally, a king was not in the position to regard a province as his conquest and divide it among his sons, but the lands belonging to the family and other lands and territories he had acquired or ruled could be shared out in this manner. This often fostered internal strife and fragmentation of power, further promoted by numerous offspring by various queens. Not all internal rivalry resulted in the obliteration of rival brothers or branches: agreements could be made to regulate the succession, claims could be renounced for certain rewards, etc.

In the early medieval European kingdoms this also happened, and, as in Ireland, we find, for example, brother succeeding brother, the creation of certain branches which held on to their own local power-base, and competition for the overkingship. In the tenth century there was an increasing tendency on the continent for lords and kings to nominate or inaugurate their successor (normally their son) during their own lifetime, to preclude any succession struggles or election afterwards. Cadets could be relegated to the church, or receive additional holdings if there was enough territory - otherwise the patrimony was preserved for the eldest son, the younger receiving little or nothing.²

The peaceful succession of the Capetians from father to son is often regarded as one of the strong features of their dynasty which helped to promote stability in France, in contrast to the irregular succession and warring nobility of the crumbling German kingdom and Holy Roman Empire. There is no doubt that such differences

¹ Roger Collins, *Early Medieval Europe 300-1000* (Basingstoke and London 1991) 151-61; 245-71; 287-312, and Ian Wood, *The Merovingian kingdoms* (London and New York 1994) 58-60, 91-3, 344-9, 367-9.

² Andrew W. Lewis, *Royal succession in Capetian France: studies on familial order and the state* (Cambridge, Mass; London 1981) 28-43. For succession in Germany in this period, see Josef Fleckenstein, *Early medieval Germany* (transl. of *Grundlagen und Beginn der deutschen Geschichte*), *Europe in the Middle Ages, Selected Studies* vol. 16 (Amsterdam 1978) 104-8, 112, 117-120. Regnal succession in Anglo-Saxon England is discussed in Hanna Vollrath-Reichelt, *Königsgedanke und Königtum bei den Angelsachsen bis zur mitte des 9. Jahrhunderts* (Cologne and Vienna 1971) 54-63 and T.M. Charles-Edwards, 'Kinship, status and the origins of the hide', *Past & Present* 56 (1972) 3-33: 29. For Wales, see J. Beverley Smith, 'Dynastic succession in medieval Wales', *BBCS* 33 (1986) 199-232.

were shaped by peculiar circumstances, chance and political manipulations and fortunes, rather than by a different rule of succession, but once a trend was set it could easily be taken for granted. Hereditary rights to the kingship were certainly gaining momentum in this period, and even children were acceptable for succession, such as Otto III of Germany when he was only three years old. Still, these rights remained in danger of being surpassed by that one rule governing medieval politics, the right of the strongest.

Although succession in medieval Europe has not received very much attention, and its rules (such as they are) are mostly taken for granted, Irish regnal succession is often looked upon as chaotic and primitive, a product of a tribal and basically static society; certainly not as neat as primogeniture! However, it is not succession in early medieval Europe but succession among the Anglo-Normans that is mostly used as the standard against which the Irish system is judged, although the latter does not represent the norm for the rest of Europe (or for the whole Middle Ages) and had its disadvantages as well. In this respect we have to remember that Irish succession was rooted in its Celtic past, and was a product of its society, and is not a separate entity which can be judged by comparing it with other Medieval societies - of which the Anglo-Norman was one of the most modern and innovative.

Another feature which often distorts our conception of Irish regnal succession is that the annals usually report the violent disputes, the battles and killings associated with succession, and not the occasions on which succession was settled in a peaceful manner. The annalists are also wont to report the actions of those in power, and it is often at a higher level that the rules are broken and rivalries are settled by political manipulations and military means. In short, the record of the practice of succession among the most powerful kings is bound to give a negative picture, and if we want to define the Irish system of succession, to establish its links with the legal and social rules of Irish society, and to trace certain changes and developments, we have to look at the theory first, the traditions and customs of succession. This is what I set out to do in the present work.

1.2. Previous theories about Irish regnal succession.

In the medieval Irish sources there are ample references to succession and related matters, but there are no fixed statements in either the early Irish legal corpus, in literature or other writings encompassing how royal succession was regulated, nor is there any indication that a text on this topic ever existed. Evidently, there was no explicit rule, legal or otherwise, which determined royal succession beforehand, and by which would-be successors had to abide. This is not so surprising, considering that in early medieval times politics, force and warfare could suppress any legal regulation or observance. On the other hand it has to be presumed that the question of succession was settled somehow according to certain customs and traditions, and that, presuming a peaceful succession, the eventual successor was selected by using certain criteria to ensure that the most able man was chosen.

Given this presumption, Eoin Mac Neill's theory on Irish succession is almost the perfect compromise. As the title of his article 'The law of dynastic succession' already indicates, Mac Neill regarded Irish succession as bound by a legal principle, which, however, left sufficient room for the element of uncertainty by proposing a number of candidates who were all entitled to the lord- or kingship.³ Mac Neill's theory has influenced ideas on Irish succession and political mechanisms for about half a century, and as it served as the starting point for subsequent discussion by other historians I will summarize his article here, and give some of my own comments in the footnotes.

Ignoring the law-tracts almost completely, Mac Neill centres his theory around the use of the title '*rígdamna*' (*rígdomna*, *ríoghdamhna*, etc.) in the annals.⁴ The title literally means 'material of a king' (*materia regis*), but Mac Neill translates it in the context of succession as 'eligible prince of the blood royal'.⁵ He states that only comparatively few in the annals are designated with the title, and he has a list of

³ Eoin Mac Neill, 'The law of dynastic succession', *Celtic Ireland* (Dublin 1921) 114-43.

⁴ I will use the standard title '*rígdamna*' throughout, except in quotations when necessary. For my discussion on *rígdamna*, see §5.2.

⁵ Mac Neill, *ibid.*, 114.

those appearing in *AU* and *AT* with their descent if he could trace it.⁶ In most cases the *rígdamna* is a son or a grandson of a king, or otherwise a great-grandson; exceptions to this are rare and only found among the Dál Cais and Cenél nEógain.⁷ There are also examples of two co-existing *rígdamna* at the same time.⁸ From the occurrence of *rígdamna* in the annals Mac Neill deduces that eligibility to the kingship extended to a king's son, grandson and great-grandson, exactly matching the four-generation kin group in the law-tracts known as *derbfine*. In the laws the *derbfine* is a legal unit entitled to a share of inheritance left by close kin which has died out (*díbad*) and liable for the payment of heritable debts (*cin* or *cró*). Mac Neill uses a legal text on *cró* and *díbad* to show that the right to property within the *derbfine* worked upwards as well as downwards, and in his opinion royal succession followed the same principle, though it was normally not divisible.⁹ As an example he gives Conaing son of Donn Cuan son of Cennétig, *rígdamna* of Munster (+1014), who, as he belonged to the same *derbfine* as two sons of Cennétig who also had been kings of Munster, Mathgamain (+976) and Brian Boruma (+1014), was also eligible to the kingship of Munster, though none of his direct forefathers had ever held that position.¹⁰ Within the body of *rígdamna*, who were all entitled to the kingship, the one with the most support was likely to succeed in the end.¹¹

Mac Neill sees in this system of limited eligibility and exclusion of the fourth successive generation outside the kingship the root cause for the ongoing succession struggles which fill the Irish annals. Alternation between several dynastic

⁶ *Ibid.*, 130-1 and 134-42. Note that he did not use *CS*, *AI*, *FM* and other annals. For a complete list, see Appendix 3, section 1.

⁷ *Ibid.*, 117. This list of exceptions is incomplete, see Appendix 3, section 1, and my discussion at §5.2.

⁸ *Ibid.*, 141, see my discussion at §5.2.

⁹ The legal text on *cró* and *díbad* cited by Mac Neill (*CIH* 600.1-601.11) is from the Middle Irish period (*GEIL* 23 and 250). For a somewhat different interpretation of the *derbfine*, see Thomas Charles-Edwards, *Early Irish and Welsh kinship* (Oxford 1993) 486-514.

¹⁰ Mac Neill, *ibid.*, 120 and 137. See G §§55, 56a for his descent, and my discussion at §5.4.

¹¹ *Ibid.*, 122.

branches could result in more than one line being legally entitled to the kingship, as happened for example with the kingship of Leinster and Tara.¹² However, powerful intruders could also (illegally) take the kingship by force when the reigning dynasties had their moment of weakness, such as Congalach Cnogba (+956) or Diarmait mac Maíl na mBó (+1072), who were centuries removed from any entitlement to the kingship of Tara or Leinster. The title of *tánaise* ('second' [to a king]) - usually held to be the title given to the designated heir of a king - is according to Mac Neill a product of the Anglo-Norman period.

As a whole, Mac Neill's theory was accepted and remained unchallenged for about half a century. James Hogan, who put it to the test, went even further, and suggested that succession was already determined beforehand, judging by the regular patterns of succession among the kings of Ailech from the eighth to the tenth century.¹³ Hogan thought that succession was basically governed by a system of alternation between different branches of the royal dynasty, though he did also find examples of outsiders who could claim the kingship as well, without any apparent illegal implications.

However, it was Mac Neill's remark on the *tánaise* which was to provoke most comments, as the title was shown to belong to the pre-Norman period as well (see §5.4. below). This prompted Gearóid Mac Niocaill to equate *rígdamna* with *tánaise* in his short article 'The 'heir designate' in early medieval Ireland'.¹⁴ He argues that, though the *rígdamna* is always a member of the royal *derbfine*, this does not mean that the two are identical. As the few examples of two co-existing *rígdamna* can be explained by analogy with the 'joint-king' (*leth-rí*), as the result of two opposing factions both claiming the same office, it would seem that normally speaking there was only one *rígdamna* in a given territory, as there was only one king. This is also

¹² Ibid., 125-7. My discussion of alternation is at §5.1.

¹³ J. Hogan, 'The Irish law of kingship, with special reference to Ailech and Cenél Eoghain', *PRIA* 40 (1932) 186-254.

¹⁴ G. Mac Niocaill, 'The 'heir-designate' in early medieval Ireland', *The Irish Jurist* 3 (1968) 326-9. His views are also incorporated in his 'À propos du vocabulaire social irlandais du bas moyen âge', *EtC* 12 (1968-71) 512-46, in which he discusses the various titles current in the Anglo-Norman period.

what the the annals suggest, as they use as standard entry 'X *rígdamna* of Y died' instead of 'X (*rígdamna*) di *rígdamnaib* of Y' which would be the Irish expression if X was only one of many *rígdamna* as Mac Neill proposes. Moreover, there are sufficient examples in the annals of persons belonging to a royal *derbfine* without being awarded the title of *rígdamna*.¹⁵ Though this can be explained by accidents of textual transmission etc., Mac Niocaill feels justified in saying that *rígdamna* is in fact synonymous with *tanáise (ríg)*, and that it henceforth should be translated as 'heir designate'.¹⁶

A fresh interpretation of the whole matter was put forward by Donnchadh Ó Corráin in his article 'Irish regnal succession - a reappraisal'.¹⁷ Ó Corráin argues that succession was closely related to the balance of power within a royal dynasty, in which genealogically related segments (agnatic lineage groups) were constantly being created and competing for the kingship.¹⁸ The one in power was by definition opposed by the others, internal and external alliances shifting frequently in efforts to retain or to (re)capture the valuable prize that kingship constituted. Being part of a royal *derbfine* meant being close to the centre of power as well as being part of the group to which the kingship (had) belonged. This is why we find in the majority of cases close relatives of a (former) king succeeding in the kingship, and not because they had a legal right to it as Mac Neill assumed. The possession of the kingship would be valued higher than obeying the law, and it is unlikely that candidates would have let their 'rights' to the kingship be limited by any legal convention anyway. Instead, succession was determined by the balance of power among the segments of the royal dynasty. A weak dynasty or one tormented by internal segmentary struggles could lose the kingship to a competitor outside the royal *derbfine* of recent kings, and as his 'right' to the kingship was not limited

¹⁵ Ibid., 327-8 for some examples; this list is not without mistakes, see Appendix 2 below for genealogical tables and the titles given to members of the ruling families in the annals.

¹⁶ Mac Niocaill translates *rígdamna* always as 'heir designate' in his edition of *AU*. For *rígdamna* and *tánaise ríge*, see chapter 5 below.

¹⁷ D. Ó Corráin, 'Irish regnal succession - a reappraisal', *Studia Hibernica* 11 (1971) 7-39.

¹⁸ Ibid., 8.

by any degree of kinship, he would not be regarded as a kind of usurper. As a political rule, a close relationship to a (former) king enhanced one's chances to the kingship; consequently, those further removed saw their chances lessened, unless they were men of extraordinary ability.

Ó Corráin illustrates his argument with the succession to the kingship of Uí Cheinnselaig, where of the 69 kings enumerated in the regnal list about half were the sons of (former) kings, and six were outside any royal *derbfine* (as far as the sources show), while there are also five kings of unknown lineage which we may add to this number.¹⁹ These figures, it has to be remarked, apply to this special case only. Among, for example, 50 successive kings of Leinster and 44 of Dál Fiatach of Ulaid, 49 and 43 kings respectively are sons of (former) kings, the one left in each case being a grandson.²⁰ If membership of the royal *derbfine* had been the determining factor one would not have expected such a large proportion of sons to enter into the kingship, but a more equal division among the royal relatives, nor such a large amount of 'intruders' in the case of the Uí Cheinnselaig.

Thus, Ó Corráin concludes, rather than being a member of the royal *derbfine* '...the determining factor in a royal's chances of success within the segment is his nearness to the power-base of the segment and his control of the resources; and such control usually lay in the hands of the most immediate mature relatives of the most recent king produced by the segment.'²¹

In this way, alternating or rotating succession resulted from the balance of power between the competing segments. Apart from other circumstances, the internal and external support a segment could muster determined its chances of making a successful bid for the kingship and if possible excluding all other segments from doing so. However, even if they were that powerful, within a few generations the segment which had monopolized the kingship would itself be divided in several branches, and the whole process would start anew; dynastic and segmentary struggles seemed to be inevitable in early Irish politics. This is especially apparent

¹⁹ Ibid., 28, see note 37 below and G §§42-3.

²⁰ Ibid., at note 20.

²¹ Ibid., 30.

in polysegmental dynasties, which had a tendency to an irregular pattern of succession. Discarded segments excluded from the kingship faced impoverishment, or, if they were strong enough, they could set up their own petty kingdoms or lordships - for example Uí Félmeda and Uí Dróna in the case of Uí Cheinnselaig.

Having arrived at this conclusion, this left the title of *rígdamna* on which Mac Neill built his case to be explained. For the basic meaning of *rígdamna* Ó Corráin follows Mac Niocaill in equating it with the *tánaise*, the 'heir-designate', but he combines it with his view of segmentary opposition: if one segment held the kingship the main competitor of the same or another segment (which could be closely related or generations removed) would be called *rígdamna*.²² The office of *rígdamna* entitled him to be next in succession, and Ó Corráin gives the case of Flann mac Domnaill (*rígdamna in Tuaisceirt*, +906) as an example. According to Ó Corráin Flann was next in line for succession at a time when his father Domnall and Domnall's brother Niall Glúndub (later sole king) both held the kingship of Ailech.²³ Strong kings such as Muirchertach Mac Lochlainn did not have to make concessions to rival segments, hence only his sons appear as *rígdamna* in the annals during his reign.²⁴ Plurality in *rígdamna* was the result of several competing segments putting their own candidates forward for the succession, but such cases are rare. Following this, Ó Corráin suggests that a *rígdamna* was chosen at the same time as the king as part of segmentary struggle, negotiations and compromise. This did not result in co-rulership, nor in pre-emptive selection, but 'the office of *rígdamna* is in fact pre-emptive *segmentary* selection in association with an indeterminate rule of royal succession and is an essential part of such a system as a whole'.²⁵

Further speculation brings Ó Corráin to suggest that in some cases (such as in Munster) the title *rígdamna* seems to have been a consolation prize to discarded segments far removed from the kingship, not carrying any political weight. At a later stage the title was accorded 'to the head of the most able discarded segment or to

²² Ibid., 35.

²³ Ibid. For the genealogy of Cenél nEógain, see G §§12-3.

²⁴ Ibid., at note 38.

²⁵ Ibid., 36.

any distinguished but discarded royal considered to be worthy of the highest office.¹²⁶ This development may have resulted in the re-introduction of the ancient title *tánaise* and the new title *adbar rí* (also meaning 'material of a king') for those who were still to be considered as 'real' *rígdamna*.

This is as far as Ó Corráin pursues the matter. He states that 'the raw political struggle for the kingship was doubtless heavily clothed in customs and precedents and in inherited traditions of dynastic and royal sacrality. What these were we can deduce only from records of the practice.'¹²⁷ Though the laws comment on the function of the king, acquisition of the highest office did not belong to the legal field; in short, it was a matter of dynastic power politics.

Ó Corráin's theory remained unchallenged for about two decades, though some have expressed certain doubts, while Binchy, full of praise about Ó Corráin's rigorous research, urged further investigation.²⁸ Binchy wondered about the succession to the kingship of Munster, in which kings were at times centuries removed from their nearest royal forefather, and he argues that during such a long period of exclusion they could not have retained a substantial powerbase.²⁹ Furthermore, he questions whether Ó Corráin's structuralist pattern of segmentary opposition offers a complete explanation, and whether it was valid for all the kingdoms, provincial, mesne and tribal.³⁰ The strongest claim that the problem was not yet satisfactorily solved was brought forward by Katharine Simms, who simply states that on the question of how a candidate for royal succession was selected 'no general agreement has resulted'.³¹ Her treatment of the matter gives a new angle to the problem, by taking sources completely ignored by the scholars

²⁶ *Ibid.*, 37.

²⁷ *Ibid.*

²⁸ D. A. Binchy, 'Irish history and Irish law: II', *Studia Hibernica* 16 (1972) 7-45: 40-5.

²⁹ *Ibid.*, 43.

³⁰ *Ibid.*, 44.

³¹ Katharine Simms, *From kings to warlords. The changing political structures of Gaelic Ireland in the later Middle Ages*. *Studies in Celtic History* 7 (Woodbridge 1987) 41.

mentioned above as a guideline for reconstructing the manner in which royal succession was settled in the Norman period, though earlier sources are used as well. Saga-literature, wisdom-texts, the annals and the law-tracts all provide us with impressions as to the grounds on which one was considered to be worthy of the royal office - a picture which is far more vivid than, as well as remarkably different to the theories which had been produced so far.³² A similar fresh look at the function of the *tánaise* and the meaning of *rígdamna* and *adbar rí*g is put forward, which at least for the Anglo-Norman period undermines the views of Mac Niocaill and Ó Corráin on this matter.³³

While a rough version of the present work had already been completed, Thomas Charles-Edwards published his *Early Irish and Welsh kinship*, in which he also devotes a section to succession in Ireland.³⁴ As it turned out, his views on Irish regnal succession are quite similar to mine, although his approach is from a different angle and in the context of kinship. Before I discuss his theory I first want to comment on Ó Corráin's views, which have dominated the field for the last twenty years, to draw attention to certain problems which are not fully discussed by Charles-Edwards.

1.3. Towards a new interpretation.

Mac Neill and all those who investigated his theory afterwards (excepting Charles-Edwards) sought to reconstruct the mechanisms of royal succession by looking at its practical outcome, using the annals as their primary source. This results, of course, in dealing with only one side of the problem, and may even lead to

³² Ibid., 41-59.

³³ Ibid., 53-4. See also F. J. Byrne, *Irish kings and high-kings* (London 1973) 312, who also puts Mac Niocaill's theory in doubt, but he gives no further reasons. At 122-3 he gives his own view on the law of succession, based on a different definition of the *derbfine* than that given by Mac Neill. In *NHI* ii, 423-5 Kenneth Nicholls still follows Mac Neill's theory that only those who belonged to the royal *derbfine* were eligible to the kingship for his discussion of succession in the later Middle Ages.

³⁴ Charles-Edwards, *Kinship*, 89-111.

misleading conclusions. Ó Corráin's remark that the customs, precedents and traditions surrounding the royal office and its influence on succession can only be deduced from the recorded practice seems to lead any further investigation into a cul-de-sac. However, we are more than justified in using those sources commenting on the functions and behaviour of kings to get a better understanding of how royal succession was determined. After all, if it is prescribed that, for example, a king should be unblemished, not too young, sound in mind, of proper descent, etc., this also applied to anyone who aspired the kingship. One could argue that this reflects how succession was to be regulated in theory, prescribed by traditions and customs which could be surpassed by the force of politics, but that is only a limited argument: such traditions must have influenced and shaped the practice, even when they were in danger of being set aside. Thus, in obtaining a knowledge of how kings were expected to behave, which qualities they should possess, and who were regarded as worthy of the royal office, we also acquire an insight into the reasons for which candidates for succession were selected for the kingship.

Ó Corráin has demonstrated that succession was determined by segmentary opposition and struggle, and that the key to success lay in nearness to the power-base. However, power is a very abstract term which does not give us a specific impression what was actually important, and how it was obtained. Thus, 'power' needs to be further defined and brought back to what it meant in early Irish politics: support, clients, wealth, possession of land, etc. Combined with this are more theoretical questions, such as who would succeed if a king died and he left more than one son, and there was no competition from outside, or what would happen if a king died without any sons or brothers left to succeed him. We thus have to determine which candidate was in the best position to become the most powerful, and why - and in this respect the customs and traditions about kingship and succession may serve as guidelines.

This brings us down to a more individual level, such as a person's seniority, his ability to enlist support from others, his military skills, bravery and other personal qualities. We find the virtues of the Irish kings celebrated in poetry and literature, and we may presume that this ideal image of the king, though it did not always reflect the bleaker reality, served as a reminder of how a king - and his successor

- was expected to behave. Though power and support may have carried the day in the end, it was still up to the individual to obtain it, to use his own abilities and position in the royal family to fulfil the promise of kingship, and to be acceptable even to his rivals, so that they did not have a valid excuse to put forward their own candidate. One may even presume that power was not the sole determining factor for succession, as it would be hard to imagine that the Irish had such an anarchistic political structure that only the right of the strongest existed. Indeed, the genealogies seem to express that proper descent was a pre-condition for rulership, not so much as a practical rule, but one shaped by society itself. Similar criteria to choose the new king may have existed, which had their repercussions on how the system worked in practice.

Apart from the necessity to define power more precisely and to investigate the influence of customs and traditions on the system in theory and practice, we need to look at the more general political developments. Ó Corráin's investigation stretches from about the fifth century until the coming of the Anglo-Normans in the twelfth century. Although he proposes a development in the use of the title of *rígdamna*, there are no hints that he thinks that the way succession was determined changed at all during these six or seven centuries. Such a conclusion would be surprising, as we certainly can detect important changes in the overall political structure in Ireland, and it is possible that this resulted in (or perhaps, was also caused by) a changing attitude towards the question of how a successor should be chosen.

We can take Ó Corráin's own research to illustrate certain developments in the patterns of succession among the Uí Cheinnselaig. Until the ninth century we find a comparatively large number of outsiders who are several generations removed from the kingship and still able to succeed. With the exception of two outsiders (sons of a certain Lorcán, possibly from Uí Muiredaig), almost all kings from the end of the ninth century until the end of the twelfth are sons of (former) kings, or otherwise grandsons. The same pattern can be discovered in other dynasties, and this seems to point to a restriction of the number of candidates who were in a position to succeed. This may of course be the result of a smaller power-base, shared among fewer people, but regarding my previous comment on Ó Corráin's

abstract definition of power, such a development would still be of interest.

Uí Cheinnselaig is a good example of a polysegmental dynasty, in which several distantly related segments were competing for the kingship, a situation which was bound to produce an irregular succession. The same tendency is shown among, for example, the Uí Néill, the Uí Briúin of Connacht, the royal dynasties of Airgialla, the Eóganachta of Munster, Uí Maine of Connacht, Cenél Maine of Tethba, etc.³⁵ All these dynasties consisted of various branches competing for the overkingship, and as in the case of Uí Cheinnselaig we find outsiders making a claim for the overkingship, leaders of branches who could not claim such high royal status among a long line of forefathers. A well-known example is Congalach Cnogba (king of Tara, +956), whose nearest predecessor in the male line was Áed Sláine (+604), and who profited from the weakness of Clann Cholmáin and Cenél nEógain, who had monopolized the kingship of Tara for two centuries.³⁶

However, in this case and in the case of Uí Cheinnselaig, statistics on how far a king was removed from a royal forefather can be misleading, and cover up the basic problem. For example, Ó Corráin's figures state that only about half of the kings succeeding were sons of previous kings, while there is a proportionately large quantity of great-great-grandsons and further removes from the kingship. In his list kings 28, 29, 32 are all great-great-grandsons of a previous king, but they are also brothers. The same applies to kings 37, 38, 45 and 25, 26.³⁷ Apparently, these kings come virtually out of the blue as leaders of their branch to claim the kingship. Ó Corráin's statistics do not inform us about the succession in their own branch, and this leads to a distorted picture with only a limited value. We know that king 25, Áed Mend (+732), was the son of Colgu (+722), who is named as king of Ard Ladrann in the annals. So, in fact we have a father-to-son succession within Áed Mend's own branch, and this is not borne out by Ó Corráin's figures, which are only relevant to the succession in the overlordship. If we would take each segment

³⁵ See Appendix 4 for the regnal lists of the kings of Tara (Uí Néill) and Munster (Eóganachta), and Appendix 2 for the genealogical tables of the dynasties in question.

³⁶ See G §19.

³⁷ Ó Corráin, 'Irish regnal succession', 12. See G §42 for the genealogical chart based on Ó Corráin's one, with certain additions and changes, for which see the notes at the end of Appendix 2.

separately, the succession of its lords and kings may well have been far more regular than that of the Uí Cheinnselaig overlordship. Likewise, in the overkingship of Tara succession is quite irregular until the eighth century, but within the various dynasties and segments it is usually the son of a (former) king who succeeded. This is also true for Congalach Cnogba, referred to above, whose father and grandfather had also been kings of Brega. In short, outsiders may be outsiders in the overkingship, but not in their own dynasty or segment.

We are now dealing with two different types of succession: succession within a royal dynasty or branch, and succession within the overlordship or overkingship. The two are not always easy to distinguish, and in the case of, for example, the Uí Néill, there are several overkingships on top of each other, such as the kingship of Cenél nEógain (or Ailech), which consisted of a number of major and minor sub-kingdoms and lordships like Mag nítha, Inis nEógain, Telach Óc, etc, each held by separate branches. It is certain, though, that one had to become leader of one's own branch first, before a bid for the overkingship could be made. In the branch or segment lay the real 'power-base', and once it was secured the rules as set out by Ó Corráin are certainly relevant. Still, it is the succession within the branch that forms the basis for this, and a good understanding of the Irish system of succession should begin with the basic unit of Irish society and Irish politics, the (royal) family.

The changes which occurred during the ninth and tenth century are of special interest for succession within the overkingship, as by that time the old dynastic bonds based on wider genealogical ties were dissolving, and the former dynastic overkingships made place for overkingships with a more territorial basis, which also controlled unrelated dynasties outside their own province. This development may be connected with the more regular patterns of succession discussed above, as in the majority of the cases one family monopolized the overkingship and managed to consolidate it afterwards. In the case of the Uí Cheinnselaig, the descendants of Donnchad Máel na mBó (king 59) monopolized the overkingship, not only of Uí Cheinnselaig, but of Leinster as well. In this way, we may expect succession of the provincial kings to run like that in a normal branch or segment, unless the leading dynasty splits up into various branches again.

Finally, we are left with Ó Corráin's interpretation of the title *rígdamna*, to which he attaches the 'basic' definition of the heir-designate, the head of the main segment outside the kingship. The theory of Mac Niocaill on which this is based has already been called into doubt by Simms for the Anglo-Norman period (see above), and we are also justified in doing so for pre-Norman Ireland. As an example may be taken Conaing, the son of Niall Glúndub, who died in 937 as *rígdamna Érenn* (AU). It is unlikely he was ever considered to be the heir-designate for the kingship of Ireland: in my opinion the kingship of Ireland was not recognized as an institution in its own right at that time, but was merely a title which could be won by securing, as king of Tara, the hostages of the king of Cashel, thus acquiring a theoretical overlordship over the whole of Ireland.³⁸ But even as heir-designate of the kingship of Tara Conaing would have been a dubious candidate. At this stage Donnchad Donn of Clann Cholmáin was the king of Tara, and his main opponent would have been the king of Cenél nEógain, Fergal (+938), the son of Niall Glúndub's brother Domnall (+915).³⁹ Even if the sons of Niall made a separate claim for the kingship of Tara themselves, or for the kingship of Ailech, Conaing's famous brother Muirchertach ('of the Leather Cloaks') would have been their leader. Here the explanation of *rígdamna* as head of the main segment, or even any given segment outside the kingship does not seem to work, unless we take 'segment' to be 'individual', a definition which would render it unworkable.

An interesting aspect of Conaing and Muirchertach is that they were both given the title of *rígdamna Érenn*, while their father had been awarded with the title of *rí Érenn*.⁴⁰ The descendants of Domnall (*rí Ailig*) were never given the title of *rígdamna Érenn* in this period, which gives the impression that the title was hereditary in some way. Other examples could be given here, but for the moment I use this particular one to illustrate that the definitions of *rígdamna* which have been offered so far are not satisfactory, and that we are justified in investigating the

³⁸ See Bart Jaski, 'The decline of the Uí Néill. Irish political relations in the tenth century' (unpublished MPhil thesis, University College Cork, 1989) 18-22, for the discussion on the meaning of the kingship of Ireland. See also §4.5. below.

³⁹ See G §§12-3.

⁴⁰ A list of those who are given the title of *rígdamna*, *adbar rí*, *tánaise*, and related titles in the annals is given in Appendix 3.

matter anew.

In all, a complete reinterpretation of Irish regnal succession seems to be needed, in the which following items need to be looked at:

- 1) the customs and traditions relating to succession, and their links with Irish society in general.
- 2) an analysis of 'power', and how one obtained it.
- 3) the difference between succession within a royal family and within the overkingship.
- 4) developments in the patterns of succession, and their background.
- 5) the meaning of *rígdamna*, *adbar rí*, and *tánaise*.

I now return to Charles-Edwards' views, who also discusses the views of Mac Neill, Hogan, Mac Niocaill and Ó Corráin, and gives a fine analysis of their merits and defects.⁴¹ He then continues by drawing attention to early legal texts which comment upon the qualities a (potential) ruler should possess and discussing the succession in offices other than that of lord or king. Two texts are particularly important: *Córus Béscnai* on abbatial succession, and a text of various excerpts of old texts which contains various references to succession. In abbatial succession the principle of 'a circuit upon the branches of the kindred' is used as a theoretical model to regulate abbatial succession (incidentally proving the relevance Hogan's rule of alternation), but the final word is allotted to a person's excellence, his *febas*.⁴² It is around *febas* Charles-Edwards centres his theory, and he quotes from passages from the second text which underline the importance of a person's excellence and standing. This text (*CIH* 1289-92) is also known as the 'Succession Tract', a name given to it in the edition of the *Ancient Laws of Ireland* (iv 372-87). It is from a late sixteenth century manuscript, and the part on succession is a compilation from older material written by Domhnall Ó Duibhdábhoirenn.⁴³

⁴¹ Charles-Edwards, *Kinship*, 89-96.

⁴² *Ibid.*, 96-7. For a discussion of the rule of alternation as given in *Córus Béscnai*, see §5.1. below.

⁴³ *Ibid.* See Appendix 1 for an introduction, transcription and translation of the Succession Tract (ST) and also for an introduction, transcription and translation of a text which I have called the Text on Succession in H.3.18 (TSH), a fragmented text which was part of a text on status in *Senchas Már*; it contains information on the importance of seniority and is not noted by Charles-Edwards. TSH is

Charles-Edwards does not identify it as such, and quotes from this later source instead of the earlier (and sometimes better or different) parallel passages. Although this does not undermine his argument, it leads to some inaccuracies, as Domhnall sometimes combines unrelated passages.⁴⁴

Charles-Edwards finds such a great variety among those qualities a lord or king should possess, that it seems 'that succession was not decided by rules, but rather by a variety of considerations and rival principles, leaving great room for argument.'⁴⁵ One of the components which contributed to a person's *febas* was noble or royal descent, and Charles-Edwards notes that in certain legal texts full noble status was only acquired when one was the son and grandson of a former lord.⁴⁶ This refers to one's lineal descent, and at best only indirectly to one's *gelfine* (the descendants of a common grandfather), but in any case not to Mac Neill's *derbfine* as the kindred group which determined legal eligibility.

Charles-Edwards summarizes his conclusions as follows:

As regards the right of eligibility:

- it is assumed that all candidates for high office (except in some cases in the Church) will belong to some branch or the other of the kindred which holds that office.
- through *febas*, one branch may exclude all the others.
- a man whose father and grandfather have not held the kingship is not eligible.
- the *derbfine* is never mentioned and may be irrelevant.

As regards the choice among the candidates to be king:

- a person's *febas*, personal ability and standing, is decisive.
- the *febas* of one's father and grandfather, if they held the kingship, increases one's own *febas*.

discussed at §3.1. below.

⁴⁴ See Charles-Edwards, *ibid.*, 98: his §6 is quoted as one section, but it is actually the text from *Uraicecht na Ríar* combined with a commentary from *Di Chetharslicht Athgabála*, see Appendix 1, ST §53 and 53a.

⁴⁵ *Ibid.*, 98.

⁴⁶ *Ibid.*, 98-9, without references, except to the passage discussed in note 44 above.

- the considerations relevant to the issue of *febas* are extremely varied.
- seniority is a rejected principle unless other considerations should be equal.
- alternation is a rejected principle unless other considerations should be equal.⁴⁷

Like Ó Corráin's 'power', Charles-Edward's definition of *febas* is abstract, it can mean virtually everything, but as the main considerations he mentions lineage, ability and wealth, to which seniority was apparently inferior in importance.⁴⁸ As there are numerous exceptions to the rule that a king has to be a son and grandson of a king, Charles-Edwards argues that *febas* (in the sense of ability) was of overriding importance, and he points to examples in which newly emerged dynasties claim to be of the same kindred as the ruling one, and subsequently appeal to an ancient right of alternation to forward their claim to the kingship.⁴⁹ He does not take the difference between succession within the family and within the overkingship into account; the former, as I have argued above, should be given our primary concern. In effect, what Charles-Edwards proposes is that, if a king had a number of sons and no competition from outside, the most able of them would succeed. But who was to decide who was the ablest man? Here the limitations of the legal material related to succession begin to show, as it does not reveal why the considerations which determine a person's *febas* are considered to be important or how they are connected with each other. One would expect the traditional rules first to take the considerations which are settled or which one can measure into account, and only then proceed to look at a candidate's personal qualities, and not the other way around. Thus, more in-depth research to check Charles-Edwards findings is called for, revolving around descent, seniority, wealth and personal abilities.

Having set out his basic theory, Charles-Edwards proceeds to discuss the use of the title *rígdamna*, and gives special attention to Mac Niocaill's argument that

⁴⁷ Ibid., 100. I have shortened some of his nine points.

⁴⁸ Ibid., 97, at note 31.

⁴⁹ Ibid., 100-1. See §5.1. for my discussion on alternation, and §2.1 below.

rígdamna in the annals refers to the *tánaise rí*g (the 'heir-designate') on the ground of the particular syntax used in the annals, which he refutes.⁵⁰ Instead, the title may refer to the real heir-apparent, but not in all cases, as also Ó Corráin suggested. His subsequent argument will be summarized in my discussion on *rígdamna* (§5.2.), and it suffices to say here that his perception that *rígdamna* formed an 'official' title or had a specific political meaning can be called into question. In fact, he demonstrates from literary sources that the element *damna* in *damna rí*g or *rígdamna*, or *adbar* in *adbar rí*g suggests that the person in question has the *febas* for that office.⁵¹ Thus, Mac Neill's theory that the title *rígdamna* was connected with one's genealogical proximity to a king as forefather, and implied eligibility to the kingship is not correct, as there are a diverse amount of considerations besides genealogical which determine a person's suitability or eligibility for kingship. In short, *rígdamna* implies that that person has the *febas* to be king, and this matches perfectly with his earlier conclusions.

Charles-Edwards uses the rivalry between descendants of Niall Glúndub (king of Tara +919) and Domnall (joint-king of Ailech +915) to illustrate the use of *rígdamna* to indicate that 'the title was more than a consolation prize, but also less than designation as heir-apparent. It recognized the *febas* of the branch of a lineage rather than the immediate claims of an individual.'⁵² Thus, *rígdamna* may mean three things: 1) the heir-designate or *tánaise rí*g, 2) a person belonging to a branch with sufficient *febas* to remain in competition for the kingship, 3) a consolation prize to a person belonging to a branch which had declined in power.⁵³

Although his discussion forms but one of many sections of his book on the topic of kinship, Charles-Edwards' treatment is certainly the one which has covered the widest range of sources, and offers the most challenging and complete view so far. His findings form an excellent basis from which to continue the discussion,

⁵⁰ Ibid., 101-2, see §1.2. above.

⁵¹ Ibid., 106-7. See §5.2. below for discussion, which includes the examples used by Charles-Edwards, see also *DIL* under 'damnae' and 'adbar'.

⁵² Ibid., 110. See my discussion in §5.2. below, and note my comments on the use of *rígdamna Érenn* above.

⁵³ Ibid., 110, in a somewhat different wording.

CHAPTER 2: DESCENT AND HEREDITARY RIGHTS

2.1. The three generation requirement among poets.

It is not difficult to argue that a person's descent added considerably to his *febas*, his excellence and standing. The emphasis laid on royal and noble birth is profoundly expressed in the corpus of Irish genealogies. None of the ruling dynasties mentioned in the genealogies are of low or unknown origin, they all fit in with the rest of Irish royalty, as if it was inconceivable that commoners could ever rise to the distinction of lord or king. In such a strictly hierarchical society as the Irish, this was indeed almost impossible, and certainly not acknowledged by the genealogists, who always found a way to give newcomers a fitting ancestry. A well-known example of how the genealogists came to terms with a new, powerful royal dynasty of an unimpressive background is that of the Dál Cais.

Originally the Dál Cais were known as In Déis Tuaiscirt, who belonged to the Déisi ('vassal-peoples') of south-east Munster who had settled in Thomond. When the Eóganacht kings of Cashel lost their grip on Munster politics, In Déis Tuaiscirt rose to prominence, and acquired a privileged position under the kings of Cashel. Their genealogy was changed in order to accommodate their new status, and under their new name Dál Cais they traced their ancestry back to Cormac Cass, a brother of Eógan Már - ancestor of the Eóganacht kings of Cashel - and of Cian, whom the Cianacht, Luigne and Éile considered as their illustrious forefather.¹ At the end of the tenth century they even replaced the Eóganacht as the kings of Munster, and this was justified by stating that in the remote past Dál Cais had enjoyed an alternating right to the kingship of Munster, but that this had been overruled by the kings of Cashel.² This illustrates that royal status and the claim to a kingship had to be justified, it was not simply a matter of power or prestige, but also of having a right to the royal office - a right which In Déis Tuaiscirt could not

¹ See G §§48, 54. The first to point out the origins of Dál Cais was Eoin Mac Neill in his article 'The Vita Tripartita of St. Patrick', *Ériu* 11 (1932) 1-41: 34-40. In Déis Tuaiscirt is used at AU 836, Dál Cais at AI 934.

² See IKHK 180, Charles-Edwards, *Kinship*, 95, and my discussion at §5.1.

claim by pointing at their royal forefathers and ancestral rights. Hence the 'reconstruction' of their genealogy and the fabrication of an excuse as to why the dynasty suffered a momentary lapse of power.

In Irish politics the right royal ancestry was a precondition for acceptability as a king - a rule which is still valid in Europe nowadays - even if this meant a bit of tampering with the genealogies and additional propaganda to back it up. Mac Neill thought that legal entitlement to the kingship was restricted to a king's son, grandson and great-grandson, which he then connected with a more general legal principle (see §1.2 above). Although the evidence points to a different direction, as Ó Corráin and Charles-Edwards have demonstrated, it is from a theoretical point of view still important to establish the limits of royal ancestry: could all descendants of a certain king claim to be of royal blood, or did this expire after a few generations when they failed to obtain the kingship? The legal tracts are not silent on this matter, as for the lawyers descent and qualifications are strongly connected, and this applies not only to royal office, but also to ecclesiastical office (see §5.1 below) and among the poets. For the theoretical background on the importance of proper descent, and how it is defined, we find the most detailed information in *Uraicecht na Ríar*, a law-tract which is dated to the second half of the eighth century, and deals with the status of the various grades of poets.³

Uraicecht na Ríar describes the *ollam*, the highest grade of poet, as 'a poet whose qualifications are complete and genuine, who is not found to be perplexed in the mass of his craft; through his *nath*, through his *laíd*, through his poetic faculty, through his purity he illuminates nobility, and he is the son of a poet, and a grandson of another (*os é mac filed 7 aue araili*).⁴

The next paragraph in the tract deals with the situation when the last requirement is not fulfilled:

'If he be not the son of a poet, however, or a grandson (*Manip mac filed, immurgu,*

³ CIH 2336.1-2341.7, see Liam Breatnach (ed.), *Uraicecht na Ríar. The poetic grades in early Irish law* (Dublin 1987) 77 for the dating. Henceforth abbreviated as *UR*. The tract bears affinity with *Bretha Nemed toísech*, see 79-80.

⁴ *UR* §3 (CIH 2336.15-8).

nó aue), only half-honourprice (*lethdíre*) goes to him, as Irish law says: "Only half honour-price goes to sages if it is not to a family (of sages) that they are born (*manip do chlaind genatar*)".⁵

This shows that a poet's descent is of considerable importance to his status and honourprice.

An *ollam* should receive his grade not only on account of his compositions and knowledge, but also because of his purity, such as 'purity of hand and marital union (*idnae lámae 7 lánamnais*), and [or: that is] purity consisting of being innocent of theft and plunder and illegality, and purity of body, that he have only one wife, for one perishes through dark (illicit) cohabitation aside from one chaste (woman) on lawful nights.'⁶

In other words, education and poetic talent of themselves are not sufficient for one to be recognized as a properly qualified *ollam* with full honourprice, to belong to a family of *ollams* is as important, while one's moral behaviour should comply with one's high status.

The connection between descent and status is explained in the following section: 'When is the family a family of poets (*cland filed*)? Not difficult; their father is a poet and their grandfather (*fili a n-athair 7 a senathair*). When is the status of poet extinguished in the family? Not difficult; if there be not three [viz. generations] of them, they are then bards (*baird*).'⁷

This is a crucial statement, as it limits the entitlement to the status of *fili* (a poet

⁵ UR §4 (CIH 2337.1-4 = 559.13-5). A parallel passage at 559.15-7 supplies: '*mac righ mac filed mac muirech mac airech mac oighi mac ecnai mac eccailsi dé, madh ít oigh mo do cennaic dorenat. lethdíribh athar nó senathar mad oigh a folaiigh fria tuaith 7 eccluis*.' Breatnach considers this to be a late addition (UR 119, note to §4), but he also notes a better reading which is provided in *Bretha Nemed déidenach* (CIH 1124.6-8): '*Mac righ. mac filedh. mac airech. mac oighe, mac eagna. mac eglasa Dé, mád ógha, mad ennag do renaitheir leithdire a nathar nó a senathar mád ógha a bfolaid fria tuaith 7 eagluis*': 'the son of a king, the son of a poet, the son of a lord, the son of purity, the son of a sage [or: son of ecclesiastical learning], the son of the church of God, if they be complete, if they be innocent, they are paid half the honourprice of their father or grandfather if their qualifications are complete according to the *túath* and church' (my translation). See also the text at notes 8, 11 and 40 below for discussion.

⁶ UR §6 (CIH 2337.15-8), my square brackets. Reading *i.* instead of *ocus* would make more sense here, as the last part seems to explain the first. See §2.4. below for the importance of marital purity.

⁷ UR §7 (CIH 2337.23-4), with discussion at 96-8.

who has also studied) to the son and the grandson if they did not study; the great-grandson is excluded, without study he is only a bard (a poet who has not studied). This complies with the requirement that one can only become a proper *fili* when one's father and grandfather have also been *fili*; in both cases the third generation is the turning point.

In accordance with this, a *fili* of a family of poets who is not educated through study but has poetic talent may choose between having the honourprice of a *fili*, a bard, or half the honourprice of his father. Both his descent and his poetic ability - even without study - give him the status of *fili* if he chooses so, but without poetic ability he is not to be considered a poet in his own right: 'And if the son of the poet does not have ability in poetry, he gets half the honourprice of his father as long as he is alive; if, however, his father is dead, and his grandfather, his poet-status is of no use to him.'⁸ If he has no poetic ability - an essential qualification of course - his honourprice depends on the status of his father or his grandfather, which falls away when they have died. After that only his own position determines his status, as the lack of poetical ability renders him unable to obtain status as a poet.

A member of a poetic family no longer had to be the son and grandson of a poet any more to become a qualified poet: 'As for a man from a family of poets who attends a course of study after his father and grandfather have parted from it, what grade is conferred to him? Not difficult, a grade in accordance with his own skill, for that is the single spark which kindles a blaze': his study has brought back the family's ability for poetry.⁹ The family's poetic ability can still be recovered, and re-entering into the family's profession by showing the proper qualifications ensured full honourprice. The requirement to have a poetic background for three successive

⁸ UR §8 (CIH 2337.27-30), see also note 5 above. See also K. Meyer (ed.), *The triads of Ireland*. Todd LS 13 (Dublin 1906) §167: 'Three free persons who make unfree persons of themselves: a lord who sells his vassalry (*a déiss*), a queen who goes to a commoner, the son of a poet who abandons his (father's) craft' (my translation). It was expected of a son to take up the same profession as his father, see T. O'Donoghue (ed.), 'Advice to a prince', *Ériu* 9 (1921-3) 43-54: 48-9/53-4 (§§27-33), see also ST §50. A commentary in *Bretha Étgid* (CIH 253.40-254.17) explains that one can choose to have one's honourprice on account of one's father and grandfather or on account of one's property. If the latter option is chosen and the property is lost, one's honourprice is diminished accordingly, even if there remains nothing at all. This even applies to a king. In such a case one can only claim honourprice through one's children if they were born after the choice was made.

⁹ UR §9 (CIH 2338.1-5), with an explanation at 97, note 42. For the candle used as a metaphor for proof, see for example ST §§29 and 34.

generations did not have to be fulfilled again.

We have seen that some can claim poetic status until the third generation, as long as he shows poetic ability - study was not necessary. After the third generation this potential poetic status was lost without study. However, *Bretha Nemed* from the early eighth century states: 'It does not ebb if it is a proper well (source) (*topar*) which is over them from grandfather (*senathair*) until great-grandson (*iarmó*): it is [a matter of] grade from then on.'¹⁰ A later text gives this in a slightly different form, and extends it to kings as well:

'The son of a king, the son of a poet. If they are for three generations without acquiring poetry, that they should not have honourprice by right of the poet from then on; or, indeed, that they should not have honourprice by right of the poet any more than by right of anyone else. Why is this then so? It is not diminished from his grandfather (*senathair*) to the great-grandson (*iarmó*), excluding the great-grandson; half the honour-price of his father for him, or a third of the honour-price of his grandfather.'¹¹

Liam Breatnach explains that 'the great-grandson (fourth generation) loses any status which might accrue to him from his great-grandfather having been a poet; from then on the only thing that is taken into account is the grade one reaches.'¹² However, in *Uraicecht na Ríar* the great-grandson would lose his status as poet when the great-grandfather, grandfather and father had been poets (forming thus a poetic family), but not the son or grandson, nor the great-grandson himself. This is affirmed by the first part of the second passage, but the second part seems to contradict this. Perhaps this can be explained by the reference to *topar* in the passage from *Bretha Nemed*, which we can compare with a passage in *Uraicecht na Ríar*:

¹⁰ UR 95 for the text (CIH 2225.5-6) and translation. For *topar*, see below.

¹¹ UR 95-6 for the text (CIH 978.34-8) and translation. For '*mac rig, mac filed*', see note 5 above, perhaps the two passages are related to each other.

¹² UR 95.

'As for a man who has splendid poetry and splendid poetic standing (*airchetal n-án 7 filedacht án*), where neither his father nor a grandfather of his has, what is the name of that grade? Not difficult; a well (*topar*). And his son, what name? Not difficult; a spring (*tiprae*). And his son who has splendid poetry and splendid poetic standing, what name? Not difficult; a splendid stream (*sruth án*), i.e. *ánsruth*; each of them having splendid learning and splendid poetry.¹³

The passage in *Bretha Nemed* refers to a well (*topar*) which is over the grandfather until the great-grandson, and I take this to mean that whoever of them shows 'splendid poetry and splendid poetic standing' (ability and study), even if his father and grandfather were not poets, can claim poetic status (the other passage specifically excludes the great-grandson). This is a tentative interpretation, and the difference in the two passages and their context make it difficult to reconcile the two above references with the three generation requirement. In *Uraicecht na Ríar* we do not find any allusions to potential poetic status until the fourth generation, and perhaps we are dealing with an exception to the rule or an opinion which was not universally acknowledged.

From the information in *Uraicecht na Ríar* we have seen that descent is important, but the accompanying skill through study and talent has to fulfil the promise of that descent; when both are in harmony the ideal situation is reached, and full honourprice is guaranteed. If the skill is present but the descent is not proper the honourprice is half of that of the qualifications, and the same occurs when the descent is proper but the qualifications are completely lacking: half of the father's honourprice is given as long as the father lives, as was the normal rule for every son of a living father (see §2.3. below).

The requirement that a poet should be the son and grandson of a poet is thus a prerequisite for a poet receiving the same honourprice as his qualifications, otherwise the honourprice trails behind, depending solely on study and ability; only

¹³ *UR* §22 (*CIH* 2340.19-22), see also *UR* §12 (2338.22-5): 'An *ánruth* ... splendid his poetry, splendid his attendance at study', see below and *ST* §53.

in and until the third generation are proper descent and status certified.¹⁴

The above passages deal with poets in general, and it is not said that the named requirements applied to each poetic grade. The passage to the *ánruth* quoted above shows that even one with 'splendid poetry and splendid poetic standing' does not become an *ollam*. Liam Breatnach concludes that 'a person from a non-poetic family who reaches the standard required for an *ollam* will yet have only the status of an *ánruth*. This in effect means that the position of *ollam* will be confined to the established poetic families.'¹⁵ Indeed, it is difficult to imagine that a poet from one of the lower grades could rise to the distinction of *ollam* simply by performing the necessary study; this would contradict the strict hierarchical structure of early Irish society, and it would make the grade open to any poet, although there was normally just one *ollam* in a *túath*, appointed by the king.

The hereditary aspect of professional poets is thus amply demonstrated in *Uraicecht na Ríar*, and although it is not specifically mentioned for the *ollam*, we can safely apply it to the highest grade of poets, considering that it is attested for the second grade, the *ánruth*:¹⁶

'What is the duly prescribed *ánruth*? Not difficult; his father is an *ánruth* and his grandfather, and he himself is an *ánruth*; for any grade which there is amongst lords (*flaith*) and (=or) poets (*filid*), if it relinquish its qualifications (*feb*) for a period of three generations, until it has double the qualifications or attendance at study, its status is not equal to that of one with which qualifications are found to be for a period of three generations: "A mound of lordship is one in which three generations are found to be" (*Tulach tigernais i tairrethar triar*).¹⁷

¹⁴ I disregard here the two passages discussed above, which seem to express an exception to the rule, or a particular interpretation.

¹⁵ UR 93-4. For the hereditary poetic families, especially those of the later period, see GEIL 250-63.

¹⁶ See also UR 93-4. For an example of the three generation requirement among noble bards, see UR 50-1 (CIH 1131.19-20): '*bard aine .i. mac baird 7 ua araile*.'

¹⁷ UR §11 (CIH 2338.9-13), see also ST §53; UR §10 (2338.3-5), cf. §12 (and §22, see note 13 above), which states that an *ánruth* who is not from a family of poets is only entitled to half honourprice, as with the *ollam* discussed above. The three generation requirement is discussed by Breatnach in UR 94-8 under that heading, with useful examples which I have incorporated further on.

This important passage not only states that the three generation requirement applies to every grade, it is also extended to the noble grades, with the addition that one has to have double the normal qualifications as well (see §2.2. below). The relationship between the grades of the poets and the lords can already be appreciated in a passage in *Bretha Nemed*, which states that 'he who is not the child of a noble, or a poet, or a learned churchman, sues for only half honourprice until he serve learning doubly (*niba clann airech, no filedh, no egna, ní agair acht lethdíre goro foghna saoithe go diabul*)', and in the description of the *ánruth* as being the son and grandson of an *ánruth*: exactly the same requirement is made for the *ánruth* in the Old Irish law-tract *Berrad Airechta*, in which the *ánruth* refers to a nobleman of high status.¹⁸

2.2. The three generation requirement among the lords.

To understand the relationship between the grades of the poets and of the lords as given in *Uraicecht na Ríar*, we first have to consider the general concordance between the grades of the freemen, nobility, poets, learned classes and the ecclesiastical grades. In *Críth Gablach* the sevenfold division of the Church hierarchy is used as a model for the division of the lay grades:

'Whence come the divisions of a *túath*? From a comparison with the orders of the Church, for every order that is in the Church, it is just that its like should be in the *túath* for the sake of declaration or denial on oath, or of evidence, or of judgement, from each to the other'¹⁹

¹⁸ *CIH* 1124.23-4, translated in *UR* 46 (BN IX, 7-8). See also T. Charles-Edwards, 'Review article: the *Corpus Iuris Hibernici*', *Studia Hibernica* 20 (1980) 141-62: 161. See ST §53 and my discussion at §5.3. (at note 168ff) of the *ánruth* being the grade second to the king (as the *ánruth filed* is second to the *ollam*). As the maxim *Tulach tigernais* ... is from another source, it is may well be that the mentioned requirement to attain the status of *ánruth* in *Uraicecht na Ríar* is taken from *Berrad Airechta*.

¹⁹ *CG* 6-9 = Mac Neill, 'Ancient Irish law: the law of status and franchise' *PRIA* 36 (1923) 265-316: 282 (§62). See also §5.3. at note 113 below.

This concordance is not limited to the sevenfold division itself, but extends to the entitlements and honourprice of the individual grades. For example, *Uraicecht Becc* compares the grades of the learned classes with those of other grades:

'The master of the letter (*suí litre*) is equal in franchise (*comsaere*) to the king of one túath. The 'second' master of the letter (*tánaise suad litre*) is equal in honourprice (*comdíri*) to a high noble (*aire ard*).'

'A master poet (*ollam filed*) and a master of wisdom (*ollam gaíse*) and a master hospitaller (*ollam briugad*), each of them is equal in franchise to the king of one túath. They have 30 séts [as honourprice] and a month's protection and 80 cakes for each of them. A *tánaise suad litre* and an *ánruth filed* and a chief master of handicraft (*ollam suad saírsi*), are equal in franchise to an *aire ard*.²⁰

The concordance between the grades, to a certain extent artificial but also practical, forms a basic concept in the Old Irish law-tracts which deal with rank and status. This uniformity is not shared in all the aspects for all the grades: the three generation qualification does not apply to the ecclesiastical grades (at least, not in theory), while the property qualifications for the lay grades are irrelevant to the poetic grades. But certain principles are common to all or to certain grades, and according to *Uraicecht na Ríar* the three generation requirement and the double qualification requirement apply to both the poets and the lords. For the accuracy of this statement we do not to look further than the maxim *Tulach tigernais i tairrethar triar*, 'A mound of lordship is one in which three generations are found to be', which is used as an illustration of the three generation requirement. The original source of this apparently well-known maxim is *Cáin Fúithirbe*, a law-tract of Munster origin from the late seventh century.²¹

²⁰ *CIH* 1615.4-6; 1618.11-2; 35-6 (*AL* v 103, 113 = Mac Neill, *ibid.*, 279 (§46) and 281 (§56)). A full discussion is given in *UR* 81-94. For the *tánaise suad*, see §5.3. below.

²¹ *UR* 126. See ST §29. For the date of the tract, see Liam Breatnach, 'The ecclesiastical element in the Old-Irish legal tract *Cáin Fúithirbe*', *Peritia* 5 (1986) 36-52.

Cáin Fúithirbe is now known from several fragments of text in various manuscripts. At ST §29 is my reconstructed text and Old-Irish glosses of the relevant passage based on the various readings given in several manuscripts, with translation and notes. I give here the translation only, with the (supposed) original text in bold type:

---The lordship perishes, the three possessions are transferred (lit. turned), the taking away is demanded.

i.e. a man who is in obedience to another man during the latter's lifetime and during his own, and his son during his son's and his grandson during his grandson's, his lordship perishes for the man who is thus during three lifetimes and beyond three lifetimes; otherwise i.e. it is the taking away for being without a lord.

---The prerogative of noble kindred is extinguished,

i.e. when his father is not a lord, nor his grandfather, though he may be of equal kindred as to his origin, the lordship dies for him.

---if a lord is announced when inheritance passes on.

i.e. with any feeding of a lord for three lifetimes.

---The worst (?) of all evils is he who comes after three (generations).

i.e. when a man is not good, nor his father or grandfather, his son is worst (?) of evils afterwards.

---A mound of lordship is one in which three generations are found to be.

i.e. when his father is a lord, and his grandfather, and he is a lord himself, it is a mound of lordship afterwards.

---Legal ownership of the possessions (?) is given when it is declared by three candles,

i.e. binding surety, paying surety and eyewitness.

---with a pillar of appeal [someone with ultimate authority].

i.e. lord, church and family.

---Prescription is applied which is proceeded to according to the full acknowledgement of three heirs.

i.e. it is a prescription when it is for three lifetimes.²²

²² For 'full acknowledgement' (*comditiu*), see §2.3. below.

The maxim *Tulach tigernais i tairrethar triar* forms here part of a whole section which lays down the foundations of the three generation requirement, worked out in detail by the glossator. Although some sentences are difficult to translate and quite obscure, it appears that the three generation requirement is applied to two opposite situations: when a lord has established his rule over others in the third of three generations, or when it is lost in the third generation. We have seen the same principle being used among the poets in *Uraicecht na Ríar*.

It follows that as regards succession, entitlement to the lordship is restricted to a lord's son, grandson and great-grandson; if the latter is not qualified to become a lord either, succession is taken away from him and his descendants. This appears to give new life to Mac Neill's argument, who arrived at a similar conclusion, albeit in a different way (see §1.2 above). Mac Neill applied his theory that succession was thus restricted to the *derbfine* ('certain-kindred'), the great-grandfather and all his descendants for three generations.

Of the main divisions of kinship in the Irish laws, *gelfine*, *derbfine*, *íarfine*, and *indfine*, the *gelfine* ('white-kindred'), the grandfather and his descendants for two generations, is the smallest unit of kindred. In the earliest period the *derbfine* forms the basic unit of kinship in the Irish law, but at some stage in the Old Irish period - Charles-Edwards puts it between c.700 and c.750 - it was replaced as such by the *gelfine*.²³ Mac Neill based himself on the use of *rigdamna* in the annals (from the ninth century onwards) and a Middle-Irish text on *cró* (wergeld) and *díbad* (lit. 'extinction', inheritance of a deceased person or family), and he did not take this change into account. Charles-Edwards argues that the three generation requirement corresponds better with the *gelfine* than the *derbfine*, although it seems to antedate the recognition of the *gelfine* as the basic unit of kindred.²⁴ But, he continues, 'within a branch, the claims to *febas* in virtue of descent are ... strictly lineal, in conformity with the general tendencies of the kinship system. It does not strengthen one's claims to have had an uncle or first cousin who had held the kingship with

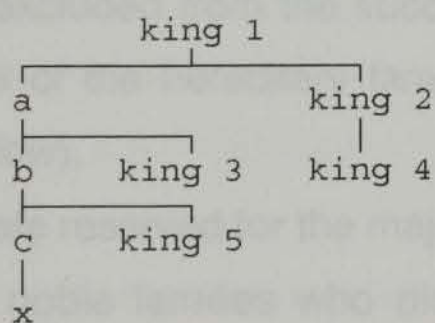
²³ Charles-Edwards, *Kinship*, 509, with a complete discussion at 486-519. Not all agree with this view, see, for example, Rolf Baumgarten, 'The kindred metaphors in *Bechbretha* and *Coibnes Uisci Thairidne*', *Peritia* 4 (1985) 307-27. Neither Charles-Edwards nor Baumgarten take the three generation requirement into account.

²⁴ Charles-Edwards, *ibid.*, 98-9.

distinction.¹²⁵

This is certainly true, but it may be important to point out that a person's claim to *febas* through his descent is not the same as entitlement to succession. As we have seen in *Uraicecht na Ríar*, someone of a poetic family, even if his father and grandfather were not poets, could still become a poet with full honourprice as long as he had the right qualifications. Furthermore, a skilled poet and his son and grandson could still aspire to attain the grade of *ánruth*. They had to be over-qualified, as they were not from a poetic family, but descent was not an absolute criterion, and lacking the right descent could be compensated by outstanding qualifications - a common principle in Irish legal thought, as we will see. Thus, the three generation requirement provides an obstacle for those without a proper background to attain a certain status or office, but does not exclude them.

Another complication is formed by the difference we have to make between the kingship held by one family and overkingships in which several branches compete for the kingship. In the table below 'x' is not a son, grandson or great-grandson of a king, but if the descendants of 'a' form a separate branch claiming the kingship 'x' simply has to become head of his branch to claim the kingship. The branch as a whole makes this claim, and whether their representative is the descendant of a previous king within three generations is quite irrelevant.



It thus seems that both lineal and collateral descent are relevant to succession, depending on the circumstances. Normally, one may expect that those whose fathers and grandfathers were not lords, and who were not qualified for the lordship themselves, would lose their right to the succession because they could not meet the three generation requirement, and lacked the *febas*, influence and power to make a serious claim. Only if a person or his branch could retain a powerful

²⁵ *Ibid.*, 99.

position - for example, by ruling an extensive territory - could a claim be maintained even after three generations.

In this respect the maxim 'A mound of lordship is one in which three generations are found to be' does not only apply to the establishment of hereditary lordship in the third generation, but also to lordship over others for three consecutive generations. The glossator of the section of *Cáin Fúithirbe* pays more attention to this aspect of the three generation requirement than to succession, and effectively proposes that if the members of a family are the clients of one family of lords for three generations their clientship becomes permanent.²⁶

In later glosses and commentaries 'a mound of lordship ...' is especially applied to hereditary clientship, although there is not always uniformity of opinion as to whether it applied in all cases.²⁷ The downward mobility which hereditary clientship often entailed is a well-known characteristic of Irish society, a dreaded prospect from which even those of royal or noble birth could not always escape.²⁸ Of course, the three generation requirement also applied to clientship within the family, and here we arrive at the heart of the problem. If a member of a noble family did not obtain the lordship, he normally became the client of the lord (for example his brother or uncle), and if his sons and grandsons held the same position, their descendants could become the hereditary clients of those who held the lordship, and were thus effectively excluded from the succession. It is also likely that they lost their claim to a share of the hereditary family-lands which belonged to the ruling family (see §3.1. below).

No doubt, this was the fate reserved for the majority of the descendants of those members of the royal or noble families who did not succeed. Only if a family

²⁶ For free and base clientship, see *GEIL* 29-33 and Charles-Edwards, *Kinship*, 337-63, and also §3.1. and §4.5. below.

²⁷ *CIH* 965.3-10; 1374.32-1375.6 = 1937.13-22 = 1774.29-31; 1775.18-9 (*AL* ii 207 and 211, see *Cáin Sóerraith* 248), cf. 47.9-11 (*Heptad* 51, *AL* v 293).

²⁸ See also D. A. Binchy, 'The original meaning of *co nómad náu* (*nó*); linguists v. historians?', *Celtica* 16 (1984) 1-12, for examples at *CIH* 566.12-3 (*CG* 326-7), 1030.23-4 (*CCF* 33, §32), etc. (see §4.3. below). The ideal situation of a son following in the footsteps of his father as regards vassalage is expressed in J. Carmichael Watson (ed.), *Mesca Ulad*. MMIS xiii (Dublin 1967) lines 130-5: '...not an empty and deserted farmer homestead...without a son in the place of his father and his grandfather serving his ancestral lord.' The translation is from *PPast*, 129.

managed to acquire large territorial possessions, to set up a separate lordship, to hold an independent position or to come to an arrangement with the ruling family this could be averted. Such branches usually formed separate lordships, away from the hereditary lands of ruling family (see §4.6. below). If they competed for the succession, they did so as a separate branch, not as members of the ruling family.

The three generation requirement has thus to be put into perspective, and cannot be regarded as a legal impediment to exclude all those who did not meet it for the succession. However, it still is an unequivocal expression of the importance of the right descent and background for a candidate for succession, and this is underlined by the double qualification requirement which had to be fulfilled for three successive generations if the right descent was lacking. Apart from the passage on the *ánruth* this stiff demand is not mentioned elsewhere in *Uraicecht na Ríar*, and it may also be imported from the grades of freemen to promote uniformity among the lay grades in general, as is also expressed in the quotation from *Bretha Nemed* given at the end of §2.1 above. We find both requirements in several Old Irish legal tracts on rank and status, which will be discussed below.

As regards upward mobility the three generation requirement seems to forestall a too rapid climbing of the social ladder, as we have seen with poets who were not from a poetic family and who had to wait for another two generations to acquire full status. In theory, it was possible for a layman to rise to distinction, even one from common origins, as *Uraicecht Becc* explains:

'The free in the seat of the unfree, the man who sells his land, or his authority, or his body in service. The unfree in the seat of the free, the man who buys land or rights or franchise by his art or by his husbandry or by his talent that God gives him. Hence there is [a saying]: "a man is better than his birth".'²⁹

In reality, the first was more commonplace than the last, and a man had to overcome high odds against him to become 'better than his birth', with the three generation requirement and the double qualification requirement as major obstacles

²⁹ *CIH* 1594.24-36 (*AL* v 21); Mac Neill, 'Law of status', 273 (§7).

in his way. The Old Irish law-tracts deal in this respect especially with the important and sensitive area between common freemen and noblemen, and it is demanded that freemen who aspire to nobility have to reach double the normal qualifications which would identify them as 'noble' in the third successive generation before they would have firmly established their position as noblemen, and would be fully recognized as such.

Críth Gablach names the highest grade of the common freemen *fer fothlai* ('man of withdrawal'), who withdraws from the grade of *bóaire* (the standard farmer) to advance towards becoming an *aire désa* (the lowest grade of the nobility) by renting out a surplus of capital to clients. To have clients is the primary indication of a nobleman, but a *bóaire* with clients did not become a lord immediately:

'When does a vassal become a lord from the grade of *bóaire*? ... When he has double [the qualifications] of an *aire désa*, then he is the *aire désa* who is called a "*bóaire* excelling *bóairig*" ... he acquires distinction over them if he obtains by advancing capital the [number of] clients of any *aire désa*, differing from him, however, [in having] double of [the qualifications of] an *aire désa*. When, then, he doubles the qualifications (*feb*) of a *bóaire*, then he is an *aire désa*.³⁰

His honourprice is eight *séts*, exactly between that of an ordinary *bóaire* (six *séts*) and an *aire désa* (ten *séts*).³¹ Because of the three generation requirement, only his grandson can achieve full *aire désa* status; the grade of *fer fothlai* is a step in that direction.

Other Old Irish law-tracts do not use the term *fer fothlai*, but stick to the same principle. In *Míadsléchta* the possession of (generations of) hereditary serfs (*senchléithe*) serves as an indication to a lord's standing. An *ógflaithem* ('pure lord') has three generations of *senchléithe* in clientship, a *lethflaithem* ('half-lord') two

³⁰ CG 256-264; Mac Neill, *ibid.*, 294 (§94). Note the same stress on qualifications (*feib*) in the case of the poets (see §2.1 above) and the hospitaller (see below).

³¹ *Ibid.* A difficult passage CG 272-6 (translated in the note to line 272 at CG p. 32) seems to give the *fer fothlai* a legal capacity of five *séts* if he fails to reach the qualifications of an *aire désa*, 'for half perishes by vain negligence', cf. note 41 below and the five *séts* given to the *lethflaithem* below. The *ánruth* who is not of a family of poets receives only half honourprice (see §2.1 above), being equal to that of the grade under him, the *clí* (ten *séts*).

generations and a *flaith óenescai* ('lord of one vessel') only one; their honourprice is ten, five and four séts respectively.³² *Bretha Nemed* follows the description of the *fer fothlai* quite closely by defining the *flaith arubiatu*r as 'a man who grants his chattels [in fief] without the merit of father or grandfather [having done so]' (*fer-sonerneis a .s.u cin airilliud nathar no senathar*).³³ *Bretha Crólige*, *Bretha im Fúillema Gell*, both texts from the eighth century compilation *Senchas Már*, and *Uraicecht Becc* employ the title *aire iter da airig*: 'an *aire* between the two classes of *airig*', that is, between the freemen and nobility.³⁴

In *Cáin Sóerraith* the glossator uses this title to explain the more explicit *flaith athuigh na bid flaith a athuir* in the text: 'a commoner lord whose father was not a lord', which the glossator understands to be neither father nor grandfather. The middle lord, the *flaith methonuch*, is similarly held to be the son of a lord, but not a grandson. Finally, a proper lord is defined as *flaith ciniuil coir athur 7 senathur*: 'a lord from a proper family of father and grandfather', who is to receive the best food-renders, is free to choose how to collect them, and is entitled to stipulations (*ríara*), this all in contrast with the former two, who are clearly in an inferior position.³⁵ It is difficult to judge the practical meaning of this scheme in *Cáin Sóerraith*, but the theory behind it, which centres around the proper descent of a lord and his rights, is a good illustration of the three generation requirement being used for legal classifications.

The intermediate position of the *fer fothlai* or his colleagues between commoner and nobleman thus prompts the lawyers to bring forward the three generation requirement, restricting social mobility between the two classes. We find the same stress on descent in dealing with the ultimate goal of the *fer fothlai*, to move up to

³² *CIH* 584.21-6 (*AL* iv 351). See T. Charles-Edwards, 'Críth Gablach and the law of status', *Peritia* 5 (1986) 53-77: 59 note 9 for the suggestion that the three *senchléithe* in the text refers to three generations. See §5.3. at note 146 below for further discussion.

³³ *CIH* 2232.2-3. See *UR* 95 for the translation and following examples.

³⁴ *Bretha Crólige* §46 (*CIH* 2296.40); *CIH* 472.30-1 (*AL* v 411); 1596.3-4 and 1597.16-29 (*AL* v 27 (text) and 33 (comm.)). See also 708.1-2 = 1230.23-4.

³⁵ *CIH* 1772.34-1773.28 (*AL* ii 201-3; *Cáin Sóerraith* §4, see *ST* §36). A fragment of this passage is at 852.26-35; For *ríara*, see *DIL*, 'ríara (b)'. See also *CG* 254-5 (Mac Neill, 'Law of status', 293 (§93)) concerning the *fer fothlai*: 'a vassal is not entitled to malt till he be a lord'.

become an *aire désa*. *Míadslechte* qualifies the *aire désa* as 'a man who preserves the vassalry of his father and grandfather as he finds it before him, and who accumulates (*Aire desa .i. fer conae deis nathar 7 a tsenathar amail atcota riam, 7 dotairchi*).³⁶ *Críth Gablach* describes the typical *aire désa* as 'being a son of a noble and a grandson of another (*os hé airech 7 aue airech*), and having his house in proper state, as to furniture and entertainment and rectitude.³⁷ Clearly, then, the two requirements are used where it matters most, between the highest grade of the common freemen and the lowest grade of the nobility.

Apart from the *ánruth* in *Uraicecht na Ríar* and the *fer fothlai* in *Críth Gablach*, the double qualification requirement also appears in *Bretha Nemed*, here in relation to other grades: 'Declare the hospitaller, judge, steward (*briugaid, brithemain, bethamain*), they have the same honourprice as a noble king of a *túath* when they bring firmly a doubling to their qualifications (*díabal fria febtu*).³⁸

This is repeated for the hospitaller in *Uraicecht Becc*, which gives the underlying reason for the use of both the double qualification and the three generation requirement: 'A *briugu* has the same status as a lord if he have indeed twice the amount of land and cultivation of the relevant grade; the excess is on account of (is required to counterbalance) the [noble] kindred (*cenél*) and traditional render of the lord.³⁹ The glossator explains *cenél* as the son of a *flaith* and grandson of another, thus stressing that anyone who has not the right descent has to make up for this deficiency by showing double the normal qualifications (*febta*), as we have also seen above.

The general rule which is applied here is also given in a commentary on *Uraicecht Becc*: 'For it is thus honourprice is divided: half of it in right of property, and half in right of worthiness, when a person is in possession of both property and

³⁶ *CIH* 583.33 (*AL* iv 349), translation partially based on *UR* 95.

³⁷ *CG* 335-6; Mac Neill, 'Law of status', 297 (§107).

³⁸ *Bretha Nemed* §17 (*CIH* 2212.37-9). Liam Breatnach points out that the three mentioned here normally have half the honourprice of a king, see *Bretha Nemed* 37, note to §17. See also note 18 above.

³⁹ *UR* 95 for this translation of *CIH* 1608.8-13 (*AL* v 77), see also Mac Neill, *ibid.*, 276 (§29).

worthiness (*tochus 7 indracus*).⁴⁰ Further on we read: 'What is wanting from each man's means is wanting from his dignity; what is added to his good means, adds to his good dignity (*A tormuig dia dagfoltaib tormaid dia dagcataid*)', to which the glossator adds that if even a small part of one's property is lacking one only receives half honourprice.⁴¹ The text continues: 'Half the dignity of each man to his wife or his dutiful son (*gormac*), or to his administrator (*rechtaire*), or to his prior (*secnap*).'⁴²

According to the lawyers, descent and qualifications have to be in balance; if the right descent is lacking, this has to be compensated by double the normal qualifications - until the higher status is finally acknowledged in the third generation; if the qualifications are lacking, half honourprice is given. To give the son half of the honourprice of his father is in accordance with this, and apparently based on this rule: he has the right descent, but lacks the qualifications.⁴³ In *Críth Gablach* this is also extended to sick-maintenance:

'Half the sick-maintenance of [a man of] each grade is due to his lawful son (*macc dligthech*) and his wife; for it is a half for every lawful person, a fourth for every unlawful person (*cach indligthig*).'⁴⁴

Unlawful means in this context either unqualified because of improper behaviour (see §4.2 below) or lacking the right descent from the mother's side by being born from an illegitimate or improper relationship (see §2.4 below). Both disqualified a person, and this affected his status accordingly.

⁴⁰ *CIH* 1598.3-5 (*AL* v 35).

⁴¹ *CIH* 1606.33-1607.3 (*AL* v 71); Mac Neill, *ibid.*, 275 (§27), cf. note 31 above. *Folad* can also be translated as 'qualifications'.

⁴² *CIH* 1607.4-7 (*AL* v 71); Mac Neill, *ibid.*, 276 (§28), cf. *CG* 483-9; Mac Neill, *ibid.*, 301 (§118).

⁴³ See §2.1. above, for discussion of the son lacking poetic ability. A son could claim half of the honourprice of his father and one-third of his grandfather (cf. *CIH* 437.13-28, *Díre* §15-8), but without any qualifications to match his descent this would expire after they had died. Similarly, a man of noble descent would not be entitled to the honourprice of a nobleman when he has no clients or possessions, and his father and grandfather had died, see note 8 above.

⁴⁴ *CG* 481-3; translation based on Mac Neill, *ibid.*, 301 (§118).

Due to the two requirements, upward social mobility to the nobility was severely curtailed, and there is obviously no place for incidental or temporary promotion. Added to this is the possibility that a man's wealth could be split up between his heirs, another complication to the process of achieving higher status in the third generation. The sum of this is that the nobility held a rather exclusive position into which men from common background would find it very hard to enter. The legal system sustained this aspect of society, and the three generation requirement served it well.

Whether the three generation and the double qualification requirement separated the various noble grades in the same way it separated the commoners from nobility remains an open question. We have already discussed the hereditary aspect of the *ollam* among the poets, and it is possible that something similar applied to the *aire tuíseo*, the head of a noble kindred, and thus also to the king, the head of a royal kindred. In *Críth Gablach* the description of the *aire tuíseo* ('lord of precedence') seems to suggest that the grade is normally held by one line of descent. The *aire tuíseo* is so called 'because he is the leader of his kindred (*toísech a ceníul*) and precedes an *aire ard*', and about one of his functions it is said: 'he sustains [i.e. assumes liability for] legal arrangements [made] under the warranty of his father and his grandfather (*ar neat córus i rráith a athar 7 a senathar*).'⁴⁵

This clause refers to suretyship undertaken by the father and grandfather of the *aire tuíseo* which he continues as head of his kindred. To carry out such a function properly, a certain degree of continuity was necessary, ongoing fluctuations in status and leadership would upset the structure of society considerably, and make long term legal arrangements almost impossible. For his duties and responsibilities the *aire tuíseo* needed sufficient wealth and personal support, so that he could be

⁴⁵ CG 386-7 and 414 (see note at CG p. 35); Mac Neill, *ibid*, 298-9 (§112). Alternatively, translate *toísech a ceníul* as 'he is leader by virtue of descent'. Other texts rank the *air tuíseo* below the *aire ard*. A commentary to *Heptad* 51, *CIH* 47.9-11 (*AL* v 293), dealing with the rights when one is allowed or forbidden to provide protection and sanctuary, states: 'Or, if [it] be a surety that was used in the affairs of father and grandfather, *lex defendens*, it shall be upon his son and grandson in perpetuity.' I have not been able to find references to a *lex defendens*. The same aspect is present in the *ánruth* in *Berrad Airechta* (see note 18 above) and a commoner who stands surety for his family: 'a man whose father and grandfather were a pledge on behalf of their kin' (*CIH* 922.10-1, discussed at §3.1. at note 67 below).

'of complete assistance to the *túath* with regard to representations, oaths, pledge and hostage, (and) treaty on behalf of a *cenél*, over the border and in the house of a lord.⁴⁶ The background of having a father and grandfather as previous heads of the kindred guaranteed that he had the accumulated capital of at least three generations of lords to be able to carry out his duties properly without putting all his wealth and status at stake; a poor lord could not represent his kin in a reliable way.⁴⁷

In *Cáin Aicillne* the responsibilities of the head of the kin are recounted, and the one who is best able to meet them should be the one to assume them:

'Every body protects its members, if it be a good body, of good deeds, of good morals, healthy, with good qualifications, well capable. The body of each is his family, there is no body without a head.

Everyone's head according to men is his kinsman who is greater than him in dignity, more venerable, wiser, more sensible, more learned, who has more friends (to come to) an oath for (the support of) truth, who is stronger against impugning (contracts), more steady in dealing with profitable and pressing returns.⁴⁸

Several qualifications are mentioned here: dignity, intellectual capacities, having support and wealth. Normally speaking the three generation and double qualification requirement guaranteed that this was present in the person who took the burden of lordship. As the loss of status was also made permanent after three generations, a family or its members were given a chance to recuperate from any misfortune or loss they suffered. Together with other considerations, such as stability in social and political relationships, proper education and experience, the

⁴⁶ CG 411-3. Mac Neill, *ibid.*, 299-300 (§113); my translation. For the importance of wealth for the proper functioning of the *aire tuíseo* and other high nobles, see Nerys Thomas Patterson, *Cattle-lords and clansmen. Kinship and rank in early Ireland* (New York and London 1991) 341-3, where she cites this reference.

⁴⁷ Nerys Thomas Patterson, 'Patrilineal kinship in early Irish society: the evidence from the Irish law texts', *BBCS* 37 (1990) 133-65: 144. The importance of wealth as regards succession is discussed at §4.1. below.

⁴⁸ See ST §9 for text and translation from *Cáin Aicillne* §§30-1 (*CIH* 488.25-489.8; *AL* ii 279).

two requirements ensured that a man was fit for the duties and responsibilities his grade incurred, and that descent and qualifications complemented each other.⁴⁹

2.3. Hereditary rights and abilities.

Críth Gablach, in discussing the grades of lords (including the king), asks the question:

'What ennobles them? Their vassalry, their entitlement of each of them, whether great or small. Question: what is the vassalry of a lord [?] Because there is entitlement of acknowledgement [and] of office. There are four kinds of vassalry for lords: the long-standing acknowledgement of the *túath*; his office in the *túath*, including the office of leader or *tánaise toísig*, whichever office of them it be; his clients of vassalage, his free-clients; his hereditary serfs.'

(*Cid nodasóera? A ndéis a ndliged cach áe, cid bec cid mór. Cair: caiti déis flatha [?] dég dligid comditen dána. Dicoissin cetheora déisi do flaithib: senchomditiu thúaithe; a dán i túaith, im dán toísig nó thánaisi toísig, sechib dán di[i]b; a céli gíallnai; a sóerchéli; a senchléithe*).⁵⁰

This overview gives a good impression of what could give a nobleman his rank and status: his hereditary right in which he is acknowledged (*comditiu*), his responsible position, his clients or wealth, and his hereditary serfs. The word *comditiu* is used in several Old Irish texts and glosses to denote a prescriptive right which is established after three generations (or other measures of time), for example: 'Recognition, then, in the lifetime of the heir, acceptance in the lifetime of the second, full acknowledgement in the lifetime of three men (*Déitiu di[diu] saegal*

⁴⁹ See also *CIH* 584.35-7 (*Miadšlechta*, *AL* iv 353): 'A henchman (*seirthuid*) i.e. a soldier of a good kindred (*daghcenel*) or a householding man or the son of a leader (*no mac túisigh*) ... because his father had been a leader; or good is his kindred; or his talents (*gais*).'

⁵⁰ *CG* 319-24, which has mistakenly omitted *toísig* after *thánaisi*, which is in both MSS, see *CIH* 566.9 = 782.16 In the MSS the questionmark is put after *dána*, but I have put it after *flatha*, see also Binchy's note at *CG* p. 32-3. For *déis*, see *CG* p. 82.

comarba. aititiu saegal a dó comdetiu saeghul tri fir...), while 'rent fully acknowledged during three persons (generations) (*chis comdidean fria triar*)' is mentioned in *Di Astud Chirt 7 Dligid* among the three things which cannot be altered in any way.⁵¹ A commentary in *Do Tuaslucud Rudradh* simply states; 'prescriptive right after three persons as regards kingship, abbacy and clients (*rudrudh trir re righe 7 ré hapdaini 7 re celibh*).⁵²

We have seen that the hereditary right of a lord is established after three generations, and that this increased his status. Along the same lines three successive generations of clientship leads to hereditary clientship, and a logical extension is that three generations of possession leads to hereditary possession. The Old Irish law-tract *Coibnes Uisci Thairidne* refers to contracts made by father and grandfather which become fixed in the third generation:

'For there are three rules (servitudes) which heirs are not capable of altering if their father and their grandfather have acknowledged [them] throughout their lifetime: the rule of every watercourse...[etc.]⁵³

In the main legal tract on distraint, *Di Chetharslicht Athgabála*, a commentary states on the possession of land: 'A king is found to have a prior claim after three lordships.'⁵⁴

In various commentaries and glosses this is brought out more clearly in the description of hereditary land as 'land of father and grandfather'. For example, in *Di Chetharslicht Athgabála* it is said that, in order to distraint a person, the latter has to be in possession of 'land of ancestors (*tealluigib seanaithe*)', which is glossed

⁵¹ *CIH* 573.33-574.4 (K. Meyer, 'Allerlei Rechtssprüche aus H.3.18', *ZCP* 12 (1918) 363-4) and 231.7-10 (*AL* v 451). See *DIL* under 'détiu', 'aititiu', 'comd(e)itiu' and 'rudrad', and *Bretha Nemed* 34 (note at §11). Other clear examples are at *CIH* 352.26-31, 353.18-25, 881.28-30 (*Di Chetharslicht Athgabála*, *AL* i 65); 746.29-36. See also §2.2. at note 22 above.

⁵² *CIH* 1875.22-6 = 244.33-6 (*AL* v 497), see also *GC* §37 (2197.13-8).

⁵³ *CIH* 460.8-9 = 1376.29-30, see D. A. Binchy (ed.), 'Coibnes Uisci Thairidne', *Ériu* 17 (1953) 52-85: 69 (§9). See also *CIH* 843.14, *Fodla Tíre*, in Géaroid Mac Niocaill (ed.), 'Tír cumaile', *Ériu* 22 (1971) 81-6: 83/86.

⁵⁴ *CIH* 1665.39-1666.1 (*AL* i 77), see *ST* §53a.

as 'the possession of a father or grandfather and not land of inheritance (*teallach athur 7 senathar, 7 narub tir dibuidh*)'; *díbad*, land acquired from next-of-kin which had died out, could not be distrained.⁵⁵ In the saga *Indarba na Déssi* ('The Expulsion of the Dési') Eochaid mac Airtchorp goes overseas to Dyfed in Wales, 'and it is there that his sons and grandsons died. And from them is the race of Crimthann there.'⁵⁶ This seems to imply that the descendants of the son and grandson of Eochaid lost their right to land-inheritance in Ireland because three generations had lived and died in Wales.

In all, the importance which the lawyers attach to the establishment or loss of a certain right after three successive generations is well attested, and is extended to a wide variety of situations. Therefore, we can regard the three generation requirement as a standard legal principle, not merely a loose attempt to develop a theoretical concept to restrict upward mobility or succession to a lord or king's near relatives. We have seen that it has a practical application as well as regards a man's status and responsibilities, but a person's descent is also important in its own right. In the texts we have discussed so far, the relevance of the three generation requirement to succession is indirect and not as explicitly expressed as in some later texts:

'None but the living candle claims lordship, i.e. there is no claim to enter the status of a lord immediately, except for the person for whom it shines like a living candle, i.e. the son of a lord, and the grandson of another (*mac flatha 7 ua aroile*).'⁵⁷

⁵⁵ *CIH* 1726.29, 32-3 = 1457.1 (*AL* ii 13-5) = 1959.10 (*AL* i 227). For other examples of the land of father and grandfather in glosses and commentaries, see *CIH* 1815.24-5 and 534.25 (*Córus Béscna*, *AL* iii 49, 53), 164.23 (*Córus Fine*), 166.23, 27, 740.12-3, etc. A late Old Irish gloss remarks: 'kin-land and *fuidir* [semi-free retainers] are shared throughout the kindred for kin-land and *fuidirs* do not belong to the father any more than to the son and the grandson.', see *CIH* 917.36-8, translated in Charles-Edwards, *Kinship*, 68. See §4.4. below for the land of father and grandfather in the sixteenth century.

⁵⁶ Kuno Meyer (ed.), 'The Expulsion of the Déssi', *Y Cymmrodor* 14 (1910), 101-35: 112-3 (§11). See also Tomás Ó Cathasaigh, 'The Dési and Dyfed', *Éigse* 20 (1984) 1-33.

⁵⁷ *ST* §34. For the living candle (a witness, apparently of high status and integrity), see *CIH* 119.19 (*Din Techtugad*, *AL* iv 53), 591.20-1 (*Berrad Airechta* §3) and *ST* §29.

In *Di Astud Chirt 7 Dligid* we find the most extensive comment of this kind:

'No one outside the kin takes possession of [anything which causes] loss to a kin-member, for to get what his worth entitles him to is the right of every noble person. One does not sit at the hearth of the *bóaire* except for the three nights which are proper for the *túath* and *cenél* with their lawful retinue. The lord of any family is he who sustains them with dignity and custom.'

(*Ni techta anfine dith ar fine ar us cach mocha tuillean a feibe seadar im caire feibe. Na seagar im teallach mboireach ach .iii. haidche bede cora la thuaith 7 cenal cona nurlaind techta. Tuiseach cacha fine aranithead feib 7 bescna*)⁵⁸

The glossator explains dignity (*feb*) as 'the one who has best wealth ... or ... the the three chief residences (*donti is fearr tochus ... no ... na tri cunntairisme*)', while the *bóaire* is explained as being a *briugu* in this case, and the three nights refer to a council which is held; both are clarified by the commentator:

'The lord died without issue in this instance. If there be a *briugad* in the *túath* and many competitors, the people of the whole *túath* are to repair to the *briugad*'s house, each man having his full retinue, and to remain there for three days and three nights, holding a council, as to whom they should place in the lordship. They are bound to see that the person they select is he to whom the lordship is due, i.e. that he is the son of a lord and the grandson of another, that he has the three chief residences, and that he is pure, without [committing] theft or unnecessary wounding.⁵⁹

The last clause is also in a commentary in *Cóic Conara Fugill*, which applies it to the kingship of a *túath*.⁶⁰

⁵⁸ *CIH* 227.26-29 (*AL* v 439), see also *ST* §17.

⁵⁹ *CIH* 228.8-13 (*AL* v 441), see also *ST* §17. For the three chief residences, see §5.3. below.

⁶⁰ *CIH* 1034.21-4 (*CCF* 43, §67) which is a gloss to *Fri flaith fri airten* (By the acceptance of a lord), one of the situations in which the path of judgement named '*fír*' is used (based on Mosaic Law, see *CCF* 19, §11), cf. 2200.15-6 (*CCF* 17, §5), in which it is applied to the kingship of the *túath* and the abbacy, but the rest of the section is not included.

In saga-literature the hereditary rights of a person through his descent are specifically expressed in *Togail Bruidne Da Derga*, dated to the eleventh century: after the men of Ireland have organized a 'bull-feast' (*tarb-feis*), in which the future king had been foretold in a ritual trance, young Conaire arrives at Tara and claims the kingship by saying: "A young generous king is no blemish. That is not to be judged extinction of patrimony (*ní messí díb[ad] é sin*). I have paternal right and grandpaternal to bind the hostages of Tara (*is cert nathar 7 seanathar damsa fonaídm ngiall Temrach*)." "Wonder of wonders" said the host. They bestow the kingship of Ireland upon him, and he said: "I shall enquire of the wise that I may be wise myself".⁶¹ Conaire's claim is here founded upon the three generation requirement: his father and grandfather had been kings of Tara, and he is not to be regarded as unqualified because of his young age, so he has a perfect right to the kingship.

We have seen that the legal requirement to have the right descent for a certain office or certain rights or entitlements has a practical meaning, as far as the lords are concerned: to be of a family of lords guarantees, among other things, the property and background necessary to meet the duties and responsibilities attached to the office. This explanation may indeed be one of the reasons why the three generation requirement, combined with the double qualification requirement, is used among the grades of the freemen, serving as a divide between commoners and nobility. It is certain that its application to hereditary rights to the lord- or kingship derives from this, as can be seen from the examples given above.

However, there is more to this than just a legal principle, which becomes clear when we return to the poets, as there is no real practical reason why the poetic profession should be considered hereditary. It may be that this was taken over from the other lay grades, but we have seen that it was expected from a member of a poetic family to have poetic talent. The background of this is not discussed in *Uraicecht na Ríar*, but the author of 'The Caldron of Poesy', dated to the early eighth

⁶¹ *TBDD* 162-4 (§15). The above translation is in *PPast* 123, which I prefer to the interpretation given by Anders Ahlqvist, 'Two notes on Irish texts', *Ériu* 30 (1979) 64-6. For the date of the version in YBL, which is quoted above, see *TBDD*, xi.

century, addresses this very question:

'Where is the source of poetic art in a person; in the body or in the soul? Some say in the soul since the body does nothing without the soul. Others say in the body since it is inherent in one in accordance with physical relationship, i.e. from one's father or grandfather (.i. *ó athair nó senathair*), but it is more true to say that the source of poetic art and knowledge is present in every corporeal person, save that in every second person it does not appear; in the other it does.'⁶²

The author considers here the possibility that poetic talent is inherited by a physical relationship, that it comes from one's father or grandfather - which seems to refer to the legal aspect of the poetic family in *Uraicecht na Ríar*. Although he rejects this theory, the lawyers apparently maintained that talent was inherited within the family, which they combined with the three generation requirement. The view that a man's descent had a direct bearing upon his abilities and qualities is one often presented in the sources. For its origins the *Collectio Canonum Hibernensis* may give some clues. It partially cites the seventh century text *De Duodecim Abusivis Saeculi* while discussing the unjust king, and stresses the negative influences a bad rule has on the king's descendants:

'The iniquity of an unjust king disrupts people's peace, raises obstacles to kingship, removes lands' fruits, hinders the people's services, leads to dear ones' deaths, stirs up enemies' incursions into territories, works beasts up everywhere with the savaging of stock, gives rise to atmospheric storms, impedes the fecundity of lands and the bounties of the sea, kindles lightnings, burns up the blossoms of trees, casts down unripe fruits, not only darkens the countenance of the present rule but also obscures sons and grandsons so that they should not inherit the kingship (*sed etiam filios et nepotes, ne regni hereditatem obtineant, obscurat*).'⁶³

⁶² Liam Breatnach (ed), 'The Caldron of Poesy', *Ériu* 32 (1981) 45-93: 64-5 (§3). For his dating, see 52-6.

⁶³ *CCH* xxv, 3; H. H. Anton, 'Pseudo-Cyprian *De duodecim abusivis saeculi* und sein Einfluss auf den Kontinent, insbesondere auf die karolingischen Fürstenspiegel', in H. Löwe (ed.), *Die Iren und Europa im früheren Mittelalter* (Tübingen 1982) 568-617: 583-4. The translation is in *PPast* 139, with

The theme that the sovereign's truth (*fír flatha*) was manifested in rich harvests, good weather and favourable omens, and that a sovereign's unjust behaviour (*gáu flatha*) could have equally ruinous consequences to nature and people - both related to sacral kingship - is widely represented in Irish literature, and does not need to be discussed here.⁶⁴ More relevant to our topic is the way the *Hibernensis* postulates that the behaviour of an unjust king affected his sons and grandsons in such a way that they would not succeed. Either the king's descendants are divinely punished because of their father's misrule, or his behaviour would be inherited by them, which likewise would make them unsuitable for the kingship.

The principle of hereditary sin has strong biblical connotations. In the Ten Commandments and elsewhere it is stated that the iniquity of the father will be visited on his sons and grandsons unto the third and fourth generation.⁶⁵ Kim McCone draws a parallel between this and the collective responsibility for the crimes of a member of the *derbfine*, and perhaps this can be extended to the third generation requirement.⁶⁶ In this respect Deutr. 23:8 is called to mind, where it is stated that only children in the third generation may become Jews if they are not from a Jewish but a foreign background. This does not prove that this served as the basis for Irish legal thought, but the connections between the Old Testament and early Irish law are sufficiently attested elsewhere to consider the possibility.

The primary examples of the sins of a king being visited on his descendants are in the various lives of the Irish saints: those who recognized the saint were given the hereditary right to the kingship until Judgement Day, those who opposed him suffered its loss for the same amount of time. One only has to take a glance at the *Vita Tripartita* to see how Patrick is given the role of the supreme punishing saint in the best tradition of the Old Testament; in passing he gives shape to the early

also further discussion on sovereignty and the influence of the church.

⁶⁴ *PPast* 108, 138-160.

⁶⁵ Ex 20:5, 34:7, Num 14:18, Deutr 5:9, cf. Lev 26:39 and Is 14:21. Deutr 24:16, IV Rg 14:6, II Par 25:4, Ier 31:29-30 and Ez 18:17-20 state that every individual should be punished for his or her own deeds, but this seems to refer to the death-penalty in particular. I owe these references (to the Vulgate) to Jacqueline Borsje.

⁶⁶ *PPast* 141.

medieval Irish political map, dealing with the eponymous ancestors of the main Irish dynasties in person.⁶⁷ The hereditary aspect of one's talent, behaviour, abilities and qualifications are so widely represented in the annals, genealogies, praise-poems and other literature, both early and late, that one example will suffice here. In *Cogadh Gaedhel re Gallaibh* it is said of Toirdelbach, the young son of Murchad, son of Brian Bóruma: 'There was not of his age a person of greater generosity or munificence than he in Ireland, and there was not a more promising 'makings of a king' (*adbur rig bad ferr*). For he inherited the munificence of his father and the royal dignity of his grandfather.'⁶⁸

Considering the above, we can see the three generation requirement (and descent in general) as a qualification which does not only guarantee a proper standing in society, but also the right background in talent, abilities and behaviour inherited from one's parents and predecessors. Naturally, it is only inherent in human nature to propagate one's royal descent, to boast about heroic ancestors, to see in the ruling royal family the source for leadership and strength, and to look towards the son of an unpopular king with suspicion and apprehension, while in the son of a good king better qualities are expected. This impression is lavishly brought forward by the sources, and is illustrative of the crucial importance which was given to the right descent, preferably from a line of famous kings. We have to bear this in mind when judging the legal sources, for they do not only reflect a legal principle on pure theoretical and practical grounds, but they are also the product to a society in which descent carried enormous weight for one's standing, reputation and claims.

⁶⁷ See *PPast* 195 and 250 for some examples, see also §5.2. below.

⁶⁸ *Cogadh* 193 (§110); *adbur rig* is discussed at §5.2. below. For other examples referring to characteristics inherited from one's father and grandfather, see W. Stokes (ed.), *Cóir Anmann*, in W. Stokes and E. Windisch (eds.), *Irische Texte* 3.2 (Leipzig 1897) 285-444: 369 (§192); *TBDD*, 192-4 (§18); Elizabeth A. Grey (ed.), *Cath Maige Tuired. The second battle of Mag Tuired*. ITS 52 (Naas 1982) 56-7 (§124); Whitley Stokes (ed.), '*Acallamh na Sénorach*' in W. Stokes and E. Windisch (eds.) *Irische Texte* 4.1 (Leipzig 1900) lines 5310-2. In John O'Donovan (ed.), *The banquet of Fled Duin na nGedh and the battle of Mag Rath* (Dublin 1842) 116, Domnall mac Áeda (+642) is given a wide range of royal attributes, which he inherited from his various forefathers. An example of a praise-poem stressing noble descent is at W. Stokes and J. Strachan (eds.), *Thesaurus Palaeohibernicus* (2 vols., Dublin 1901-3) ii, 295.

2.4. Illegitimate birth.

We have seen that the three generation requirement normally guarantees that a son and grandson of a previous lord was qualified for the lordship as regards wealth and abilities, but that it did not guarantee a right to succession. In this respect the three generation requirement is strongly connected with status and hereditary right, but it is not an absolute rule: a son whose father and grandfather had been incompetent kings would not be everyone's favourite candidate to succeed. Similarly, if a son's father and grandfather had been formidable kings but he himself had been born from an illegitimate relationship and/or had a mother of low status he might still be considered to be unsuitable for the kingship.

The lawyers show themselves very concerned about the birthright of a son, and his claims to an inheritance and the lordship. They concentrate on the following considerations:

- To establish who is the father of the son when this is in doubt.
- The status and reputation of the mother.
- To establish whether he was begotten in a lawful marriage or accepted afterwards.
- The marriage-status of the mother (a primary wife or a concubine).

Often, these considerations overlap each other, especially when a woman who has the reputation of being engaged in several sexual relationships tries to prove the paternity of her child. The legal corpus is populated by a wide variety of harlots, prostitutes and loose women in general, and the attention they receive gives the impression that the rights of sons begotten from relationships with these women were a major concern of the time.⁶⁹ This problem is treated in detail in the Old Irish legal tract *Do Astud Chirt 7 Dligid*, which includes three passages which deal with sons who are excluded from the inheritance and thus from the lordship:

'Harlots fairly bring their offspring begotten in the bushes [into the family]; honourprice is diminished according to the concealment of connexion; the children do not get a share of land; the son of darkness does not sue land (patrimony),

⁶⁹ See, for example, Meyer, *Triads*, §§72, 83, 91, 124, 180, 181, 185, 223, 228.

according to Irish law; the son of the bushes is doubtful even though acknowledged, for she receives on every night all to her embraces; she rejects no connexion; they conceal the shame (?) of every *baitsech*; the child of a *baitsech*, it has been settled by judgements of nature and conscience and scripture, belongs to the mother's family ...'

(*Cainberad meirdrecha a lanamnus i muine; dociallathar logh neineach in celad bainfesa; ni taigi tarrfine toranna mbruighe; ni saig orba la- mac doirche; is brecht ce roithne mac muine; arfaim cach ndoirche cach ina comfogail; nima nurcoillead lanamnus; incelad ruca cacha baitsaige a taige; la fine mathar mac baitside do roigle i mbreathaib aicnigh 7 cuibse 7 screbtra 7 la fine mathar mac baidsaide*)⁷⁰

'A loose woman is every woman of secrecy or every woman who absconds from her marriage without necessity; for the children do not settle among the (father's) family without invitation or adoption fee (i.e. seven *cumals*), or without ordeal of cauldron or holy adjudication.'

(*Baidsech cach be taige no cach ben deiraig a lanamnus cen deithbire; ar ni saig a tarrfine fine cen tocuirid no cin log faesma (.uii. cumala) no gen fir fogerrta no coimperta noime*)⁷¹

'Which are the three sons who do not receive the dignity of lord in Irish law? The son of a female slave, the son of a daughter of a serf, the son of the female satirist. What is the reason for this? Because it is difficult to place the son of a female slave in a lordship, for his vices are like his mother's; it is more proper to have a son of

⁷⁰ *CIH* 232.5-8; 31-4 (my punctuation). My translation, based on *AL* v 453 and Kathleen Mulchrone, 'The right and duties of women with regard to the education of their children', *SEIL* 187-205: 198-9. *Tarrfine* means literally 'belly-kin', and refers here to children from an illegitimate connexion. In *Bretha Crólige* §44 (*CIH* 2298.8-13) among those women who are not entitled to sick-maintenance is mentioned 'a woman who cares not with whom she may sleep i.e. a *merdrech* who gives the use of her body without payment.' In David Greene (ed.), *Fingal Rónáin and other stories*. MMIS xxvi (Dublin 1955), lines 94-8, Congal calls Rónán's young wife an evil woman (*drochben*) who tries to seduce a man 'in ditches and bushes (*i claidib ocus muinib*)', see also T. Charles-Edwards, 'Honour and status in some Irish and Welsh prose tales', *Ériu* 29 (1978) 123-41: 141.

⁷¹ *CIH* 233.20-2 (my punctuation, and with one gloss inserted). My translation, based on *AL* v 457, and Mulchrone, *ibid.*, 198. For discussion on the various ordeals used to prove a son's paternity, see Charles Plummer, 'Notes on some passages in the Brehon laws I', *Ériu* 8 (1916) 127-32 (§§1-12); II: *Ériu* 9 (1921-3) 31-42 (§§13-25), III: 109-17 (§§26-37); IV: *Ériu* 10 (1926-8) 113-29 (§§38-52): §§32-3, and *GEIL* 210-1. See also below.

a daughter of a serf under rent; a sharp-tongued wordy person in the lordship is not easy [or: possible].'

(*Cisne .iii. mic na gaibead urtechta flatha la-. Mac cumaili, mac muksaide, mac biride. Cid fodera son. Ar is indsa mac cumaili i flathius, ar id cutruma a doailche fria mathair; ar us cora mac muksaide fo chis; ni husa berach briathrach i flathius*)⁷²

According to the glossator the last three sons would be excluded from the lordship because they could not inherit land, which is one of the prerequisites for attaining the lordship. The commentator adds: 'while the son of a lawful wife (*mná dligthige*) is extant, though indigent (*deolaidh*), it is he who shall go into the lordship; or even when they are equally good (*commaith*), it is the son of the lawful wife who shall go into the lordship without lotcasting.'⁷³

The last section reveals the mistrust of low birth, and the privileges attached to the right descent, both in theory (hereditary behaviour) and in practice (inability to inherit land).⁷⁴ The first part does not so much deal with low status, as with the low reputation of the women mentioned: their sexual promiscuity results in a number of candidates for paternity, which disqualifies the son for the inheritance (and consequentially for the lordship). The sons of uncertain parentage are covered by the rather negative terms 'sons of darkness' (*mac doirche*), 'dark-kin' (*dubfine*) or 'secret-kin' (*fine táide*); they were not entitled to a share of the inheritance, unless their parentage could be proven.⁷⁵

In a commentary to the second section quoted above it is explained how a woman can claim the right to inheritance for her son if he is begotten from an

⁷² *CIH* 233.4-19 (my punctuation). My translation, based on *AL* v 457 and the adjoining glosses. For the sake of argument and clarity I have put this passage after the previous one, which gives a more logical order.

⁷³ *CIH* 1871.40-1872.3.

⁷⁴ For appearance and dignity inherited from one's mother in literature, see for example *TBC* (rec. 1), 170-1, and Kuno Meyer (ed.), 'Anecdota from Stowe MS No 992: *Compert Conchobuir*' in 'Irish miscellanies', *RC* 6 (1883-5) 162-92: 173-82, at 178/182.

⁷⁵ Cf. *CCH* xxxii, 10-11; Meyer, *Triads*, §152; *CIH* 1299.22-3: 'the son of the secret woman or the son of the daughter of a base-client (*mac na mna taidhe no mac ingine ceili giallna*)', and 1297.22 = 430.26: '*duibfine .i. fine taidhe*'.

extra-marital affair:

'If she be a woman with a good reputation and the man acknowledges that he has had intercourse with her, an oath of attestation (*fír testa*) from her is sufficient to get her son acknowledged as heir to his father's land, and *arra cuir* (is needed) for an unworthy woman. If it be uncertain which of two men is the child's father and the intercourse with her is acknowledged, delay is to be made until the child exhibits the characteristic family voice, appearance and behaviour (*fineguth, finechruth, finebés*). If intercourse is not acknowledged and these three characteristics are present, they must have recourse to [the ordeal of] *fír Dé*.⁷⁶

If a son was not acknowledged by the father, the woman had to give proof of her secret relationship with the man, by producing witnesses, and if further doubt existed about the man being the actual father of the son, an adoption fee (*lóg fáesma*) had to be paid to support her evidence. The adoption fee, set at seven *cumals*, the same as the honourprice of a king, would have been impossible to pay for a woman of low birth, perhaps a deliberate rule to forestall an excess of unwanted illegitimate sons becoming the responsibility of the family.⁷⁷ The woman's reputation and the willingness of the father to acknowledge the connexion were both crucial to having their children accepted by the father's family; a woman of bad reputation would find it more difficult to deliver specific proof about the father of her child than a woman of good reputation. This is also discussed in *Bretha Nemed* in a passage which also appears in the Old Irish saga *Scéla Mošauluim*, in which Lugaid Loígde, king of Munster, presides over a case concerning legitimacy:

⁷⁶ *CIH* 232.18-22 = 1871.6-10 (*AL* v 455), translation based on Mulchrone, 'The right and duties', 199, and *GEIL* 103, which has a discussion on sons who are not entitled to an inheritance. See also *CIH* 294.13-39 (*AL* iii 309-11) and *GC* §13 (*CIH* 2194.5-8). See *CIH* 857.28-9, 1300.38 and 233.26-7 = 1871.4-14 for *fineguth*, etc.; 1548.42 for *arra cuir*, explained at 716.36 as 'fifteen men'; 820.32-821.18 (821.11-7 is translated at *CCF* 67-8), 1462.23 = 1748.28 (*AL* ii 93 comm.) for *arra cuir* and *fír testa* (the latter is also at 1549.21). Additional references are given in *DIL* under 'arrae (c)' and 'fír (c)'. For the various ordeals, see the text at note 71 above.

⁷⁷ *CIH* 431.27-9 (*D'Fodlaib Cineoil Tuaithe*, *AL* iv 289), cf. 1300.8-10.

'How may a son be brought into his father's hereditary property (*orba*)? ... [Only] such a one as is wise [and] who does not associate her children with those of harlots (*oentrecha*) is capable of proving the paternity of her children, for whoever associates with the really wanton (*báeth*) is [herself] wanton.'⁷⁸

Still, the evidence of a woman concerning the father of her child could be conclusive - one of the few exceptions to the rule that female evidence was invalid - and this is illustrated in *Críth Gablach*, which lists among the four situations which give the honourprice (*díre*) of a vassal to a king: 'to be alone, for it is not proper for a king to go alone. That is the day when a woman on her own may father her son on a king, the day when nobody else need give testimony for her.'⁷⁹

Illegitimate sons could be accepted and invited to settle in the lands of the family of the (supposed) father, but even if their paternity was proven beyond doubt, they could only claim a quarter of a normal share of a legitimate son.⁸⁰ Their status was also half of that of a legitimate son, as *Críth Gablach* recites:

Half of the honourprice of every grade of the *túath* for his wife and his son and his daughter, unless it be the son of a concubine or a son who is a defaulter from his filial duty - for these a fourth.' (*leth díri cach gráid túaithe fora mnaí 7 a mac 7 aingin, acht ma[c] dormuine nó mac bes élódach ria ngoiri - a cethramthu for suidib*)⁸¹

⁷⁸ *CIH* 2232.33-7, translation by Máirín O'Daly (ed.), *Cath Maige Mucrama*. ITS 50 (Dublin 1975) 77 (*Scéla Mošauluim* §6, ll. 560-8) with notes at 132.

⁷⁹ *CG* 533-5, my translation, based on *CG* p. 37 and Mac Neill, 'Law of status', 303 (§126). For female evidence, see also *CIH* 966.2-5 (translated in R. Thurneysen, 'Aus dem irischen Recht iv', *ZCP* 16 (1927) 167-230: 218-9); *CIH* 145.30-146.4, partially translated in David Greene, 'Varia I, *Iecc diice*', *Ériu* 33 (1982) 161-3; *CCH* xvi, 3. Discussion is at *GEIL* 202, 207-8.

⁸⁰ *CIH* 1297.25-8 (cf. *GEIL* 103); 430.26-431.12 = 1880.23-1881.8 (*D'Fodlaib Cineoil Tuaithe*, *AL* iv 285-9).

⁸¹ *CG* 125-7 (Mac Neill, 'Law of status', 289 (§83)). The correction to *ma[c] dormuine* instead of Binchy's *ma[d]* is proposed in Greene, *Fingal Rónáin*, pp. 13-4 under note 91. See also note 44 above.

Apart from sons of illegitimate birth, sons who did not obey their father or were guilty of misconduct could be disinherited, such as the 'unfilial son' (*mac ingor*), the 'proclaimed son' (*mac fócrái*), and the 'bloody-kinsman' (*dergfíne*), who had been guilty of kin-murder (*fingal*).⁸²

The legal point of view on illegitimate sons is thus quite clear, sons from extra-marital connexions could be accepted by the father and the kindred if the son's paternity could be proven, but their status remained inferior to that of legitimate sons, especially for sons whose mother was of low status or of bad reputation. In saga-literature there is no shortage of extra-marital affairs or famous children born from women of low status, but as these often reflect story-motifs and saga-themes, it is difficult to judge to what extent this reflects the concern and opinion of the society at large.⁸³ The abundance of legal material is not matched by documentary evidence of illegitimate or bastard sons in the pre-Norman period, which is scanty. We can be sure that this is the result of the nature of the material, rather than that they did not exist. On the cross-roads of two periods and two worlds we find probably Ireland's best known illegitimate son: Domnall Caemánach, the son of Diarmait Mac Murchada. After the blinding of Diarmait's son Énna in 1168, and the execution of Conchobar in 1169, Domnall was the only son of Diarmait alive and healthy before his father died in 1171, and was given the command of the forces of Uí Cheinnselaig on several campaigns. Giraldus Cambrensis states that he was illegitimate, but this may be propaganda for Strongbow's claims to the kingship of Leinster through his marriage with Diarmait's

⁸² *CIH* 535.5.1-2 (*Córus Béscnai*, *AL* iii 53), for the *mac ingor*, and 1296.36 (cf. *GEIL* 103) for the *mac fócrái* (for both, see §4.3. below); 1301.17ff, 430.21-5 and 1880.11-22 for the *dergfíne*, and 430.26-431.12 and 1880.23-1881.8 for the *dubfíne* (*D'Fodlaib Cineoil Tuaiti*, *AL* iv 285-9). A person who had committed kin-murder was entitled to his share from the inheritance (*díbad*) of his father or grandfather if he had done penance and paid wergeld, but he was not entitled to a share of the *díbad* from outside the *gelfíne*, see *CIH* 658.1-3 (cf. 1301.32-5).

⁸³ See, for example, O'Daly, *Cath Maige Mucrama*, on the birth of Cormac mac Airt and Fiachra Muillethan, discussed by D. Ó Corráin, 'Historical need and literary narrative', in D. Ellis Evans, John G. Griffith and E. M. Jope (eds.), *Proceedings of the Seventh International Congress of Celtic Studies*, Oxford, 1983 (Oxford 1986) 141-58. For the acceptance and subsequent kingship of sons of suspect relationships, see *Echtra mac Echdach Mugmedóin*, discussed at §3.3 below, and Lucius Gwynn (ed.), 'De Sil Chonairi Moir', *Ériu* 6 (1911) 130-43: 135 (ll. 56-62)/140. For a good discussion on the position of women in the sagas, see Philip O'Leary, 'The honour of women in early Irish literature', *Ériu* 38 (1987) 27-44.

legitimate daughter Aífe.⁸⁴ On the other hand, Domnall's loyalty to Strongbow, who later appointed him as seneschal of the Irish in Leinster, may be regarded as the action of a man who needed the support of the Anglo-Normans to claim the kingship of Uí Cheinnselaig in opposition to Muirchertach, the son of Diarmait's brother Murchad.

A clearer case is formed by Áed Muimnech, bastard son of Feidlimid son of Cathal Crobderg Ua Conchobair, who managed to become king of Connacht. However, like the example above, he only achieved this because the political circumstances called for it. The kingship of Connacht had become a bone of contention between several factions after the death of Feidlimid's son Áed na nGall in 1274. Áed did not leave any sons, and the kingship was now taken by three grandsons of Áed son of Cathal Crobderg in rapid succession: Eógan, Áed and Tadg. To add to the confusion, 'a base son was presented to Feidlimid ... after [his] death, who was called Áed Muimnech because he was nourished and brought up in Munster, and came to Connacht from thence, and as soon as he came and was known to be the son of Feidlimid, Síol Muiredaig and Clann Maílruanaid accepted him and held him in great account and reverence.⁸⁵ The reign of Tadg had not restored the unity among the descendants of Cathal Crobderg, and he had also secured the enmity of Mac Diarmata of Clann Maílruanaid, whose land he had plundered in 1275.

Áed Muimnech first sought protection of Domnall Óc Ua Domnaill, king of Cenél Conaill, who gladly took this opportunity to intervene in the succession-struggles for the kingship of Connacht, having the additional support of Mac Diarmata. With his promoters, the son of Feidlimid returned to Connacht, and fierce fighting with the brothers of Tadg followed; Roscommon Castle was burned, and the lands of Clann Muirchertaig were plundered. Finally, Áed assumed the kingship after Tadg had fallen by the hands of Mac Diarmata in 1278. His short rule ended when he and his ally Máel Sechlainn son of Magnus Ua Conchobair were captured by the

⁸⁴ Giraldus Cambrensis, *Expugnatio Hibernica*, eds. A. B. Scott and F. X. Martin (Dublin 1978) 31 (chapter 3), cf. 294 note 32, and 326-7 note 264. See also G §43. According to a late pedigree of the Kavanagh family, both Domnall and Énna were illegitimate sons (see *FM* s.a. 1175 note f).

⁸⁵ *AClon* s.a. 1276, with normalized spelling. His genealogy is given at Lec. 64va 4-5 (*OClery* §906). See G §§64, 65c.

Clann Muirchertaig in 1280; Áed Muimnech was killed, and Mael Sechlainn was ransomed for 400 cows and 20 horses by Ua Domnaill, clearly the man behind Áed Muimnech's brief success. Cathal of Clann Muirchertaig henceforth assumed the kingship of Connacht, another outsider who succeeded into the office.⁸⁶

It is difficult to judge whether the cases of Domnall Caemánach and Áed Muimnech are representative for the way bastard sons could play a role in politics, but it is probably true that illegitimate sons would normally not rise to distinction, unless they obtained the political support of others, either within or outside their family. Domnall Caemánach and Strongbow had mutual interests, and Áed Muimnech formed a welcome alternative candidate for the kingship of Connacht for Ua Domnaill and Mac Diarmata; under such circumstances their illegitimate birth became a minor detail which was conveniently brushed aside in the interest of power-politics.⁸⁷

If an accepted illegitimate son could sometimes carve out a political career for himself, we can expect that most if not all the legitimate sons would aspire to the same. The reputation of being a bastard son, the inferior status of the mother, and having to be accepted by the family were not matters which troubled those of legitimate birth, but the custom of polygamy which prevailed among the Irish royal and noble families still made the marriage-status and political affiliations of one's mother a primary concern. For an appreciation of the difference in marriage-status, its background, and how it affected the course of succession, we have to turn to the Irish marriage laws.

2.5. Primary wife versus concubine.

Our primary source for the early Irish laws of marriage is *Cáin Lánamna*, which is included in *Senchas Már*. As early Irish marriage has received abundant attention from several scholars, I will only give a brief outline of its rules and regulations here,

⁸⁶ *AConn* 1274.2-1280.2.

⁸⁷ For examples of the sixteenth century, see Kenneth Nicholls, *Gaelic and gaelicised Ireland* (Dublin 1972) 77-9, 132-3, and William F. T. Butler, *Gleanings from Irish history* (London 1925) 89.

and concentrate on the difference in marriage-status between a primary wife and a concubine.⁸⁸

Cáin Lánamna, following the traditional pattern in the Irish laws, classifies the sexual relationships between men and women in several categories. Within a formal marriage, the status of each partner depends on the amount of property he or she brings into the marriage. In the marriage type *lánamnas mná for ferthinchur* ('union of a woman on man contribution') the man makes the largest contribution, and has the freedom to do as he pleases with the marriage-property, except if it touches upon the basic necessities of life; the woman is almost totally dependent on her husband.⁸⁹ This is usually seen as the oldest form of marriage, as the woman in this marriage is considered to be *báeth* ('foolish', 'senseless'): not capable of making contracts independently. This position is given to women in general in several Old Irish legal tracts. For example, in *Senchas Már* five contracts are given which can be dissolved, even if they are guaranteed by sureties:

'the contract of a unfree labourer without his lord, the contract of a monastic tenant without his abbot, the contract of a son of a living father without his father with him, the contract of a fool or a mad woman, the contract of a woman without her spouse.'

(*cor moga secha flaith, cor manaig secha apaid, cor maic beothar cena athair n-oca, cor druith no mire, cor mná secha ceile*).⁹⁰

⁸⁸ *CIH* 502.7-519.35 (*AL* ii 343-409). It is also edited with German translation and comments by R. Thurneysen, 'Cáin Lánamna: "Die Regelung der Paare"', in *SEIL* 1-80 (references are henceforth to this text, abbreviated as *CL* in the notes). The main articles which deal with early Irish marriage are D. Ó Corráin, 'Women in early Irish society', in Margaret Mac Curtain and D. Ó Corráin (eds.), *Women in Irish society, the historical dimension* (Dublin 1978) 1-13, and *Ibid.*, 'Marriage in early Ireland', in Art Cosgrove (ed.), *Marriage in Ireland* (Dublin 1985) 5-24. See also *GEIL* 68-79 and the various articles published in *SEIL*. For marriage in the Anglo-Norman period, see K. Simms, 'Women in Anglo-Norman Ireland', in Mac Curtain, *Women in Irish society*, 15-25, and *Ibid.*, 'The legal position of Irishwomen in the later Middle Ages', *The Irish Jurist* 10 (1973) 96-111.

⁸⁹ *CL* §§21-8 (*CIH* 512.21-516.8).

⁹⁰ *CIH* 351.24-6 (*AL* i 51-3); I have based my translation on R. Thurneysen, 'Aus dem irischen Recht iv', 177/181 (*Senchas Már* §12). For other examples, see *CIH* 443.21-444.6 (*Díre* §38) = 491.24-6 (*Cáin Aicillne* §38, *AL* ii 289); 536.23-4 (*Córus Béscnai*, *AL* iii 59); 592.34-7 and 593.35-9 (*Berrad Airechta* §24 and §37); *CCH* xxxiv, 3 (cf. xxv, 5); Meyer, *Triads*, §§150-2. For further discussion, see D. A. Binchy, 'The legal capacity of women regard to contracts', *SEIL* 207-34, and McLeod, *Early Irish contract law* (Sydney 1993), 58-62 and 71-80, who at 77-80 argues that the examples which

Apart from the fools, all these persons have close and dependent relationship with each other, they form a 'full pair' (*lánamnas*), in which the dependent person cannot do anything without the specific consent or authorization of his or her 'head' (*cenn*). In the introduction to *Cáin Adomnáin*, later added to the original text, Adomnán is credited with liberating women from their dependency and their slave-like status, and giving them legal protection.⁹¹ Although *Cáin Adomnáin* was indeed meant to protect women and clerics from warfare, and issued high penalties to those who did not abide by its rules, its promulgation in 697 with all the important Irish kings acting as guarantors did not bring about radical change as the introduction asserts. The *Cáin* seems to be more concerned about enforcing the law than making new laws itself, but it may signify that changes in legislation were taking place.

Around the eighth century, in which period we may place the composition of *Cáin Lánamna* as we have it now, the position of women within the marriage had improved considerably. The usual type of marriage in *Cáin Lánamna* is *lánamnas comthinchuir*, in which both partners make an joint contribution to the marriage-property in land, cattle, goods for the household, etc.⁹² As her contribution remains her own, the wife enjoys the same contractual capacity as her husband, and can undertake legal transactions and responsibilities up to her honourprice (half of that of her husband); neither can undertake important legal transactions without the consent of the other. Clearly, the woman of this marriage is no longer *báeth*, but her upgraded position as compared with *lánamnas mná for ferthinchur* is solely the result of the property she brings with her into the marriage. This property did not come from her own assets - a woman did not normally have

take women to be *báeth* are giving the general rule, which is not necessarily the older rule as Binchy proposes; linguistically, they are not older than texts which give exceptions to the rule. We can take this to be the case in the eighth century, but it does not exclude the possibility that a development took place which gave women more contractual freedom (see below).

⁹¹ Kuno Meyer (ed.), *Cáin Adamnáin. An Old Irish treatise on the law of Adamnan*. Anecdota Oxoniensa (Oxford 1905), esp. 3 (§§2, 3) and 4-5 (§5); AU 697. For discussion, see John Ryan, 'The Cáin Adomnáin', *SEIL* 269-76; Máirín Ní Dhonnchadha, 'The guarantor list of *Cáin Adomnáin*, 697', *Peritia* 1 (1982) 178-215. In *Táin Bó Cúailgne*, women and cattle serve as the typical sort of booty the Connachtmen would obtain from their raids in Ulster (*TBC* (rec. 1), 1212-4; 1266-76; 1533; 1549-50; 3433; 3513; *TBC LL*: 4117-20, 4156-8; 4576-7, etc.). The value of a female slave (*cumal*) frequently serves as a rate of exchange in the Irish law-tracts.

⁹² *CL* §§5-20 (*CIH* 505.35-512.21), cf. *CCH* xlvi, 19 (see Ó Corráin, 'Marriage', 19) and *GC* §14 (*CIH* 2194.9-14). See also Stokes and Strachan, *Thes. Pal.* ii, 239-40.

private possessions which she could control freely - but from the dowry given to her by her husband. Little is known about the contribution of the woman's family to her marriage-property, and it may be that this only later became common.⁹³

The early Irish sources contain a variety of terms which refer to the dowry, brideprice or a similar marriage-contribution. The most frequently used are *tindscra* and *coibche*; the first appears predominantly in saga-literature, the latter in legal material. It is difficult to establish the exact meaning of both terms, as they are often mixed up, and were subject to change later on.⁹⁴ *Tindscra* is used on several occasions as a payment for services which are agreed upon beforehand, and seems to have been used as a gift to the woman by the man for asserting his sexual rights over her.⁹⁵ It may be that *tindscra* was given to conclude a temporary or trial marriage, for which we have references from a later period in Wales, Ireland and Scotland.⁹⁶

Coibche has a firmer place in the legal vocabulary, and is directly related to *airnaidm* (lit. 'fore-binding', i.e. 'betrothal'), the term which constitutes the actual marriage contract, and by which it was made legal (apart from its consummation).⁹⁷ The payment of *coibche* was witnessed by sureties, as most formal and binding contracts.⁹⁸ If a woman did not fulfil her responsibilities within the marriage, a man could divorce her and the *coibche* had to be returned to him,

⁹³ See R. Thurneysen, 'Heirat', *SEIL* 109-28: 125-8 for discussion; see also the next note.

⁹⁴ A discussion of the various terms is at *GC* 356-9, and Thurneysen, *ibid.*, 109-28. The definitions of *tindscra*, *coibche*, etc. given at *CIH* 1564.14-6 appear to be artificial.

⁹⁵ For *tindscra* in a legal context, see *GC* §44 (*CIH* 2198.22-6); 1235.4-13 (= 1486.14-5 (*O'Dav.* 540); 2178.26), see R. Thurneysen, 'Aus dem irischen Recht iv', 227); 987.12-4 = 1197.17-8 (*Di Astud Chor* §47); 1491.36-8 (*O'Dav.* 691); See also Roland M. Smith (ed.), 'The Alphabet of Cuigne mac Eoin', *ZCP* 17 (1928) 45-72: 50 (§18); *Ibid.*, (ed.), 'The *Senbriathra Fíthail* and related texts', *RC* 45 (1928) 1-92: 19 (§4.9); Meyer, *Triads*, §149.

⁹⁶ Giraldus Cambrensis, *Descriptio Kambriae*, in Lewis Thorpe (ed.), *The Journey through Wales and the Description of Wales* (Harmondsworth 1978) 263 (Book ii, ch. 6); Thurneysen, 'Heirat', 126-7; *GC* 358. *CCH* xliv, 17 forbids the taking of concubines before marriage. Temporary marriages are forbidden in a commentary at *CIH* 144.10-4, partially also at 25.25-7 (*Heptad* 26, *AL* v 217) and 247.22-3 (*Do Tuaslucud Rudradh*, *AL* v 511). See also note 126 below.

⁹⁷ Thurneysen, 'Heirat', 109-13; Ó Corráin, 'Marriage', 15. In Meyer, *Triads*, §151, *aurmadma* is glossed 'pósta'(at p. 39); *ben pósta* is the later term for the primary wife (*cétmuinte*; *prímben*).

⁹⁸ *CIH* 572.9-10 (*Heptad* 81, *AL* v 373).

except land and cattle, which she was allowed to keep.⁹⁹ Hence the warning of the lawyers not to give an excessive *coibche* to a woman of a bad reputation or of low status, considering the possibility that she would keep most of it herself when it came to a divorce.¹⁰⁰ Later texts, which treat *coibche* as neutral marriage property which the defaulting party would lose at a divorce or as compensation, probably refer to the value of the *coibche*, not its content.¹⁰¹

In saga-literature the father often exercises some right over establishing the value of the *coibche*, and is entitled to a share, if not all of it. Hence the legal maxim: 'every father his first *coibche* (*cach athair a cét-choibche*).'¹⁰² Later scribes provide for a share to be given the woman, and this would explain how she was able to make an equal contribution to the marriage-property as her husband: the *coibche* was no longer given to her father, but - directly or indirectly - to herself.¹⁰³ If this theory is correct, it seems that in Ireland the same trend was followed as in the rest of Christian Europe, where a similar development had taken place: first the wife was more or less bought from her family, later the brideprice was given to the bride, supplemented by the *Morgengabe*, a payment in honour of the bride's surrender of her virginity and the acquisition of sexual rights.¹⁰⁴

Apart from her control over the marriage-property, a woman was unable to inherit real estate, she could only acquire it by work or gift (such as a marriage gift), or

⁹⁹ *CIH* 25.13-5 (*Heptad* 26, *AL* v 215, with a misleading translation); 247.21-3 (*Do Tuasluicud Rudradh*, *AL* v 511); *CL* §13 and §30, (*CIH* 508.29-33; 516.9-24), cf. 986.3 = 1196.35-7 and 987.12 = 1197.17-8 (*Di Astud Chor* §43 and §47).

¹⁰⁰ *CIH* 221.31-3 (*AL* iv 57-9); 221.18-20 (*AL* iv 57 comm.), see Nancy Power, 'Classes of women described in the *Senchas Már*', *SEIL* 81-100: 100. For the Irish rules for divorce, see, apart from the literature referred to in note 88 above, August Knoch, 'Die Ehescheidung im alten irischen Recht', *SEIL* 235-68. A couple could divorce by mutual consent, for various reasons where the spouse did not act properly within the marriage, because of infertility of one of the partners, etc.

¹⁰¹ *GC* §39 (*CIH* 2197.25-31), with correction at 368): when a woman did not cry out or gave notice after she had been raped, she had to pay her *coibche* and honourprice; 4.33-5.32 (*Heptad* 3, *AL* v 133-5); 47.21-48.26 (*Heptad* 52, *AL* v 293-7); 805.2-11; 270.15-271.9 (*AL* iii 205-7).

¹⁰² *CIH* 294.40 = 503.22 (*Bretha Étgid*, *AL* iii 315); 1948.9-11 (*Cáin Lánamna*, *AL* ii 347 comm.); 222.8 = 1471.1 (*O'Dav* 126) = 1866.27; Smith, 'Alphabet of Cuigne mac Emoin', 49 (§17).

¹⁰³ *CIH* 294.40 (*AL* iii 315), with the commentary at 295.11-9 (*AL* iii 317), which states that the *coibche* has to be returned to the woman's father after the divorce; 1915.1-22 (*IR* 37-8 (Komm. 1)).

¹⁰⁴ Francis and Joseph Gies, *Marriage and the family in the Middle Ages* (New York 1987) 55-6.

inherit it for her lifetime if her father died without leaving any sons.¹⁰⁵ As a *banchomarba* ('female heir') she had to take full responsibility for the land and fulfil the duties attached to it; after her death the land reverted to the next-of-kin of her father, who divided it according to proximity of kinship.¹⁰⁶ Only if the woman married one of her father's close relatives could she preserve her interest in the land for her children.¹⁰⁷ If she was not able or willing to do so, she could still retain control over the land during her lifetime by marrying a man who did not have sufficient property to match hers, so that she made the major contribution into the marriage. This resulted in *lánamnas fir for bantinchur co fognam* ('union of a man on woman-contribution with services'). Her husband would be restricted in his contractual capacity, as he had not made a worthwhile contribution to the marriage in the first place.¹⁰⁸ The inability to inherit land permanently restricted the independence of women, and made marriage to an heiress not attractive as a political move, unlike in feudal Europe, where lands and lordship acquired through marriage had a considerable effect on succession and political changes - something which is easily overlooked when discussing the differences between Ireland and the rest of Europe.

From the foregoing it is obvious that the amount of property each partner contributed into the common household determined his or her status within the marriage. In the case of *lánamnas comthinchuir* the woman's independent status

¹⁰⁵ *CCH* xxxii, 17-9 stipulates that daughters should share equally with sons if land is inherited as a gift, but they cannot become absolute owners. The Irish commentators are not certain: either the daughters only receive household-goods (see *IR* 30), or they share equally with the sons. Both possibilities are named at *CIH* 162.25-31, 736.20-31, etc. For a woman's right to claim land, see *Din Techtugad*, *CIH* 207.22-210.11 (*AL* iv 9-15). Land received as *coibche* or *tindscra* is probably what is meant by *orba slíasta* ('land of thigh'), see Plummer, 'Some passages', §22, and Ó Corráin, 'Marriage', 12.

¹⁰⁶ The main text on women inheriting land is edited by Myles Dillon, 'The relationship of mother and son, of father and daughter, and the law of inheritance with regard to women', *SEIL* 129-79. For a fresh translation of the first part (135-59: 'The kinship poem' = *CIH* 215.15-218.9), see Charles-Edwards, *Kinship*, 516-9. The second part is at *CIH* 1153.5-1155.22, etc. For *díbad*, see below.

¹⁰⁷ *CCH* xxxii §20, see Ó Corráin, 'Marriage', 10-2, for discussion, and the link between this rule in the Old Irish laws and the Old Testament.

¹⁰⁸ *CL* §§29-32 (*CIH* 516.9-517.32); *CIH* 427.1-18 (*IR* 64, Fuidir-text §4), McLeod, *Contract law*, 76-7.

and prestige is summarized in her position as *bé cuitchernso* ('woman of condominium'), which is glossed as *ben is comtigerna so* ('a woman who is a co-ruler with him').¹⁰⁹ In *lánamnas mná for ferthinchur* we meet two other titles, in a passage discussing the fact that a man has total freedom of contract, except when he wants to sell goods and cattle which are essential for the household: 'except for the sale of clothes and of food and the sale of cows and of sheep if she be a betrothed wife who is not a primary wife (*mad ben airnadma nabé cétmuinter*).'¹¹⁰

Cétmuinter means literally 'head of the household', and is usually translated as 'primary wife'.¹¹¹ The difference between her and the betrothed wife is that she is 'equally good and of equal birth (*commaith 7 chomcheníuil*) - that is, every equally-good person is of equal birth - she disturbs all his contracts if they be made in ignorance [of their defects].'¹¹² The difference in status between a *cétmuinter* and a *ben airnadma* is not simply one of descent, as is indicated by the passage following the above:

'When he [the husband] has given *coibche* to a[nother] wife, be it also out of his own *séts*, then this *coibche* is due to the *cétmuinter*, when she fulfills her matrimonial duties in the union. Every concubine (*adaltrach*) who comes despite a *cétmuinter* (*for cend cetmuintire*) is under obligation (*fiachach*), she pays the honourprice of the *cétmuinter*.'¹¹³

The giving of *coibche* makes clear that this is a betrothed concubine who is

¹⁰⁹ CL §5 (CIH 505.36); CIH 506.8-9 (AL ii 359).

¹¹⁰ CL §21 (CIH 512.22-4). Translation by McLeod, *ibid.*, 74.

¹¹¹ *Cétmuinter* can apply to either spouse, but in this context I use the above translation, to distinguish her from the concubine.

¹¹² CL §22 (CIH 512.29-31). Translated by McLeod, *ibid.*, 75. He points out that a *díupart*, a contract of which her husband did not know its disadvantage, is meant here.

¹¹³ CL §23 (CIH 513.7-8, 14-5). The translation is based on Thurneysen's, who takes *for cend* to mean 'in the place of' but it appears that the *cétmuinter* keeps her position. See CIH 7.29-30 (*Heptad* 6, AL v 143) for the same expression (see note 137 below). This clause is also in the *Lex Romana Visigothorum*, according to Donnchadh Ó Corráin in his lecture 'The social and ecclesiastical background to the Book of Kells', Trinity College Dublin, 10 Sept. 1992.

married despite (against the wishes of) the primary wife. As this clause is mentioned under *lánamnas mná for ferthinchur*, it suggests that this type of marriage was also relevant to concubines, as the rule that the betrothed concubine has to hand over her *coibche* to the primary wife results in leaving her without any property to bring into the marriage. The status of a concubine as belonging to the *mná dligtecha* ('lawful women'), a later legal division of married women, may indicate a more independent position in which she had control over her own property - perhaps the clause that she had to hand over her *coibche* did not work in practice, or otherwise she was given a dowry by her family. Still, her status depended on the sons she had by her husband, who indirectly gave her a more independent legal status, as they could be held responsible for her legal actions.¹¹⁴

For the background of the difference in status between a primary wife and a concubine we first have to consider the two types of informal (or perhaps temporary or trial-) marriages or sexual relationships described in *Cáin Lánamna*: 'union of acceptance by inducement' (*lánamnas airite for urail*) and 'union of a frequenting man without work, without inducement, without performance, without contribution' (*lánamnas fir thathigthe cen urnam, cen urail, cen tarcud, cen tinol*).¹¹⁵ Both are relationships by acknowledgement (*aititiu*), which is glossed as 'she is acknowledged in visiting the house, and she is not a first wife, and she is not betrothed' (*addaimter in naithig[id] tige, 7 nibi primben 7 ni haurnascair*).¹¹⁶ Both

¹¹⁴ *CIH* 511.29-37 (*AL* ii 379-81 comm.) etc., see Binchy, 'Legal capacity', 215-223 (see below at note 127); cf. *CL* §22. Charles-Edwards, *Kinship*, 465-7, makes the suggestion that marriage on equal contribution was the usual form of marriage among the nobility, marriage on man-contribution among commoners, and the third type between female heirs and landless men or aliens. He argues that cattle was essential for the status of a young nobleman, to which his wife partially contributed, whereas a young commoner could not expect to receive any cattle from his family or bride. However, *CL* §24 (*CIH* 513.33, 514.5-8), which refers to marriage on man-contribution, mentions the noble grades as well (cf. *CL* §20, 512.14-6), and with marriage with equal contribution both partners are allowed to rent land (*fochraic tire*), which seems especially relevant to commoners (*CL* §5, 506.16). For these and other reasons, I favour the 'traditional' view.

¹¹⁵ *CL* §33 and §32 respectively (*CIH* 517.33-5; 517.18-21). They are in reverse order, and the commentators seem to have mixed them up at times.

¹¹⁶ *CIH* 922.13-4 (*Díre* §2). I read *in naithig[id]*...: 'in visiting..', cf. 1811.3-5, in which the woman of this type visits the man in his house '*co n-aititin fine*' (*AL* ii 399). Thurneysen reads *in naithig*, which gives 'as mistress [of the house]'. See also *CIH* 427.5-6 (*IR* 64, Fuidir-text §4), in which a difference is made between a man married to a *banchomarba* '*iarna urnaidmairm nó aititen dia finib*'. For

relationships are acknowledged by the two families of the partners, and therefore legally valid. A relationship which was undertaken without the approval of the family, such as a secret relationship or rape, was invalid and illegal; a family could decide to give their approval to the relationship afterwards, for example, with *lánamnas foxail* ('union of abduction'). Without approval for the relationship, the person responsible for its joining was held liable for all matters which involved compensation or financial burden.¹¹⁷

The difference between the two relationships by acknowledgement is again formed by the property which is given: no property gives a minimum of ties and responsibilities, and even if property was given it was as part of an oral contract, not of a binding contract with sureties.¹¹⁸ The commentators to the text in *Cáin Lánamna* take it that the woman of the first type (*airech*: 'concubine') was given *séts* by way of inducement, which were not given to the woman of second type (*carthach*: 'paramour'; 'lover').¹¹⁹ Marriage on *aititiu* may be compared with the Roman marriage *sine manu*, in which the woman still had strong ties with her family, as opposed to marriage *cum manu*, in which the husband had absolute authority.¹²⁰

The woman of the first relationship on acknowledgement is called *ben for airtin n-urala* ('accepted woman on inducement').¹²¹ We do not find this title elsewhere, but we can safely equate her with the *ben aititen*, who appears in *Gúbretha Caratnia*

discussion on *aititiu*, see Thurneysen, 'Heirat', 109-112, and also the secondary literature given in note 88 above.

¹¹⁷ See CL §§34-6 (CIH 518.22-519.35). Note the similarity between *lánamnas foxail* and Deut. 22:28-9, and between rape as described in GC §39 (CIH 2197.25-31) and Deut. 22:23-7. For the latter, see H. Wagner, 'Zu *Gúbretha Caratniad* §39', *Ériu* 20 (1966) 66.

¹¹⁸ CIH 2105.1-2.

¹¹⁹ CIH 518.3-5 (AL ii 399). The commentators are sometimes confused between the two relationships, and apply the two terms to both cases.

¹²⁰ Gies and Gies, *Marriage and the family*, 21. CIH 443.21-4 (*Díre* §37) declares that a secondary wife (with sons) could decide who was to represent her in legal cases: her husband, her sons or her paternal family; a *cétmuintir* could not to be represented by her paternal family.

¹²¹ CL §4 (CIH 505.20-1).

(§ 43) and the *Díre*-text. The account of the latter is especially interesting, as two categories of acknowledged women are mentioned in a section which deals with the question who is entitled to the payment of wergeld (*éraic*) if a woman is killed, the share of her property (*díbad*) when she dies, and who has to pay for her crimes (*cin*). The text names five categories of women, the first one having the closest ties to her husband, the latter are to a larger extent still attached to their parental families.

- 1) *cétmuinte* with sons.
- 2) *cétmuinte* without sons.
- 3) the acknowledged woman betrothed by her family (*ben aititen aranaisc fine*).
- 4) the acknowledged woman who has not been betrothed, who has not been sanctioned [to enter the relationship] (*ben aititen nad-aurnasca nad-forngara*).
- 5) the woman who has been abducted in defiance of her father or her kindred (*ben bis for foxul dar apud n-athur no fine*).

- 1) two-thirds of *éraic*, *díbad* and *cin* fall on her sons, one-third on her family.
- 2) one-half of *éraic*, *díbad* and *cin* falls on her husband, one-half on her family.
- 3) one-half of *éraic*, *díbad* and *cin* falls on her sons, one-half on her family.
- 4) two-thirds of *éraic*, *díbad* and *cin* fall on her family, one-third on her *bronnfine*.
- 5) all of the *éraic* and *díbad* fall on her family, all of her *cin* and children from the relationship to the abductor.¹²²

From this text it emerges that if a marriage produced sons, the ties of the woman with her parental family became more loose: her sons could take over a part of the responsibility for her, and were thus entitled to a share of the *éraic* and *díbad* when she died.¹²³ Hence the higher status of the *cétmuinte* with sons, she held the

¹²² *CIH* 440.32-441.12 (*Díre* §27-32), translation based on Powers, 'Classes of women', 81. *Bronnfine* refers to all the sons of this woman (cf. *CIH* 54.31, 35 (*AL* v, 319), whether from her husband or another relationship - an indication of her reputation - and is equivalent to the *tarrfine* (Thurneysen, 'Heirat', 111), see note 70 above.

¹²³ If the sons were still under the authority of their father, he, in his turn, would take over their responsibilities. Mother and son formed a *lánamnas* relationship (*CL* §2, *CIH* 503.26-7).

ideal situation within the Irish marriage. The importance of a wife's sons is illustrated by the rule that the highest compensation (*díre*) was due to a mother whose son became a king, bishop or master sage, as they had the highest honour-price in the Irish legal system.¹²⁴

The *ben aititen aranaisc fine* has an intermediate position between a proper marriage with betrothal and a relationship by acknowledgement, and appears to be synonymous with the *ben for n-airiten n-urala*, while the woman who is not betrothed nor sanctioned resembles the woman of the second type of a relationship on acknowledgement. Although the evidence is scanty, it can be suggested that even with a relationship by acknowledgement a formal betrothal became necessary, and it seems that this refers to the taking of a concubine in particular: other texts which discuss the relationship of married women with their husbands, sons and families name her as *adaltrach airnadma*, and this is also how the *ben aititen aranaisc fine* is glossed in the *Díre*-text itself.¹²⁵ Although relationships by acknowledgement are still referred to in the legal commentaries,¹²⁶ it emerges that a concubine had to be properly betrothed, and this already appears in *Cáin Lánamna*, as is discussed above. It may well be that this was propagated by the Church, in order to put a restriction on polygamy.

The custom of polygamy was in the early Middle Ages just as normal in Ireland as it was in the rest of Christian Europe. Around the eighth century the Church's opinion on polygamy was included in the secular laws in the continent, and was forthwith forbidden. In Ireland the controversy was still not solved for the author(s) of *Bretha Crólige*:

¹²⁴ *CIH* 1964.13-7, see also 922.29-30 (*Díre* §9) and *GC* §38 (*CIH* 2197.19-24).

¹²⁵ *CIH* 442.1-2 (*Díre* §30).

¹²⁶ See *CIH* 443.20 = 916.13-6 (*IR* 54, Komm. x) in which *aititiu* after abduction is considered illegal, it has to be followed by *airnaidm*. Note also the text '*adaltracha iarna hurnaidm no aidite dia finaib fria firu*' (concubines after being betrothed or recognized by their families as regards their husbands), *CIH* 240.35 (*Do Astud Chirt 7 Dligid*, *AL* v 481), see Power, 'Classes of women', 84. This is glossed at 916.38-9 as 'concubines at first, but they go over to their men afterwards by *airnaidm*'. Apparently, for temporary and trial-relationships *airnaidm* (with *coibche*) became necessary as well, see also note 96 above.

'Everyone is paid *díre* for his union according to the custom of the island of Ireland, whether it be manifold or single. For there is a dispute in Irish law as to which is more proper, whether to have many sexual unions or a single one: for the chosen [people] of God lived in plurality of unions, so that it is not easier to condemn it than to praise it.'¹²⁷

The Irish kings were definitely praising it, and it seems that the dispute the text refers to ended in a tie. As the term *adaltrach* ('adulteress', from Latin *adultrix*) implies, the Church disapproved of concubinage, but as a compromise they may have promoted the proper betrothal of the secondary wife, to forestall illegitimate offspring, to favour proper marriages and to force their husbands to take the responsibility for the financial burden of a secondary wife. This gave concubines - through their sons - a legal and acceptable status; to have a concubine without sons would not only give her a lower status, it would also be more suspect from a proper christian viewpoint. Without sons an *adaltrach* had only a limited contractual capacity, because she had only her family (and for a small part her husband) to fall back upon - her legal position was still more that of a daughter than of a wife; legally speaking she was still *báeth*.¹²⁸

The lawyers seem to suggest that it is permissible to take a second wife when the first one is unable to bear any children. A commentary to *Heptad* 6 declares that the *cétmuinter crólige*, who was injured to such a degree that she 'was dead in the law of cohabitation', could be sent back (to her parents) by her husband if she did not recover after a certain period; if this was not possible her husband had to maintain her and compensate her in case he took another wife as his *cétmuinter*

¹²⁷ *Bretha Crólige* §57 (*CIH* 2301.35-2302.6). The gloss gives the many wives of Solomon, David and Jacob as examples. In O'Donoghue, 'Advice to a prince', 50/54 (§35) it is said: 'Adultery (*adaltras*) ruins every good name - it is not proper for anyone provided [or: except] he be a king'. *Adaltras* can also refer to sexual intercourse on forbidden days, see *UR* 124 (note to §96). For the situation in the rest of Europe, see, for example, Theodore John Rivers, *Laws of the Salian and Ripurian Franks* (New York 1986) 19-23; Jo Ann McNamara and Suzanne F. Wemple, 'Marriage and divorce in the Frankish kingdoms', in Susan Mosher Stuard (ed.), *Women in medieval society* (Pennsylvania 1976) 95-124; Michael Lapidge, 'A seventh century insular Latin debate poem on divorce', *CMCS* 10 (1985) 1-23; August Knoch, 'Die Ehescheidung', and Ó Corráin, 'Marriage'.

¹²⁸ See Binchy, 'Legal capacity' 217-223 (*CIH* 511.29-37; 1808.29-1809.5; 974.30-975.21, etc.).

(called 'a *cétmuinte* on the neck of another').¹²⁹ Normally, it would seem that an *adaltrach* was not elevated to the status of *cétmuinte*, unless the first *cétmuinte* chose to divorce her man, to which she was entitled when her husband took another wife.¹³⁰ From this it may seem that the main function of the *adaltrach* was to produce sons, but if we meet examples of kings having four, five or six wives with over a dozen sons, it seems that their primary role was to conclude political marriages or they were held for pleasure.

Although concubines were thus given an acceptable status, the lawyers make their disapproval felt by giving them an inferior status as compared with the *cétmuinte*, who is held in high esteem, and who symbolizes monogamy and chastity. The christian virtues were especially promoted among the poets, who were singled out to practice sexual modesty, rather like the clergy; illicit cohabitation would degrade or disqualify a poet.¹³¹ In more general terms, the *Collectio Canonum Hibernensis* forbids the Irish to take concubines before or during marriage, and one legal passage goes as far to say that 'lords, poets, commoners are impaired by illicit cohabitation'.¹³² In *Críth Gablach* the grades of commoners and nobility are pictured as legally married to a *cétmuinte* of equal rank.¹³³

The higher status of the *cétmuinte* is also evident elsewhere. For example, when a *cétmuinte*, a girl or a nun is raped, she is entitled to full *éraig* as wergeld

¹²⁹ *CIH* 7.29-8.20, at 7.37 (*AL* v 145, see note 137 below). Repudiation of one's wife because of her infertility is a saga-theme in *TBDD* 64-7 (§4), and Stokes, *Cóir Anmann*, 343 (§133). In Ludwig Bieler (ed.), *The Irish Penitentials*, *Scriptores Latini Hiberniae* vol v. (Dublin 1963) 88-90 (Penitential of Finnian §41) it is forbidden.

¹³⁰ *CIH* 48.5 (*Heptad* 52, *AL* v 293). If the *cétmuinte* was repudiated, she was entitled to (the value of) her *coibche* as compensation.

¹³¹ *CCH* xlv, 15; Meyer, *Cáin Adamnáin*, 12 (§24). A detailed discussion in Donnchadh Ó Corráin, Liam Breatnach and Aidan Breen, 'The laws of the Irish', *Peritia* 3 (1984) 382-438: 400-5. See also §2.1. above, at note 6 on the monogamy and sexual modesty expected of the poet.

¹³² *CCH* xlv, 17-8; *CIH* 725.30-726.2, 1113.40, (cf. 1467.15, 1480.5). See Ó Corráin, 'Marriage', 18-9 for this and other examples.

¹³³ *CG* 144-5, 199-200, 346-7, 410-1, 439, cf. *CCH* xxxv, 4 and *UR* §3 and §6 (see §2.1, see note 6 above). See also *CIH* 45.38 (*Heptad* 50, *AL* v 287) and *GC* §7 (*CIH* 2193.5-11). Not marrying according to rank involved a larger contribution from the one with lower status, but less rights, see *CIH* 46.18-22 (*AL* v 287), and *GEIL* 73.

(besides honour-price to her guardian), an *adaltrach* only to half *éraig*.¹³⁴ Likewise, *Bretha Crólige* stipulates that a primary wife is entitled to half of the refection due to her partner when on sick-maintenance, but a secondary wife (*ben tánaisi lánamnusa*) to a third, and every other woman to a fourth.¹³⁵ It may be that these differences are the result of the stronger attachment of an *adaltrach* to her family, which made her less dependent on the status of her husband, as is also clear from the *Díre*-text quoted above.¹³⁶ If so, these considerations do not count in the case where a *cétmuintir* had to suffer the company of an *adaltrach* in her household. *Heptad* 6 recounts among the seven situations when blood is shed without entailing liability or sick-maintenance: 'bloodshed inflicted by a *cétmuintir* through lawful jealousy on an *adaltrach* who has come despite her (*fora ceand*).'¹³⁷ The commentator gives the legal details if an *adaltrach* was not given a warm welcome in her new home: 'The *cétmuintir* is completely free from liability for anything she may do during the first three nights short of killing, and retribution is due from her for killing ... the *adaltrach* has the right to inflict damage with her finger-nails and to utter insults and scratchings and hair-tearings and small injuries in general...'¹³⁸

One may wonder whether these rules would be remembered if it ever came to blows, but the legal principle in itself is clear enough. The opinion of the Church complies with this, as is expressed in *Córus Bescna*, in which those who are acceptable as lawful firstlings to be given to the church are mentioned. The text specifically stipulates: 'every first-born of a lawful primary wife (*cétmuintir cóir*)', which the glossator explains: 'lest children of *adaltrachs* or *ben táides* are given to the Church.'¹³⁹

¹³⁴ *CL* §35 (*CIH* 519.1-4). *Éraig* refers here to the wergeld the culprit has to pay.

¹³⁵ *Bretha Crólige* §56 (*CIH* 2301.21-5). These women are glossed *primben*, *airech* and *carthach* respectively. For further discussion, see Power, 'Classes of women', 98.

¹³⁶ For a similar position of the *mac sáerleicthe*, see §4.3. below.

¹³⁷ *CIH* 7.29-30 (*AL* v 143, see also note 113 and 129 above), translation based on Power, 'Classes of women', 84. For lawful jealousy see also *CIH* 289.31-290.3 = 1645.38-1646.28 (*AL* iii 293-5).

¹³⁸ *CIH* 8.15-7 (*AL* v 147), translation by Power, *ibid.*, 87.

¹³⁹ *CIH* 531.3-7; 10 (*AL* iii 39).

2.6. The legitimate sons.

The position of the *adaltrach airnadma* as being legally married but still inferior to the *cétmuintir* poses the question as to whether this had any repercussions on the position of her sons. The main legal text which discusses this problem, *Maccslechta*, is included in *Senchas Már*, but has only come down to us in glossed fragments. The introduction of the text first establishes the difference between the legitimate and illegitimate sons:

'The pure son i.e. the son of the primary wife; and the acknowledged son i.e. acknowledgment by the people and the kindred that the mother of this son was with his father; and the son of the betrothed concubine. It is among these three sons hereditary property and boy-fines are shared ... all of them are called the sons of darkness, and these sons do not obtain hereditary land in Irish law; and the blemished son, he does not take land or lordship of the family.'

(*Mac oighe .i. mac cetmuindtire, 7 Mac aiti[te]n .i. aititin tuaithi 7 cineoil robui mathair in mac-so aca athair, 7 Mac adaltraigh urnadma. is asna tri macaib-so fodhailter orba 7 macdire ... it mic doirche dogairter uili nad roiched orba .la-. na mic-so; 7 mac lochta, ni roithi-sidhe orba na flaithus geilfine*)¹⁴⁰

Another passage divides the three legitimate sons into the *mac faosma* ('adopted son'), who is formally adopted by the family, the *mac soirche* ('son of light'), whose legitimate birth is unquestionable, and the *mac aititen* ('acknowledged son'), the son of a *ben aititen* (see above), from an acknowledged but informal relationship. All are entitled to the inheritance, but the legitimate sons can lay claim on the adoption fee of the adopted son, evidently to compensate them for the lesser share they receive; the adopted son does not seem to be entitled to the lordship, and the *mac aititen* seems likewise to be excluded, or is included as the son of a betrothed

¹⁴⁰ *CIH* 1296.32-6; 38-9, my translation and square brackets. In a commentary to *Heptad* 6 (see the text at note 129), the sons of the betrothed *cétmuintir*, the *cétmuintir crólige* and the *cétmuintir* on the neck of another share equally, as long as their father has acknowledged them; if not, they do not inherit.

concubine.¹⁴¹

Of the three legitimate sons, the son of the primary wife is normally entitled to the lordship and all its benefits, especially the *cumal senorba*, the land of the kindred reserved for the one who was in the lordship (see §3.1. below):

'The son of light, etc. he proceeds to (?) his hereditary property as regards (?) the land equally with the son of the primary wife, except the *cumal senorba* [which goes] to the son of the primary wife, and choice of shares and adoption fee. It is from this it is: every senior his choice i.e. the *cumal senorba* and choice of shares with the son of the primary wife and adoption fee if he should provide maintenance and if he be better to sustain liabilities (hereditary debts).'

(*Mac soirce 7rl-: foreith a orba fon[n] tír fo cutrama fri mac c[ét]muindtíre acht cumal sinnsire do mac c[ét]muindtíre 7 togha do randaib 7 logh faesma. is do suidhiu ata cach sinsir a togha .i. la mac c[ét]muindtíre in cumal tsenorba 7 togha do rannaib 7 logh faesma dia ndena gaire 7 madh ferr fria irnaidhe cinaidh*)¹⁴²

In a commentary to *Cóic Conara Fugill* we meet a complete theoretical scheme of the sons who have the best claim to the headship of the family (*dligid toisigechta na gelfine*):

'the sons of the *cétmuinter airnadma* when they are present, and when they are not present, the sons of the *adaltrach airnadma* enter it, and when they are not present, the son of the *adaltrach* enter it, and when they are not present, the son of the *cétmuinter foxail* enter it, and when they are not present, the son of the *adaltrach foxail* enters it. For that is what he who should be accepted in the headship of the family is entitled to i.e. the *cumal senorba* and precedence in representing and

¹⁴¹ *CIH* 1301.1-8, 1548.37-40. For adoption, see Charles-Edwards, *Kinship*, 73-8.

¹⁴² *CIH* 1548.33-7 (my square brackets), cf. ST §5. My translation is tentative, see *DIL* under 'foreith (b)', and *CIH* 1301.5-6: '*forreith orbae fo coibne fri mac aititen .i. foirithniter an ferann doibh fo cutrama fri mac na mna aititin*.' For *irnaidhe*, see *DIL* under 'airnaide' and 'ar-neat (c)', cf. *CIH* 1300.29-31 (quoted below), ST §9 (glossed 'cinad') and ST §17.

precedence in speaking on behalf (of others) and choice of shares, etc.¹⁴³

However, this is not an absolute rule, as the following fragmented passage shows:

'And: *macdíre* i.e. half honourprice of his father to the son of a *cétmuintir* and to the son of an *adaltrach*. The pure son (*mac óg/mac óge*), then, it is he who takes hereditary property (*orba*) i.e. who takes land (*selb*) i.e. the land of the *cumal senorba* and his own share. The pure son i.e. [the son of a] *cétmuintir*. Double share i.e. the *cumal senorba* and his own share. There are others who divide hereditary property with the son of a *cétmuintir* i.e. their equal due to the land; if they are better, they take the *cumal senorba*. If they are equal or if they are lower, it is the son of the *cétmuintir* who takes the *cumal senorba*.¹⁴⁴

The last clause explains that the right of the son of the *cétmuintir* is only acknowledged if he is equal or 'better' than the others, and from the context it appears that this refers to the son of the betrothed concubine, and this is also discussed in the following extract:

'If the son of an *adaltrach* is better in sustaining liabilities (hereditary debts) and maintenance than the son of the *cétmuintir*, it is the son of the *adaltrach* who takes the *cumal senorba* and the choice of shares.'

(*Ma ferr urnaidhus mac na hadalraighi in cin 7 in folach na mac na c[ét]muintiri, is e mac na hadaltraigi berus an cumail tsenorba 7 in togha do rannaibh*)¹⁴⁵

Thus, a son of a *cétmuintir* has precedence over the son of an *adaltrach* or an

¹⁴³ *CIH* 1035.6-13 (here quoted) = 1281.4-9 (*CCF* 44, §71 = 16 (§3)). The latter has *meic na h-airige* (corrected by Thurneysen from *meic na h-aenaige*) which refers to a secondary wife who is not betrothed but acknowledged; the same applies to the sons from a *foxal* (abduction) relationship - a rather artificial inclusion. The translation is based on Thurneysen's. The primacy of the sons of the first wife is also expressed at Deut. 21:15-7.

¹⁴⁴ *CIH* 1547.2-8 (my translation). For *macdíre* (compensation paid to children until the age of seven - cf. *DIL* under 'l mac (macc) iv), see also *CIH* 439.28, 33 (*Díre* §22-3).

¹⁴⁵ *CIH* 1300.29-31 (my translation), cf. 1547.33-4.

acknowledged son as long as he is their equal or better than them to assume his responsibilities; if not, the better man is to take the lordship. Although the son of the *cétmuinter* has a birthright to the lordship in theory, the lawyers are well aware of practical considerations.

As polygamy was widespread among Irish royalty, the attempts of the lawyers to label it as improper did not produce much effect, and one may wonder whether the theoretical precedence given to the son of the *cétmuinter* was not treated in the same fashion. The annals, genealogies and saga-literature do not seem to be too much concerned about the status of the mothers of royal sons, just as long as their legitimacy was firmly established.¹⁴⁶ Considering that the lawyers provide for the clause that the 'best' man should enter the lordship, whatever the marriage-status of his mother, it is likely that the political affiliations of the mother (often married to secure an alliance), her position at the time of the election, and her prestige and reputation, carried more weight in reality than whether she was a primary or secondary wife. Another consideration is the age of the son. One may presume that the son of the first wife of a king was also the eldest son, thus giving him a double advantage of being the son of the primary wife and being the senior over his brothers (see §3.1 below). As all of these considerations are tightly interwoven, I will discuss them in their proper context (see §3.3).

So far, we have dealt with the importance of descent within the family. As the example of Dál Cais (§2.1) shows, and which has also been demonstrated by Ó Corráin (§1.2), it does not appear that the three generation requirement was a rule which applied to overkingships, even though claims to the overkingship still had to be supported by pointing at hereditary rights and entitlements, a form of propaganda with which the Irish were well acquainted. Within the family the rules set out in *Uraicecht na Ríar* are clear enough, and apply to the noble grades as well, as is attested in several legal tracts from the eighth century, or even earlier.

¹⁴⁶ See *Fenagh* 391 (cf. 101) for the offspring of a *ben táide* in the Conmaicne genealogies. A more usual way to condemn a certain line was to point at their incestuous birth, see for example the genealogies of Ulaid, *CGH* 155 (143a 52ff) and 325 (162a 35ff), discussed by Charles-Edwards, *Kinship*, 112-5; Myles Dillon (ed.), *Lebor na Cert*. ITS 46 (Dublin 1962) 163, *Timna Chathair Már* (§8); *PPast* 192-3.

Thus, within a noble family, the lordship was in theory open to those who were the sons, grandsons and great-grandsons of a previous lord. The great-grandson formed the turning point: if he was qualified for the lordship he was still entitled to take it, otherwise he and his descendants lost their noble status and direct claims to the lordship on account of their descent.

Beyond the boundaries of three generations, we already move into competition between branches and the theory of alternation (see §4.1.). As far as succession in the family is concerned, the three generation requirement can be seen as a solid legal principle which has both theoretical and practical foundations firmly rooted in the society which produced it. Hence, it is a legal principle which should not be taken lightly, it is not a custom or tradition which only existed in the minds of legal scribes, and which could be set aside at will. The connection of the three generation requirement as regards succession should thus not be treated as an isolated rule, as it is also linked with the hereditary possession of land attached to the lordship, with hereditary claims to vassalage of others, with hereditary legal arrangements and status, and with hereditary noble and royal behaviour, abilities and character; all point towards a much wider context than the rule in itself, and all are relevant to succession.

The question what happened to those who did not succeed in the lordship has already been discussed to some extent, as *Cáin Fúithirbe* addresses this problem as well. The text and glosses suggested that those who did not obtain the lordship after three generations lost their claims to possession of the hereditary family-lands attached to that lordship. Before we deal with this and the relationship between possession of land and succession (see §4.4.), some further comments on succession within the family have to be made. We have seen that as regards descent, illegitimate sons could only become men of political influence and importance under special circumstances, especially when a family nearly died out. Of the legitimate sons, the sons of the primary wife are of slightly better birth than the sons of secondary wives, and we now have to turn to the relationships between brothers themselves: their order of seniority, how this influenced their career and chances of succession, and their political ties with their mother's family, fosterkin and in-laws.

CHAPTER 3: SENIORITY.

3.1. The prerogatives of the senior.

In his compilation of texts in the Irish legal corpus which are related to succession, Domhnall Ó Duibhdábhoirenn sets out the reason for his endeavour: '... I will bring the senior before the junior in every case, as these laws here state'.¹ Domhnall starts off with several references which relate to the rights of the senior in Irish law, but his attempt to prove it 'in every case' is quickly shown to be too ambitious, as other qualifications can surpass the rights of the senior to succeed in the lord- or kingship. For a number of references Domhnall based himself on a text which I have called, for want of a better name, the 'Text on Succession in H.3.18', which is printed at the end of Appendix 1. It consists of glossed fragments of an early text, followed by a lengthy commentary. The early text is part of a text on status from the Old Irish compilation *Senchas Már*, of which only fragments and extracts have survived.² In TSH we have the most complete set of fragments of the Status-text which discusses the rights of the senior, and by leaving out the glosses we can restore parts of this text in its original form:

'Age is rewarded in Irish law, save that age is not disgraced; for when there are two lords of equal kindred who are of equal dignity, it is he who is older who takes precedence, unless the junior has five (free) clients or three base clients ... excess of dignity over the other ... it is then that the senior does not go before the junior ...'³

Other extracts which probably belong to the original text are:

'It is not a tooth which is the equivalent value of old age. It is not age that divides hereditary kin-land, it is not the age of the nettles that gives them venom (qualifications)' (ST §21).

'The senior in case of a family, dignity in case of a lord, wisdom in case of a church'

¹ For an introduction to Domhnall's so-called 'Succession Tract' (ST), written between 1564 and 1569, see Appendix 1.

² I am grateful to Liam Breatnach for pointing this out to me.

³ See TSH, at the end of Appendix 1, for the Irish text and translation.

(ST §1).

From *Bretha Nemed* is:

'Excellence is more venerable than age, a youth takes precedence over the dotage of old age'(ST §21).⁴

The key-word in these extracts is *feb*: 'dignity', 'excellence', 'worth', and also 'wealth' or 'property'. If the junior has more *feb* than the senior, he is entitled to the lordship, but if the junior and senior are equal in that respect, or the senior's *feb* is better, the senior takes precedence. This expresses the customary preference of the senior above the junior, but, in accordance with Charles-Edwards' argument, *feb(as)* is the decisive criterion. We have seen in §2.6. that the son of the primary wife is entitled to the lordship unless the son of a secondary wife is 'better', based on the same principle.

The way the junior can offer compensation for his juniority compared with the senior is by an excess in the number of clients. When the junior has an excess of three base clients or five free clients lots are cast between them concerning the lordship, a rather artificial way to decide the succession, probably based on the division of the inheritance (see below). If the junior has even more clients, the commentary puts it at five base clients or ten free clients, he is entitled to the lordship without casting lots.⁵

At first sight these figures appear to be arbitrary, and simply seem to express the principle that the wealthiest man should succeed, but they still deserve closer attention, as they may provide us with an impression to what extent a junior had to be over-qualified to surpass the senior. We can compare the given figures with the number of clients given in *Críth Gablach* to a typical *aire tuíseo*, the head of a noble kindred: 'twenty-seven clients, fifteen clients of vassalage and twelve free clients (*cóic céili .x. gíalna[i] 7 dá sóerchéle .x.*).'⁶ Each base client had to give the *aire*

⁴ *CIH* 2214.2, given at ST §21. This section is glossed at 2214.14-20, at which the one who has better knowledge (*eolus*) or dignity of wealth (*feib tochusa*), irrespective of his age, is more dignified (*uaisli*).

⁵ The *bíattach* which the text mentions was a client of a lord of common background, such as a *bóaire*, see G. Mac Niocaill, 'The origins of the *betagh*', *The Irish Jurist* 1 (1966) 292-8.

⁶ *CG* 387-8; Mac Neill, 'Law of status', 298 (§112).

tuíseo four cows, five male yearling calves and six male calves in their first year with their summer food as rent for his fief.⁷ As a base client could not terminate his contract with his lord without severe penalties (unlike a free client), a lord's base clients formed a steady source of income, and are thus the primary indication of his wealth and status. Free clients had to pay a far higher annual rent, but because they had the freedom to terminate their contract with a lord at any given time without any penalties (as long as the original fief was returned), they were less reliable as payers of rent. They did not have to deliver any chattels of submission to the lord, and were generally more independent and from a higher social class; their fief from the lord was often rather symbolic. The primary duties of a free client consisted of personal attendance on the lord and military support.⁸ In the text under discussion wealth rather than political support is used as the indication of one's dignity and status, and a candidate's base clients are thus given more importance than free clients.

The five base clients which the junior has to have in excess to the senior to take the lordship not only expresses that he has to be wealthier, in fact he has to be of a higher grade. In *Críth Gablach* the noble grades are basically separated by the number of their base clients, which relates directly to their status and honourprice. Each higher grade has five base clients in excess of the grade under him, for example, an *aire ard* has ten base clients (his honourprice is fifteen *séts*), an *aire tuíseo* has fifteen base clients (his honourprice is twenty *séts*).⁹

In conclusion, a junior is entitled to the lordship if he has the qualifications of a noble grade which is higher than the senior, and that is no mean requirement. Hence the customary preference for the senior above the junior should not be underestimated, as the above gives the impression that the junior had to be clearly over-qualified (in wealth or other qualifications) compared with the senior to take precedence. As their share of the inheritance was normally speaking the same (see

⁷ CG 388-391; Mac Neill, *ibid.*

⁸ GEIL 29-33; Charles-Edwards, *Kinship*, 337-53. For a more detailed discussion with additional references, see §4.5. below.

⁹ See Charles-Edwards, '*Críth Gablach*', 57-8 for a discussion of the noble grades and the size of their clientelae.

below), one may well ask how a junior son could hope to get such a clear advantage over the senior son (or a senior son over his uncle).

The rule which gives precedence to the senior over the junior is basically the same as the one which gives precedence to the son of the primary wife over the son of the betrothed concubine (see §2.6 above): in both cases the former is entitled to the lordship, unless the other is wealthier or otherwise better qualified. Similarly, in both cases the entitlement to the lordship is equated with entitlement to the *cumal senorba*, the piece of land which was attached to the lordship, besides other privileges which the lord enjoyed.¹⁰ For a proper understanding of the connection between senior rights, succession and inheritance, we have to turn to the regulation for the division of a father's inheritance in the Old Irish law-tracts.

At the heart of the division of the father's inheritance stands the maxim 'the youngest divides and the eldest chooses' (*rannaid ósor 7 dogoa sinnser*) or 'the youngest divides, the elder choose according to their grades of worth (*ran[n]uidh ósar, do-goat sinnsire slechtuibh fia*).¹¹ This system ensured a fair division of the land in which each portion was of more or less of equal value, but as the rights of the junior were not always clearly defined, variations in custom could exist.

In literature we find examples of both the junior and the senior making the division. In the *Vita Tripartita* (ca. 900) Fergus Mór, the youngest son of Erc of Dál Riata, says to Patrick: 'If my brothers respect me in dividing their land, I would give it to you', after which Patrick foretells that he will have the kingship over Dál Riata and Fortrenn (in Scotland).¹² In the Old Irish 'Poem on Airgialla' Cairpre Liphechair 'marks out division for the brothers according to their status, for he was their true senior according to customary law. He made division between them of arable land,

¹⁰ Note in particular *CIH* 1548.33-7, quoted in §2.6. above, in which 'every senior his choice' is glossed by the son of the *cétmuintir* who is entitled to the lordship and all its benefits.

¹¹ Both are given at ST §7. See Plummer, 'Some passages' §13, for a translation of ST §7. See *GC* 316-7, and *GEIL* 102-5 for a discussion on inheritance.

¹² *VTrip* 163; Stokes' translation of this section should to be changed according to the text given in Kathleen Mulchrone (ed.), *Bethu Phátraic. The Tripartite Life of Patrick* (Dublin 1939) lines 1885-8. Colgan names Fergus as 'Erci junior filius', see *VTrip* 163, note 2. See also *G* §5.

rough land, fenced land (?) so that each knew the clear delimitation of his estate.¹³ In later tradition a similar position is given to Conall mac Néill, who divided the newly conquered land in the north among his brothers Eógan, Énna and Cairpre, as he was the oldest of them and the one who had conquered it.¹⁴

The right of the senior to divide the land instead of the junior is explained in *Gúbretha Caratniad*. Here the casting of lots decides who gets which part, unless another arrangement is made. The judge Caratnia lays his decision before king Conn of the Hundred Battles:

"I have adjudged: priority to an heir without casting lots." "It was false that you thus judged", said Conn. "It is fitting for me", said Caratnia, "for one of them left it to the other, though he might be regretting it [afterwards]."

--- gloss to 'lots': '[between] people of the same age; or, the smaller left it to him who is greater i.e. the older.'

--- gloss to 'regretting it': 'because there is a prescriptive period for keeping silent [about it] i.e. ten days. After ten days the arrangement is settled.'¹⁵

As in the 'Poem on the Airgialla' the senior makes the division, which is binding if the others agree or are too late with their protests. Normally speaking the junior would be asserting his right to divide the land, after which the senior chooses the first part.

¹³ Máirín O'Daly (ed.), 'A poem on Airgialla', *Ériu* 16 (1952) 179-88: 180/185 (§6-7). For the different types of land, see also 'Colmán's Hymn' in Stokes and Strachan, *Thes. Pal.*, i, 298: due to overpopulation before the plague of 664, it is said that each man in Ireland would only get thrice nine ridges (*trí nói immaire*) of bog, arable land and forest. Apparently, the lands could be fragmented when a division was made.

¹⁴ *Fenagh* 315-7 and N. J. A. Williams (ed.), *The poems of Giolla Brighde Mac Con Midhe*. ITS 51 (Dublin 1980) 31 (iii, §1) and 83 (viii, §1). See also *Fenagh* 399-401, and Margaret E. Dobbs (ed.), 'The history of the descendants of Ir. *Senchas Síol hÍr*', *ZCP* 13 (1921) 308-59; 14 (1923) 44-144: 337-9. In Lec. and H.2.7 Cairpre is Niall's oldest son, see Paul Walsh, 'Tethbae', *Ériu* 13 (1942) 88-94.

¹⁵ GC §10 (*CIH* 2193.22-5), my translation, based on Thurneysen's; the formula 'It was false', etc., is abbreviated in the MS. The period of ten days is also at GC §9, gloss 2 (*CIH* 2193.17-21), and other legal texts. For the path of judgment named *fír* (ordeal, by lots, duel, cauldron, etc.) in *Cóic Conara Fugill*, which applies to disputes about the division of the inheritance, the choosing of a lord and the prerogatives of lordship (*CIH* 2200.11-7, *CCF* 16, §3, see also chapter 2, note 143 above), see Robin Chapman Stacey, *The road to judgment. From custom to court in medieval Ireland and Wales* (Philadelphia 1994) 117-9, in which other examples are given.

Gúbretha Caratniad still refers to the casting of lots, which also figures in TSH when the senior and junior are each other's equals. The custom of casting lots to divide the inheritance between brothers is already mentioned in the *Collectio Canonum Hibernensis* xxxii, 8 (based on Joshua 18:10). In a commentary on *Bretha Comaithchesa* the division of the inheritance is discussed in detail, and special attention is given to the rights of the senior:

'When does final division take place between co-heirs? At the end of five years. A temporary staking the first year. An exchange the second year, in order that each should know the quality of the other's land. To measure by poles and ropes the third year, in order to determine boundaries. The confirmation of boundaries in the fourth year, as well as of the perpetual right of possession. Boundary fences are confirmed in the fifth year, and each [brother] is bound in security to maintain his fences.

Is there anything which the senior takes more than the other heirs? There is indeed. It is he that takes boilers, and vats, and smaller vessels; and it is he that takes keeps and houses, and implements.

What are his benefits to his brethren in return? He keeps a house of reception for the retinue of a king, a bishop, or a sage; and he is the stem of the family (*bun fine*), responsible for the failures of his brethren, and the inviolability of their rights; and it is he that proves their suits; and he is the guardian of family law, that it be not evaded by anyone in the territory (?); and he is to help those about on all convenient occasions; and nothing additional comes from him upon his brethren on account of these services.

They are all in neighbourhood relationship (*comaithces*) with each other from that out.¹⁶

¹⁶ CIH 575.4-19, translation in Eugene Curry (ed.), *Cath Mhuighe Léana, or the Battle of Magh Leana; together with Tochmarc Moméra, or The courtship of Momera* (Dublin 1855) 186-7, to which I have made some minor changes. In a commentary at CIH 1034.3-20 (CCF 42-3, §§64-6) the same principle of dividing the land is given. In Kuno Meyer (ed.), *Betha Colmáin maic Lúacháin*. Todd LS 17 (Dublin 1911) 8, four brothers choose one after the other their part of land. An etymological explanation for Lechuit makes him the oldest, but he is the second one who chooses and is later cursed for holding on to his land against Colmán's wishes.

Another passage supplies:

'And when the brothers have divided it in this manner; or when they have made a perpetual division of it in any other way, it is then that the land of any of the brothers may pass in perpetuity (*o rudhrad*) to the other; and however long it may be united, until it is perpetually divided, the land of any brother of them cannot pass [by sale or gift] in perpetuity to the other.'¹⁷ In the sixteenth century both the rule that the younger divides and the elder chooses, and the elder making the division himself, survived.¹⁸

As a basic rule in the early period, the senior has the right to make the first choice, and the legal texts express this in the term *toga do rannaib* ('choice of shares'), one of the privileges of a lord.¹⁹ For example, in *Cormac's Glossary* (ca. 900) we read '*roga, quasi togae ut dicitur toga de rannaib 7 cumal tsenorbo la sinnser*.'²⁰ This is part of a whole set of prerogatives to which the lord is entitled, enumerated in *Cóic Conara Fugill* as 'i.e. the *cumal senorba*, first of representing and first of speaking on behalf (of others) and choice of shares, etc. And, to illustrate it, the senior gets noble choice.'*(i. in cumal tsenorba 7 tus naibsin 7 tus nurlabra, toga do*

¹⁷ *CIH* 740.24-8, translated in *ibid.*, 187. Curry gives an example from a document dated to 1594, which deals with a dispute about land between the descendants of Séamus na Fiadh Ua Cennétig of Baile Locha Capaill. One party demanded a permanent division of the lands in Baile Locha Capaill, while a second party maintained that this had already taken place. The arbitrators decided that a permanent division had to be made, but that the eldest and best man of the descendants of Séamus was to be given the castle and the little and the great cow-keep (*badhún*). Each member of the family was entitled to a share in the latter, in proportion to his contribution in fortifying the castle and little cow-keep. The senior was to represent his kin and was entitled to certain prerogatives. A family-member was allowed to give his share to another relative, but not to someone outside the family.

¹⁸ G. Mac Niocaill, 'Seven Irish documents from the Inchiquin archives', *Analecta Hibernica* 26 (1970) 45-69: 49, in which a detailed account is given of the procedure when the youngest divides the land. See also K. W. Nicholls, 'Some documents on Irish law and custom in the sixteenth century', in *ibid.*, 103-29: 106, and K. W. Nicholls, *Land, law and society in sixteenth century Ireland*. O'Donnell Lecture, Cork, 1976 ([Dublin] 1976) 18, for the head of the kindred (*ceannfine*) taking the largest share for himself.

¹⁹ ST §§5, 7, 10.

²⁰ J. O'Donovan and W. Stokes (eds.), *Cormac's Glossary* (Calcutta 1868), 146. This is also given in the glossary in H.3.18 at *CIH* 625.5.

*rannaib 7rl-; 7 desmirecht air: berid sinnser saertogu 7 rl-).*²¹ These privileges are also given to the son of the *cétmuintir* or the son of the *adaltrach* (if he is better than the former) when they obtain the lordship.²²

Evidently, it was expected that the senior would enter the lordship, as *toga do rannaib* is the prerogative of the senior in the rules of dividing the inheritance. The lordship, 'choice of shares' and the other privileges are all connected with each other: if the junior succeeded into the lordship, he automatically took over this right of the senior as part of the package.²³

Another privilege attached to the lordship was the entitlement to the *cumal senorba* ('[land worth a] female slave of old inheritance').²⁴ The custom of setting a piece of land aside for the lordship (or the senior) is also referred to in the *Collectio Canonum Hibernensis*, which points out that :

'in most recent days a father divides equally among all his sons and reserves to himself, as if to one of his sons, a part of the inheritance and whole substance, which he entrusts to his firstborn, and it shall be his inalienably, or shall be divided after the firstborn's death between his heir and his brothers and their successors.'²⁵

²¹ *CIH* 1035.10-2 (*CCF* 45, §72). For *berid sinnser saertogu*, see *ST* §5. For discussion and other examples, see below.

²² See §2.6. above, at note 143, and also *CIH* 1296.21-4.

²³ See §4.4. below for further discussion on inheritance of the family-lands.

²⁴ For previous discussion, see *IR* 80, *CCF* 70, Dillon, 'Relationship', 141-2, and especially Plummer, 'Some passages' §38, in which he discusses several examples of the *cumal senorba*. One of his examples is in Stokes, *Cóir Anmann*, 371-3 (§203), in which Catháir Mór of Leinster says to his son Aengus 'you will not have possession of the *senorba*' (*nit bíad selb senorba*), which Plummer relates to the *cumal senorba*. Note, however, in the much earlier *Timna Catháir Máir*: 'Nic, I have no wealth in free land' (*Nig ním thá selbh saer-orba* [*saerfhorba* in other MSS]), which could be the original reading, see Dillon, *Lebor na Cert*, 162-3 (§8). Aengus was begotten by Catháir on his own daughter Eithne while drunk. For further discussion of this text, see §3.2. below.

²⁵ *CCH* xxxi, 18 (cf. Deutr. 21:17-8). The translation is from *PPast* 103.

The last clause refers to the son who has died before his father: his sons receive as a whole the share otherwise given to their father if he had lived.²⁶ Another passage stipulates that a father has to give the double portion of the inheritance, cattle and blessings to the firstborn, even if he is the son of his first wife who is hated by him, and he prefers the sons of his second marriage.²⁷ Both clauses are based upon Mosaic law, and it seems that the Irish followed the rules set out here to a certain degree, as we can draw a parallel to the part of the inheritance - a double share - being given to the firstborn, and the lordship and the *cumal senorba* given to the senior in Irish law.

The earliest reference to the *cumal senorba* is in the Old Irish 'Kinship poem', which deals with the situation when the *gelfine* becomes extinct, and their next-of-kin, the *derbfine*, and remoter kin, divide their land, 'except the *cumal senorba*.' This is glossed in late Old Irish as:

'i.e. of the chief head of the kindred (*prímáige fine*) who maintains the retinue of king and of bishop and is *bunadach* in respect of sustaining [liability for] an offence (*cinaid*). When the *derbfine* takes the *díbad* of the *gelfine*, the whole group grants the value of a *cumal* of land to that man and to each other chief of a kindred (*áige fine*), each of them in succession to the other, who is not a close kinsman. It is for this reason that it is given to that man: because he sustains [liability for] the offence of a kinsman.²⁸

This passage gives us a valuable insight into the function of the *cumal senorba* for the lordship. Firstly, it is related to debts which a member of the kindred may incur: as their head, the lord can assume liability for payment of the debts, and the *cumal senorba* gives him the resources to do so; this is also mentioned in a gloss to *Maccslechte* (see §2.6. above). A later gloss to the same passage in the 'Kinship

²⁶ Charles-Edwards, *Kinship*, 62-3; cf. *CIH* 739.17-8; 1547.13-7.

²⁷ *CCH* xxxii, 3 (cf. Deutr, 21:15-6), cf. §2.5. above.

²⁸ *CIH* 912.2-6, dated by Charles-Edwards, *Kinship*, 12, to the ninth century, and translated in *ibid.*, 513 (see also Dillon, 'Relationship', 141). He inserts after *bunadach* : '(i.e. to whom the kinsmen of all branches look for support)', but this is not in the text, so I have omitted it above. See note 16 above for a remarkably similar description of the *bun fine*.

Poem', reads: '...except the *cumal* that is appropriated to the senior of that estate (*don orba*), one seventh of the land of inheritance (*.uii.mad tire dibaid*), and that it is to be in the hand of the *flaith geilfine* for the support of the *fuidri* and *gormic* ... there shall be no division of it, or it shall not be at all, until the whole *fine* is extinct.²⁹ A marginal gloss recites: 'Seven take successfully the *cumal senorba* - it is not negligible - the sons of the three fair primary wives (*cétmuintera*), and the son of a concubine (*adaltrach*) also, a *fuidir* and a pure filial son (*gormac*), a *daor-fuidir* is the seventh.'³⁰

In *Maccslechte* this poem (in a different wording) is introduced by: 'Ferait a fiachu tara cenn .i. fuidir 7 gormac 7 flaith geilfine 7 teora meic na tri cetmuindter 7 mac na hadalltraighe, is iat sin beires in cumail senorba.' (They ... their obligations on their behalf i.e the *fuidir* and the filial son and the lord of the family and the three sons of the three primary wives and the son of the secondary wife, it is they who take the *cumal senorba*)³¹

The entitlement of the sons of the three primary wives and the secondary wife to the lordship and the *cumal senorba* has been discussed in §2.6.³² The *fuidir* and the *gormac* are related to the maintenance they provide for the lord. A *fuidir* refers normally speaking to a half-free peasant, a tenant-at-will or a labourer, and I take it that he is mentioned here as representing those who worked on the land, and served as the lord's personal retainers. Apparently, the *cumal senorba* was not given to either base or free clients, so a lord's *fuidri* were settled on it.³³ This reinforces the impression that the *cumal senorba* formed the demesne land of the lordship, as it was not given as a fief to others.

²⁹ *CIH* 216.8-15, translation based on Dillon, *ibid.*

³⁰ Dillon, *ibid.* *CIH* 216.13-5 = 109.19-22 (*Maccslechte*).

³¹ *CIH* 109.17-9 (my translation), which forms part of a larger section, of which an extract is at 1044.5-8 (not noted in *CIH*).

³² For the three primary wives, see note 140 at §2.5. above.

³³ For the various definitions of the *fuidir*, see Charles-Edwards, *Kinship*, 307-36, and *GEIL* 33-5.

The *gormac* refers here either to the son of a female heir or the adopted son. In the first case he is son of a *banchomarba* who stays on the land of his mother while she is alive. At her death the land which she inherited from her father is divided among the father's next-of-kin, and the *flaith geilfine*, who takes possession of the *cumal senorba*, now assumes responsibility for her son, who is allowed to settle on the *cumal senorba* as long as he provides filial duty (*gaire*) to the lord. The giving of land to the *gormac* to provide filial duty to his lord - who may well be his uncle or another close relative - is a variation on filial duty provided by the sister's son, who is also given land to do so, for which the lawyers use the term *orba niad* ('inheritance of the sister's son'). Normally speaking, a man's own son or sons had to maintain him, especially in old age, when he was not capable of doing so himself. However, it could be that he did not have any surviving sons, or they could be unable or unwilling to take care of their father. In such cases - or simply by mutual approval not related to a refusal of his own sons to maintain him - a sister's son or another close relative could be asked to perform this filial duty, for which he was given a piece of land, in the above case a part of the *cumal senorba*.³⁴ A son of an external kindred could also be adopted for this purpose.³⁵

Thus, those mentioned in the poem and the introduction were entitled to the *cumal senorba* for different reasons: because they were entitled to the lordship (the sons of the primary and secondary wife) because they worked on the land (the *fuidir* or the unfree *fuidir*) or because they provided maintenance to the lord (the *gormac*).³⁶

As regards the value of the *cumal senorba*, it is unlikely that it was exactly one *cumal*, but rather a seventh part of the *díbad*, no matter how large or small the

³⁴ CIH 1549.33: '*orba niath .i. cumal tsenorba do gormac*' (*Maccslechta*); 395.24, 30-1 (*AL* i 203, 207): '*im orba mic niath .i. mac sethar .i. in gormaci. uii.mad tire dibaid*'; 1568.1-2, etc. For *orba niad*, see CCF 70 note 30, GEIL 104-5 and Charles-Edwards, *Kinship*, 83. The right to get a share of the inheritance for maintenance is also recognized at CCH xxxii, 20. The *banchomarba* could sell (a part of) the *cumal senorba* if necessary, see CIH 395.33-8 (*AL* i 207). For the connection between *nia* and *gormac*, see Tomás Ó Cathasaigh, 'The sister's son in early Irish literature', *Peritia* 5 (1986) 128-60.

³⁵ CIH 534.26-33 (*AL* iii 53), cf. 381.15-21 (*AL* i 159), 222.24-5 (*AL* iv 63), 160.34-162.9, 894.6-18, CG 98 (see CG p. 98).

³⁶ For the unfree *fuidir* (who may be equated with the *senchléithe*) in connection with the *cumal senorba*, see §5.3. below.

territory in question, which left the remaining six parts to be divided among the next-of-kin.³⁷ It may be that land was originally reckoned from a basis of seven *cumals* in total, and this is how the above gloss to the 'Kinship Poem' still takes it; it is given to the *prímáige fine* in order to meet liabilities of the members of the kindred.³⁸ The connection between the *cumal senorba* and the ability to meet liabilities which the kindred incurred, for which the kindred and thus the lord was responsible, is also apparent in several passages discussed above.³⁹

The *prímáige fine* seems to be the lord of the whole kindred-group, who was given the *cumal senorba* as its head and representative in external affairs.⁴⁰ The rest of the *díbad* was then shared among every other *áige fine*, in other words, the heads of the other families which were also entitled to a share, and who are not close kinsmen, belonging to the *derbfine*, *íarfine*, and *indfine* (who received their share per head of the family, not per male individual). In other glosses the *áige fine* acts as the responsible head who is held liable for the crime of a kinsman; he also has to be present at the making of contracts, and can dissolve those who were made without his knowledge; if a woman wants to claim her *coibche*, she turns to her *áige fine*.⁴¹ It is almost certain that the *áige fine* generally refers to the *flaith geilfine* (in his function as representative towards externs), and as such he is also glossed in one tract.⁴² The function of the *áige fine* for the family is matched by

³⁷ See ST §10, the text at note 29 and note 34 above for '*uui.mad tire dibaid*' given to the lord or as *orba niad*.

³⁸ In *Críth Gablach* seven *cumals* is the value of the land of an *ócaire*, and it is also the honourprice of a king (CG 91 and 450-1). Seven *cumals* form the maximum portion of land given as *orba niad* at CIH 917.30-1, 35-6, which probably refers to seven *cumals* of privately accumulated property, instead of hereditary family lands, see 533.17-20 (cf. Charles-Edwards, *Kinship*, 83 and 332). See also below, at note 44.

³⁹ See §2.6. note 142, and notes 16 and 17 above.

⁴⁰ See Charles-Edwards, *Kinship*, 513.

⁴¹ CIH 1666.39-42 (AL i 81); 223.6 (AL iv 65); 443.10-1 (*Díre* §36); A text at 222.28 (AL iv 63) stipulates that a girl has to give half of her *coibche* to her *áige fine* when she marries and her father is already dead (cf. CIH 294.40-295.30, AL iii 315). In GEIL 13-4 the *áige fine* is simply equated with the head (*cenn*) of a family.

⁴² CIH 222.23 (AL iv 63).

the *prímaíge fine* for the whole kindred, he is *bunadach* for all the *fini*.⁴³

The *prímaíge fine*, the head of the whole kindred (probably a *cenél* or a similar extensive kindred-group), receives a part of the territory of the extinct family as *cumal senorba* for sustaining the liabilities of his kinsmen. This is an interesting piece of information, as it would mean that each time a family died out, a part of their land (one seventh or worth a *cumal*) would return to the lord or king of the whole kindred. This would not only increase the demesne lands of the *prímaíge fine*, they would also be scattered all over the territory of the kindred. As long as a family belonged to a larger kindred-group and acknowledged its leader, the latter would be entitled to a share of their lands when they died out. The text of *Di Astud Chirt 7 Dligid* quotes in this respect the maxim: 'Anything that merits (earns) seven *cumals*, a *cumal* of it to the lord,' (*ni dosli .uii. cumala chumal as do flaith*).⁴⁴ The accompanying commentary relates this to the seventh part of a base client's *marbdíre* (compensation for deadly wound), but perhaps we can apply the principle to *díbad* and the *cumal senorba* as well.⁴⁵

Unfortunately, it is difficult to find additional information on this, especially for the pre-Norman period. The legal sources refer to *brugh ríge* (or *mruig ríge*) and *ferann ríge*, but it is uncertain whether they refer to the royal demesne lands. *Heptad* 61 mentions 'land which is given to the *brugh ríge* i.e. land which is given to the king to hold a fair/assembly on it (*Tir doberar do brugh ríge .i. ferann doberar don ríge do denamh aonaigh fair*).'⁴⁶ A commentary to *Bechbretha* takes it to be land which is

⁴³ *CIH* 411.22 = 1711.34-5 (*AL* iv 261). *DIL* under 'bunadach' defines it as 'belonging to the original stock', but this would not make much sense in the gloss under discussion, and I prefer to follow Charles-Edwards' interpretation (see note 28 above). See also *DIL* under 'bunad': 'origin', 'basis', perhaps it has here the same meaning as *áige*: 'pillar'.

⁴⁴ *CIH* 225.33-4 (*AL* v 433, my translation). At 226.17-9 is explained that no matter the amount of *cumals*, the lord is entitled to a share of one-seventh.

⁴⁵ *CIH* 226.5-7, 10-6. Entitlement to *díbad* and *marbdíre* (= *éraig*) are strongly connected with each other within a family, see §2.5. above, at note 122. See also §4.5., note 99 below, for further discussion on the relationship between lord and client.

⁴⁶ *CIH* 54.12 (*Heptad* 61, *AL* v 317). Almost the same text and gloss is in *Heptad* 2 (*CIH* 4.3-4, 10-1, *AL* v 129-31), see *Bretha Nemed* 31 (note to §16) for the text and translation. A fair or assembly is often associated with the kingship, such as the *Oenach Tailtén* of the king of Tara. For discussion on the latter, see D. A. Binchy, 'The Fair of Tailtiu and the Feast of Tara', *Ériu* 18 (1958) 113-38. See §4.5. below for the 'legal' aspect of the assembly.

not settled or claimed by others, and which therefore belongs to the king: 'There are three areas of a king: a road and unshared land and the sea (*Tri bruighi righ dochuisin: ród 7 diraind 7 romuir...*).'⁴⁷ The rights of the king as regards the share he is entitled to when one of his clients finds anything of value in or on these areas may be related to *Heptad* 43, which names among the seven things which cannot be recovered by distraint 'cattle which are found upon the land of a king (*ferann in rig*)', such as Fiad Muman (near present day Thurles), 'for they had killed the king of Cashel', and Tír Mugain in Ele.⁴⁸ In *Indarba na Déssi* Aengus, the king of Cashel, offers as *tindscra* to the Dési in return for their fosterchild Eithne in marriage 'king's land (*ferann rig*) which is mine among the Osraige to the south of us, and you have permission to extend it at their expense.'⁴⁹ It is not clear whether *brugh rig* or *ferann rig* is unsettled land not owned by anybody else, or that it firmly belongs to the king's estates. This seriously hampers our interpretation of an important passage in an the old and difficult text on Conall Corc and the Corco Luígde which refers to *brugh rig* in connection with the kingship of Cashel (see the two above examples).⁵⁰ The last part of the text deals with rights to the succession of the kingship of Cashel of the various Eóganacht branches, and the reason why

⁴⁷ CIH 959.17 = T. Charles-Edwards and F. Kelly (eds.) *Bechbretha: an Old-Irish law-tract on bee-keeping* (Dublin 1983) 185.

⁴⁸ CIH 40.2-6 (AL v 265). Tír Mugain is also mentioned at 207.15 (AL iv 7) and 908.17. See G. Mac Niocaill, 'Jetsam, treasure trove, and the lord's share in medieval Ireland', *The Irish Jurist* 6 (1971) 103-10: 107 for discussion of the passage in *Bechbretha* above. For fasting on '*ferand in righ*', see CIH 1564.37ff.

⁴⁹ Vernam Hull (ed.), 'The later version of the Expulsion of the Déssi', *ZCP* 27 (1958-9) 14-63: 58, from *LU*, cf. *CGH* 345 (316 c51). In the earliest version (8th c.) in Rawlinson B. 502 and Laud 610, Eithne is offered 'the meadowland [lit: 'green'] of Cashel (*faithchi Chaissil*) from Lusk to Cashel', which she gives to the Dési, who are given a free status, see Meyer (ed.), 'The Expulsion of the Déssi', *Y Cymmrodor* 14 (1901) 101-35: 115-7 and *Ibid.* (ed.), 'The Expulsion of the Déssi', *Ériu* 3 (1907) 135-42: 138, respectively, with corrigenda provided by Vernam Hull (ed.), 'A collation of *Tucait Indarba na nDéssi*', *ZCP* 24 (1954) 32-4. Two small related texts are in S. Pender (ed.), 'Two unpublished versions of the Expulsion of the Déssi', in S. Pender (ed.), *Féiscríbhinn Torna* (Cork 1947) 13-6, commented upon by V. Hull, 'The Book of Ui Maine version of the Expulsion of the Déssi', *ZCP* 24 (1954) 266-71. For *tindscra*, see §2.4. above.

⁵⁰ K. Meyer (ed.), 'Conall Corc and the Corco Luigde', in O. Bergin, R.I. Best, K. Meyer, J.G. O'Keefe (eds.), *Anecdota from Irish manuscripts iii* (Halle 1910) 57-63, for the Irish text. The translation is in Vernam Hull, 'Conall Corc and the Corco Luigde', *Proceedings of the Modern Language Association* 62 (1947), 892-906, with corrections in V. Hull, 'On Conall Corc and the Corco Luigde', *ZCP* 27 (1958-9) 64-74.

some of them are excluded is explained by means of their proprietary rights to the land Cashel was built upon. The passage to be discussed here reads:

'As for Cenél n-Angse, moreover, until recently it was not wont to go to Cashel, for it conceded nought out of its share for the *brugh rí*g. To Cenél Oengusa mac Nad Fraích Cashel belongs, for of the sons of Corc it is only Nad Fraích who gave *brugh rí*g to Cashel. The rest of his sons conceded nought. In consequence, Corc said: 'It will be Nad Fraích's city; everyone's land will be Nad Fraích's. He who possesses Cashel, he it is who speaks for all Munster; that is, all Munster will be pledged to him (lit: in his hostageship).'

*(Cenel nAngse dano, ni theiged hi Caisiul co núe, ar ni foetatar ni assa cuit i mbruig rí*g. *Is cenel Oengusa maic Nadfraich Caissel, ar is Nadfraich namma di macaib Cuirc dobert mbruig rí*g do Chaissiul. *Ni foetatar a maic olchena. Is de asbert Corc: "Bid cathir Nad fraich, bid Nadfraích tír cháich; intí bess a haí Cassel, is he arelabrathar Mumain n-uili" .i. biad Mumu huile ina gellsine)*⁵¹

Before we discuss the meaning of *brugh rí*g in this context, the identity of the mysterious Cenél n-Angse deserves some discussion. The name itself appears to be corrupt: it is not a personal name which occurs anywhere else, and to read nA[e]ng[u]s[a] offers no solution, as there is no other Cenél n-Aengusa in Munster related to the Eóganacht we know of. However, the text itself points in a certain direction for a possible candidate, as it states that Cenél n-Angse did not go to Cashel (i.e. claimed the kingship of Munster and take residence there) 'until recently'. The text is dated to around 900 by Vernam Hull, but it contains Old Irish elements which suggest an original from around 700.⁵² The last historical king mentioned in the tale is Cú cen máthair mac Ailella, for which we should read Ailill mac Con cen máthair (meic Cathail), who died in 698 (AI) or 701 (AU). Considering

⁵¹ Hull, 'Conall Corc', 905. I have taken all of Hull's corrections into account in the above quotation, such as reading *brugh rí*g instead of Bruree, see *ibid.*, 'On Conall Corc', 73-4, and note 53 below. I have not followed Thurneysen's translation of *-foétatar* as 'they accepted', see his *A Grammar of Old Irish*, translated from German by D. A. Binchy and O. Bergin (Dublin 1946; repr. 1980) 512 (§837)).

⁵² Hull, 'Conall Corc', 890 and 'On Conall', 64 note 5.

the attention the story gives to kings of Eóganacht Glendamnach and the hostility to Leth Cuinn, the reign of Cathal mac Finguine (+742) can be proposed for the date of its composition. Taking this as our starting point, it is only a matter of seeing which branch possessed the kingship of Cashel apart from the descendants of Aengus mac Nad Froích around this time. This immediately excludes the Eóganacht of Cashel, Glendain and Airther Cliach, but the kinglists also include several kings of the Eóganacht Áine who reigned in the beginning of the seventh century and afterwards: Amalgaid (+603) and Gabrán (fl. 598), both sons of Énna, Cúán mac Amalgada, whose death is recorded in 641, and in the eighth century Eterscél (+721) and perhaps his son Cathusach (see G §49). The Eóganacht Áine, also known as Uí Énna Áine, descended from a brother of Aengus, Ailill, but they are totally ignored in the text on Conall Corc, although it is specifically said that the kingship of Munster belongs to the descendants of Aengus, not to the descendants of Nad Froích, which would include those of Ailill. The text discusses why the other Eóganacht branches have forfeited their right to the kingship, all for different reasons, but the Eóganacht Áine are conspicuous by their absence. If we should identify Cenél nAngse as Eóganacht Áine, the name given to them here can only be explained by a grave scribal error.⁵³

In any case, the text makes clear that, as none of the descendants of Conall Corc but Aengus had given *brugh rí*g to Cashel, only the descendants of Aengus are entitled to the kingship of Cashel, and thus of Munster. Hull takes this to mean that those who did not want to dedicate a part of their land to the royal demesne thus lost their claim to the kingship.⁵⁴ Byrne even suggests that each *túath* of an overkingdom had to assign a parcel of land for the royal demesne of the overking, drawing a parallel to a similar practice in sixteenth century Ireland.⁵⁵

Both interpretations seem to make sense, especially because there are at least

⁵³ Names which come close to Angse are Uí Angain (CGH 159 b 39; 160 a43) of Ciarraige, and Ibar macc nAngciss (LL 3281), both unrelated to the Eóganacht. See O'Daly, *Cath Maige Mucrama*, 39 and Stokes, *Cóir Anmann*, 305-7 (§41) for the rape of the fairy-princess Áne by Ailill Ólumm, who had his residence in Brugh Rí (Bruree, see note 51 above, cf. FM 1088; it is one of the strongholds of the kings of Cashel in Dillon, *Lebor na Cert*, 35, 41, 43, 45).

⁵⁴ Hull, 'On Conall Corc', 73-4.

⁵⁵ IKHK 196.

two texts which show the existence of an identical custom well before the sixteenth century. In the Middle Irish text *Cath Maige Rath* we read: 'To Congal, the prop of Tara, a cantred in every territory should be his, and a townland of every other cantred (*tuath cach tire...7 baili cach tuaithe*).⁵⁶ In the tract 'The Rights of Mac Diarmata' the kings of Mag Luirg claim certain royal rights for the whole of Connacht: 'Here are other emoluments of Mac Diarmata: for he has a village in every *túath* in Connacht, and the king of Carrick [*righ na Cairrge*, the title of the Mac Diarmata kings] has from Assaroe to Limerick without paying tribute to the king of Connacht. And he has a garden in every church and an apple-tree in every orchard throughout the whole of Connacht.⁵⁷ The reality of these claims can seriously be doubted, the more because the tract probably dates from the fourteenth century, a period full of unrest and warfare, in which such claims would have been unenforcable since most of Connacht was in the hands of the Anglo-Normans.⁵⁸ Still, the basic thought behind it is like the one used in *Cath Maige Rath*: a piece of land is to be set aside in every territorial unit for the overlord. In a sixteenth century document the same principle is used in a covenant made between the Mac Eochacáin of Cenél Fiachach and An Sinnach ('the Fox' Ua Catharnaig) of Tethba, concluded in 1526. It states that 'Mac Eochacáin [is] to be lord over An Sinnach, and his patrimony (*a dhuthaidh*); and this is all the sign of lordship which Mac Eochacáin has over An Sinnach and over his country, i.e. a *gníom* of land free from every impost (*gníom d'ferann saor ar gach ein-cion*), and a hog (*muc*) out of every other *gníom* which pays chiefry to An Sinnach.⁵⁹

⁵⁶ O'Donovan, *Mag Rath*, 133. It is dated to the thirteenth or fourteenth century by M. Dillon, 'A note on the texts of *Cath Maige Rath*' preserved in the Yellow Book of Lecan', *Éigse* 7 (1953-5) 199-201. The quoted passage is not in Carl Marstrander (ed.), 'A new version of the Battle of Mag Rath', *Ériu* 5 (1911) 226-47, which is dated to the tenth century in M. Dillon, *The cycles of kings* (London 1946) 65, which is also accepted by Máire Herbert, '*Fled Dúin na nGéd*: a reappraisal', *CMCS* 18 (1989) 75-87.

⁵⁷ Nessa Ní Shéaghda (ed.), 'The Rights of Mac Diarmata', *Celtica* 6 (1963) 156-72: 158/164 (prose) and 167 (§11)(verse, ascribed to a twelfth century poet, Áed Ollbarr Ua Carthaig).

⁵⁸ The last historical person mentioned who was given the rights according to the tract is Diarmait Ruad Mac Diarmata (+ 1341), who never attained the kingship.

⁵⁹ John O'Donovan (ed.), 'Covenant between Mageoghan and the Fox, with brief historical notices of the two families', in Idem. (ed.), *The Miscellany of the Irish Archaeological Society* vol. 1 (Dublin 1846) 179-197: 190-1. I have slightly changed the translation and spelling. For a piece of land set

If we compare these later references with those of the text on Conall Corc, it seems that the latter already deals with a piece of land set aside for the royal demesne by those who acknowledged the dynastic overlordship of the king; refusal to do so resulted in exclusion from entitlement to that lordship, and perhaps loss of other privileges and protection. In short, it is a form of recognition, and in the case of the kingship of Cashel it follows that the descendants of Aengus formed a separate kindred group, who had set up their own demesne without other Eóganacht branches being able to claim it through blood-relationship.

Unfortunately, we lack additional material to reach any solid conclusions, and it is far from clear if and how this worked in reality. We also have to bear in mind that the text on Conall Corc is a propaganda tract, which may convey a theoretical impression rather than the historical reality. The same problem arises if we want to draw any conclusions from the similarities between the *brugh rí* or *ferann rí* and the *cumal senorba* as referring to demesne lands. We have already seen that the head or representative of the whole kindred (*prímáige fine*) was given a part of the *díbad* of an extinct related family in recognition of his responsibilities, and we may draw a parallel between this and the king being given a part of the lands of a related family in recognition of his authority. In both cases the refusal to give the *prímáige fine* or the king the land for his demesne would sever the bonds between the ruling family and those who refused to acknowledge his rights. Although this suggestion may be based on the flimsiest of evidence, it would afford us with an insight as to how certain kindred-groups made a permanent division of their lands, and created separate lordships and territories - a process which continuously brought new territorial lordships into existence in both the pre- and post-Norman period.⁶⁰

The above discussion has taken us far from the rights of the senior, but it does point to the *cumal senorba* being more than just a piece of land set aside for the

aside for the senior and lord of the sons of Toirdelbach Mac Uí Briain Aradh (ca. 1600, see G §57), and the lands given to each of them, see *ALM* 353-4 and *Caithr. T.* i, 180-1 = ii, 190-1. Ua Conchobair Failgi held as overlord certain lands in Uí Riagáin in 1550, see K. W. Nicholls, *The Ó Doyne (Ó Duinn) manuscript*. IMS 75 (Dublin 1983) xi.

⁶⁰ This is my suggestion based on the pre-Norman material, which finds support in sources of the sixteenth century, see also Nicholls, *Gaelic Ireland*, 60-4. For a permanent division made by a dynasty, see §5.1. below, at note 38, and note 17 above.

lord for his retainers and personal income which was worth one *cumal*, which allowed him to take responsibility for his kin. This impression is as far as the sources allow us to go, for the early period we lack information on the extent of the demesne lands, although Kenneth Nicholls' suggestion that the demesne lands of the Irish kings were even smaller than those of the Gaelic lords in the sixteenth century gives the impression that the demesne lands were not the main source of revenue and power for kings and lords, for this their overlordship and authority over related lords and adjoining territories was far more important.⁶¹

So far, we have discussed the 'choice of shares' (*toga do rannaib*) and the demesne lands of the lordship (*cumal senorba*) to which the senior or lord is entitled, and this leaves two other prerogatives to be considered: the right to speak first on behalf of others and the right of first representation (*tus urlabra* and *tus aidbsena* or *tus aidben*, see ST §§5, 7, 10).⁶²

In a passage in the *Vita Tripartita*, the right to speak first is the right of the senior: king Lóegaire settles a dispute between the twelve sons of Amalgaid son of Fiachra son of Eochaid Muigmedón. Conall, grandson of Amalgaid addresses the assembly with the words: 'If indeed it be according to age that one argues in a palace and land is taken, it is I that am youngest. If it be according to my father's age, Énda the Bent is the oldest therein.'⁶³ This right is also mentioned in the passage quoted above from the text on Conall Corc, in which the king of Cashel 'speaks for all Munster' (*arelabrathar Mumain n-uili*). In the legal tract *Di Astud Chirt 7 Dligid* is the following passage: 'How many are the guards (?) of each family? A head who speaks for it (the family), a church which sustains it, a lord who protects it (*Cis lir tairgsin cacha fine. conn ardolabraidtar, eaclais fosuigaidter, flaith fordotuigaidtear*)',

⁶¹ *NHI* ii, 431. For the demesne lands of Mac Carthy Mór in the sixteenth century, see Butler, *Gleanings*, map facing p. viii, and 18, 67-9.

⁶² The difference between *tus aidben* and *tus aidbsena* is not clear. Binchy calls *aidben* 'one of the most elusive words in the legal vocabulary' (*CG* p. 32, note to line 412). He takes it - following Thurneysen in *Bürgschaft* 63 - to be the verbal noun of *ad-fet*, 'leading to[wards]', hence 'representing', rather similar to *tus airlabra*. See also §3.3. below for the example of Niall speaking before and on behalf of his brothers in *Echtra mac Echdach Mugmedóin*.

⁶³ *VTrip* 129.

in which 'speaks for it' is glossed 'the sensible adult who is speaking on their behalf i.e. the judge (.i. *in codnach bis ac urlabru tara cend .i. in breithem*)'.⁶⁴ The description of the *aire tuíseo*, the head of a noble kindred, in the Old Irish law-tract *Míadslechta* is revealing: 'an *aire tuíseo* goes before the families of his own kindred to the king, and speaks on their behalf (*aire tuisi dofet fine comcenel do co rig 7 aroslabra*).⁶⁵ In *Críth Gablach* it is expected of the *aire tuíseo* to fulfil specific qualifications, 'so that he is of complete assistance to the *túath* with regard to representations, oaths, pledge, hostage [and] treaty on behalf of [his] kindred, over the border and in the house of a lord (*combi lánchongnam i tuaith do aidbdenaib, do noillechaib, do gi[u]ll, do gíall, do chairdiu tar cenn ceníuil tar crích 7 i tech flatha*).⁶⁶

The above passages refer to *tus urlabra* and *tus aidbsena* or *tus aidben*, the prerogative or duty of the lord to speak on behalf of his kindred and to represent them. This representation may include standing surety on behalf of one's kindred or family: 'There is a commoner who gives (can give a fief) as a lord; that is a man of three *aidben*, a man whose father and grandfather were a pledge on behalf of their kin (*Ata aithech eirnis amal flaith; fer son .iii. naidben, fer dorata a athair 7 a senathair gell tar cenn a aicme*).⁶⁷ Thurneysen points out that this description is close to that of the *ánruth* in *Berrad Airechta*, to whom also the three generation requirement applies, and who is also connected with suretyship.⁶⁸ This will be discussed in §5.3. in connection with the *tánaise rí*g.

⁶⁴ *CIH* 227.1-2, 4, translation partially based on *AL* v 437. The reference to the judge in the gloss is unclear to me.

⁶⁵ *CIH* 583.28 (transl. based on *AL* iv 347) = 677.8 (*arrolabrathar*). Cf. 583.38 = 677.14, in which the *aire fine* is defined as 'a man who goes before the family when they bring their *séts* to the lord (*fer do[f]et fine dia m-berat a séotu co flaith*); text amended and translation based on R. Thurneysen, 'Aus dem irischen Recht v. 10. Nachträge zur Bürgschaft', *ZCP* 18 (1930) 375-408: 379. See *ibid.* for the text on *cró* and *díbad*, *CIH* 601.1-601.11, at 609.9: 'the *muire rechtge* who goes before them into the house of a king (*muire rechtgi dodafét a tegh rí[g]*),' cf. 1969.26-9, see *ibid.*, 379-80.

⁶⁶ *CG* 411-3 (my translation, cf. Mac Neill, 'Law of status', 299 (§132). See also note 45 at §2.2. above.

⁶⁷ *CIH* 922.10-1, cf. 106.31-6, 1544.12-4, see Thurneysen, *ibid.*, 380-1. The quote refers to a *bóaire is ferr*: 'the best *bóaire*', i.e. the highest grade of *bóaire*. See §5.3. below for the *aire forgill is ferr*.

⁶⁸ See §2.1. at note 18.

The 'choice of shares', the *cumal senorba*, the right to speak first on behalf of others, and the right of representation are all rights connected with the senior and his entitlement to the lordship. We have also seen that the junior could make a better claim if he has a considerable surplus of wealth or *febas* in general than the senior. Another exception to the rule was that if one was too young or too old, one could be disqualified from the lordship.⁶⁹ This is a logical extension of the overall importance given to better qualifications: a boy who had not yet reached adulthood was disqualified because he was too young and inexperienced;⁷⁰ likewise, the senior could be surpassed by younger members of the family if he was too old to rule.⁷¹ A younger, more energetic king was preferable to an old king who was not in the condition to lead his people in warfare and through troubles, and who did not have the confidence and reputation of a king who had reigned for several years. These are practical considerations, which once more indicate that the theory is pragmatic in its outlook: the best candidate for the lord- or kingship should be chosen. It presumes that the senior, by virtue of his position within the family, his experience, etc., is the better man, not because he happens to be the oldest. We can now compare this impression from the legal sources with saga-literature, to see if we find additional examples of the customary preference for the senior to succeed.

⁶⁹ See ST §21, also given at the beginning of this paragraph.

⁷⁰ For examples in saga-literature, see Elizabeth A. Grey (ed.), *Cath Maige Tuired*. ITS 52 (Dublin 1982) 33-5 (§§36, 39-40) (Bres being under-aged and his kingship brings oppression); *TBDD* 162-4 (§15), see §2.3. note 61 (young Conaire promises to obtain wisdom); Life of Saint Cellach of Killala, *SG* i, 50 (ii, 52) (Muirédach son of Eógan Bél is not fit for the kingship of Connacht because he is too young). See also *AU* 925, recording the death of Lorcán king of Brega 'in old age'; his father Dúnchad had died in 831 (G §19), so he must have been at least 88 when he became king in 919. For other examples, see §3.3. below.

⁷¹ For examples of old kings in saga literature, see O'Daly, *Cath Maige Mucrama*, 87 (Ailill Olumm as a weak, old and decrepit king); R. I. Best (ed.), 'Echtra Airt mac Cuind', *Ériu* 3 (1907) 149-73 (an aging ruler should not hang on to his reign); Greene, *Fingal Rónáin* (disaster after the marriage of a daughter to an old king instead of his son). See *PPast* 134-5 for discussion.

3.2. The senior versus the junior in saga-literature.

One of the earliest examples of the senior being surpassed by the junior is in *Timna Chathair Máir* ('The testament [or bequest] of Cathaír Mór') of the seventh or eighth century, which seems to be modelled on the Old Testament.⁷² By using the story of Cathaír Mór giving out his property and blessings to his sons, the *Timna* seeks to show that Rus Failge, ancestor of the Uí Fáilgi, was placed above all his other descendants, some of whom are ruthlessly put down instead. Cathaír gives Rus 'headship and supremacy over his children (*cennus 7 cennach[t] a chlainni*)', and hands him other tokens of affection.⁷³ Cétach, Cathaír's firstborn son, is first put in a favourable light as well, but is then ridiculed and left with nothing but his father's border territories (*crícha*).⁷⁴ Apparently, Cétach fell victim to a rewriting of the last part of the *Timna* to pave the way for Fiacha Baiced (*ba hAiccid*). Cathaír has no land for his youngest sprout, but blesses him and instructs him to reside a month with each of his brothers and seven years with Rus Failge, so that 'he might obtain the kingship by virtue of his blessing'.⁷⁵ This serves to show that, although the odds were against him, Fiacha's descendants of Uí Dúnlainge and Uí Cheinnselaig had a right to the kingship of Leinster, as their ancestor had been personally blessed by Cathaír Mór himself.

The same theme is found in the Middle Irish text *Aided Chrimthainn maic Fidaig*: Brión, king of Connacht and eponymous ancestor of the Uí Briúin kings of

⁷² Edited in Dillon, *Lebor na Cert*, 148-78, who dates it to the eighth century. A valuable discussion is in A. P. Smyth, 'Húi Failgi relations with the Húi Néill in the century after the loss of the plain of Mide', *EtC* 14 (1974-5) 503-23: 516-22, who dates the original part of the work to the early seventh century, judging by its political content. For the position of Aengus Nic in the *Timna*, see note 24 above. In Genesis 49:1-28 Jacob's firstborn Reuben is rejected, others are cursed, and Joseph is especially blessed.

⁷³ Dillon, *ibid.*, 151.

⁷⁴ *Ibid.*, 165 and 171/6 (version in Lec.) and Smyth, *ibid.*, 519-20. Crích na Cétach was situated to the north of Uí Fáilgi, and became later incorporated in the Uí Néill lands of Mide, see *IKHK* 138-42.

⁷⁵ Dillon, *ibid.*, 165, and also 178, at which it is stated that Cathaír himself was also the younger brother (of Maine Mál, *a quo* Uí Máil), see G §38. For a parallel to Fiacha Baiced's position, see T. Ó Raithbheartaigh (ed.), *Genealogical Tracts I* (Dublin 1932) 135 (Lecan Miscellany §5): Nuada Arglatlám is left without an inheritance and is fostered by his brothers Muimne, Luigne and Laigne, sons of Eremóin; at *CGH* 137 b16, 140 b2-5, etc. a different genealogy is given, see G §1.

Connacht, brings his 24 sons to the druid Sithchenn, who gives them his blessing, and says that after Brión 'Echen, the eldest of them would be their king ... Then he blessed greatly the youngest, namely Dai Galach, and prophesied to him that the kingship would descend from him.⁷⁶ The reason for presenting the ancestor of the royal line as the youngest son seems to be related to the way the authors want to bring in the theme of the blessing or - as we shall see - special qualities of the person in question. The senior would hardly be in need of a reassurance that the royal line will be from him, as he is the most obvious candidate anyway. Instead, it is the junior, the outsider, who is destined to become the progenitor of future kings. Apart from serving narrative and propaganda purposes, we may be dealing with genealogical fabrication here: the youngest is simply the one last tagged onto the main line of famous kings of the remote past, after which a blessing guarantees his special place.⁷⁷

The Laud genealogies have a more direct approach than offered by *Timna Chathair Máir*. The twelve sons of Forgg mac Dalláin of Dál Fiatach of Ulaid are recounted, and of the oldest, Muirbran, is said: 'It is he who sold the lordship to the youngest of the children, i.e. Muiredach son of Forgg, after it had been bequeathed to him (*Is hésidhe riris in flaith fri óssar na claindi .i. fri Muiredach m. Forgo íarna thimna dó*).⁷⁸ Not a blessing but a more clear advantage is given to the youngest son here.

This motif is also used for propaganda to boost the claims of Ua Domnaill to the kingship of Cenél Conaill in a poem in the *Book of Fenagh*, probably from about the thirteenth century.⁷⁹ In this version the five sons of Muirchertach son of Cenn Fáelad divide the inheritance of their father. The youngest son, Dálach, ancestor of

⁷⁶ Whitley Stokes (ed.), 'The death of Crimthann son of Fidach, and the adventures of the sons of Eochaid Muigmedón', *RC* 24 (1903) 172-207 (at 174-89): 180-3 (§11). See G §60.

⁷⁷ See also §2.1. above for the Dál Cais being attached to the main line of the Eóganachta, after which they claimed the kingship by pointing to an ancient right to share the kingship of Munster with them. For the dubious genealogies of the Uí Briúin, see *IKHK* 245-6, but Byrne's interpretation of their genealogy (at 299) is questionable, see my notes to G §60. For the blessing of Fergus Mór, the youngest son of Erc of Dál Riata, see note 12 above.

⁷⁸ *Laud* 328. For the versions in other MSS (with a wrong translation), see Dobbs, 'Descendants of Ir', 334-5. Note the parallel with Esau in the Old Testament.

⁷⁹ For the dating of the *Book of Fenagh*, see Simms, *From kings*, 102, note 42.

Ua Domnaill, is only seven years old when his father dies, and his brothers want to give him only cattle at first. Bradagán, ancestor of Ua Baígill, and Dálach's brother by the same mother, defends his rights, and proposes to give the supremacy to Dalach in exchange for his share of the stock. To further this idea a prophecy of Colum Cille to the same effect is brought forward, and the result is that Dálach's descendants obtain the lordship forthwith.⁸⁰ The relationship between Ua Domnaill and Ua Baígill is thus not only one of blood-relationship through their mother, the former owes his position to the help given by the latter - a reminder of the importance of the support of the Ua Baígill lords of Tír Ainmirech to the Ua Domnaill kings of Cenél Conaill.

On a larger scale, Conall, the eponymous ancestor of Cenél Conaill, is given an elevated position over his brother Eógán, from whom their rivals of Cenél nEógain take their name. After the conquest of the North by Conall, Eógán and their other brothers, the *Book of Fenagh* has Eógán saying: 'To him with whom we a-hosting came, let us give the seniority (*sindsirecht*).'⁸¹ That Conall never became king is explained by a borrowed story-motif: he lost it by a trick from his brother Lóegaire, who wanted to hold the kingship for one day and one night, which meant forever.⁸²

The remark about the 'seniority' being bestowed upon a person is in line with the legal material: the rights normally given to the senior could be taken over by the junior if he was better qualified, in which case the junior receives senior 'status'.⁸³ The same idea seems to be put forward in one of the poems of Giolla Brighde Mac Con Midhe, in which he advocates the re-uniting of the Northern Uí Néill under the rule of Ua Domnaill, saying: 'A king of the blood of Conall ruling over Clann Eoghan by virtue of his nobility would be wise, why would not all people be more fitting

⁸⁰ *Fenagh* 345-53. Dálach died in 870 as *dux* of Cenél Conaill (*AU*), see G §7. The Uí Baígill rose to distinction in the thirteenth century, and were originally lords of Cloch Cinn Fáelad (Cloghineely, bar. Kilmacrenan), see *AConn* 1284.10.

⁸¹ *Fenagh* 400-1, cf. Williams, *Poems of Mac Con Midhe*, 83 (viii, §1), see note 14 above.

⁸² *Fenagh* 139. Williams, *ibid.* For other versions of Lóegaire's trick, see Osborn Bergin and R. I. Best (eds.), '*Tochmarc Etáine*', *Ériu* 12 (1938) 137-96: 145-7 (§§6-8), and V. Hull (ed.), '*De gabáil in t-sída* (Concerning the seizure of the fairy mound)', *ZCP* 19 (1933) 53-8.

⁸³ See also Simms, *From kings*, 48.

subjects to a man junior in rank if he enjoyed such great popularity?⁸⁴ Although Ua Domnaill is 'junior in rank', having a less prominent ancestry than Ua Néill of Cenél nEógain, his nobility and popularity still make him a fitting candidate to rule both.

The examples from the poems of Giolla Brighde Mac Con Midhe and the *Book of Fenagh* are both as late as the thirteenth century, and it is remarkable that they continue to use motifs from an earlier period, which are compatible with the Old Irish legal material on the position of the senior and the junior. All express the precedence of the senior, unless the junior is better qualified through the blessing of his father, a druid, or a saint, or by receiving land, or indeed by receiving the seniority as a whole. This theme of the senior and the junior proved to be fruitful for all sorts of dynastic propaganda, and continued to be used until the end of the middle ages.

The most blatant piece of this kind is in *Leabhar Chlainne Suibhne*, written between 1532 and 1544, in which the Mac Suibne families retrace their genealogy to none other than the Ua Néill kings of Cenél nEógain. The introduction names two sons of Áed Athlamán (+1033): Domnall, the senior, and Anradán. The latter excels the former in power and authority, and all want to give him the leadership because of his outstanding qualities, even though he is the youngest of the two. Because of this, Domnall curses him, and Anradán then decides to give the kingship to Domnall, and to leave Ireland. Domnall repents, and offers his brother the office, as long as he stays, but Anradán has made up his mind: he leaves the kingship to Domnall and sails to the Scottish Isles.⁸⁵ The dubious claim to belong to the Ua Néill lineage of kings - already accepted in the *Book of Uí Maine* (late 14th c.) - is here further expanded to ridiculous proportions, by making the ancestor of Mac Suibne the rightful heir to Cenél nEógain, based on a variation on the theme that the junior is better qualified than the senior, and therefore entitled to the kingship.⁸⁶

⁸⁴ Williams, *ibid.*, 16 (i, §15), in a poem written for Domnall Mór Ua Domnaill (+1241).

⁸⁵ Paul Walsh (ed.), *Leabhar Chlainne Suibhne* (Dublin 1920) 2-3, see G §14a.

⁸⁶ UM 1 va28-33, see also Lec. 56 va43-vb27 and *OClery* §336.

Examples of the theme of senior versus junior which are not related to dynastic propaganda are rare, and even in *Táin Bó Cúailgne* from the Book of Leinster (12th c.) it is used in the context of succession. In his 'pillow-talk' with Medb, Ailill relates how he gave up his claims to the kingship: 'I had two brothers, one of them reigning over Tara, the other over Leinster, namely Find over Leinster and Cairbre over Tara. I left the rule to them because of their seniority, but they were no better in bounty and bestowal of gifts than I.'⁸⁷ Ailill thus explains that he has the proper qualities to become king, but as he was the junior, he was left out of the kingship.

My main example of a text on the theme on senior and junior which explicitly refers to succession, and which includes other opinions about qualification or disqualification for succession as well, is *Echtra mac Echdach Mugmedóin*, which I will discuss in some detail here. We have two related versions of this text: a poem which is in Rawlinson B. 502 and the Book of Leinster, both manuscripts from the middle of the twelfth century, and a prose version extant in YBL and BB from the late fourteenth century.⁸⁸

For my summary of the tale I will use the poem, as it is from the earlier manuscripts, but the composition of the prose version, which is at times more explicit and offers some interesting variations, does not seem to be much later in date. The poem is attributed to the poet Cúán Ua Lothcháin who died in 1024. The work shows every sign of Uí Néill patronage: it glorifies their eponymous ancestor Níall of the Nine Hostages and explains his bonds with the kingship of Tara.

Niall is the youngest son of Eochaid Muigmedón, king of Ireland, and Cairenn, the daughter of the king of the Saxons, who had been captured by Eochaid in one of his raids. Eochaid's wife, Mongfind, the daughter of the king of Munster, envies Cairenn, and treats her as a slave. Soldiers force Cairenn to abandon her son Niall after she has given birth to him, and she leaves him lying on a field near Tara. The bard Torna has the courage to take Niall with him, and he fosters him until he is

⁸⁷ *TBC LL* 44-8.

⁸⁸ See Maud Joynt (ed.), '*Echtra mac Echdach Mugmedóin*', *Ériu* 4 (1908) 91-111 for the verse, and W. Stokes, 'The death of Crimthann', 190-203, for the prose version.

nine years old (§11). After his fosterage-period Niall returns to Tara as a strong warrior, and Eochaid acknowledges him as his son (§20). Notwithstanding the protests of Mongfind, Niall manages to release his mother from slavery (§24). Afterwards he joins his four half-brothers on a circuit of Ireland (§29), and at a certain time Brión, the oldest son of Eochaid, sends out his brothers to look for a drink. Fiachra, with his drinking cup in his hand, is the first to arrive at a fountain, guarded by a awful looking hag, 'more hideous than all the goblins of Ireland' (§35). He asks her for a drink, but the hag demands a kiss first, saying: 'though young thy age, I would talk with thee' (§36), which makes Fiachra decide to run off. Ailill and Fergus also return without a drop. Brión dares to give the hag a hasty kiss, after which the hag says to him: 'by dint of thy valour (?) [thou shalt have] a hasty visit to Tara' (§40). The four brothers then incite Niall to go, and he boldly approaches the fearsome hag. For good measure all her abominable features are presented again, but Niall does not hesitate to give her a good kiss and even to share her couch, and all of a sudden the hag is transformed into a beautiful woman (§51). As he was not taken back by the fearsomeness of the woman she declares Niall to be *adbar flatha Temra*, 'material of the lord of Tara' (§55). In return for a little water his brothers grant him that he may speak before them. Back home, they find out that in reality they have given Niall the lordship over them. Their angry mother Mongfind sets her sons up against Niall, screaming that they should kill him (§68), but Niall's fosterfather Torna intervenes and proposes to go to a smith for an ordeal in the matter. Niall shows himself to be the strongest of all, and Eochaid then proclaims that he should be his successor in the kingship (§73).

The main additions and changes in the prose version are: Torna does not allow Niall to go to Tara 'until the boy was fit to be a king' (§4); the druid Sitchenn plays an important role - he also appears in *Aided Crimthainn maic Fidaig* (see above) (§§5, 19, 18); the ordeal at the smith's house is placed before the brothers go on tour (§6); Fiachra is the one who kisses the hag, but he does not get the drink (§13) (the poem is incorrect in this respect, as the two kings of Tara who were from Connacht were both descendants of Fiachra, not of Brión); the speech of the old hag turned into a goddess symbolizing the sovereignty of Ireland is more extensive

and revealing:

'I am sovereignty (*misi in flaithius*)...and as you have seen me loathsome, bestial, horrible at first and beautiful at last, so is sovereignty; for seldom is it gained without battles and conflicts; but at last to anyone it is beautiful and goodly. However, do not give the water to your brothers until they make gifts to you, that is, seniority over them (*co tucud a sindsirrdacht*), and that you may raise your weapon a hand's breadth over their weapons.' (§§15-6)

Niall binds his half-brothers by oath never to oppose him or his offspring (§17), and when he tells their adventures to Eochaid, Mongfind asks why it is not the senior who is relating this (§18).⁸⁹

As in most sagas, this work can be read at different levels, but for this discussion I will confine myself to its political content as regards succession. On the propaganda message of the *Eachtra* we do not have to dwell too long: the descendants of Niall are the natural overlords of those of his half-brothers, the ancestors of the leading dynasties of Connacht. The evil Mongfind seems to symbolize Munster, who constantly induces her sons (Connacht) to attack Niall (Uí Néill) - perhaps this is related to the exploits of Brian Bóruma in the 980s and 990s, who was continuously harassing Connacht and eventually forced Máel Sechlainn, the king of Tara, into submission in 1002.

The story-motifs which are used do not appear to be very inventive; elements such as the famous king born from a foreign woman, who is of low status, and who abandons him when he is a baby; the baby saved by a stranger; the younger son who outsmarts his older brothers, etc. are all common saga-themes appearing in heroic biographies of other famous Irish kings or saints as well.⁹⁰ However, if we put the work in a context of succession and qualification for kingship, a totally different picture emerges, as certain of these common saga-themes are used to

⁸⁹ Stokes, *ibid.*; I have modernized Stokes' form of English in the quotation from §§15-6.

⁹⁰ See especially *PPast* 182-3, for a discussion on the parallels between the *Echtra* and the Life of Brigit, and Tomás Ó Cathasaigh, *The heroic biography of Cormac mac Airt* (Dublin 1977).

serve a special purpose.

Under the rules of succession as they are put forward in Old Irish and later legal material, and which I have discussed in this and the previous chapter, Brión should be the one to succeed his father: he is the oldest son of Eochaid's principle wife; Niall, on the contrary, is the youngest son, from a secondary wife or concubine from a foreign country who, even though she is of royal birth, is kept as a slave. Niall's chances to succeed his father are thus minimal, and as a son of a slave he even risks being excluded from the succession completely - which seems to be Mongfind's objective.

There is no doubt that this is exactly the impression the text wants to convey, an antithesis of who would normally be regarded as the obvious candidate for succession according to custom and tradition. Niall's fosterage by the bard Torna fits in well with the fate of other Irish kings as related in the sagas, as fosterfathers are often used as a device to create political bonds other than by blood-relationship. Torna is a politically neutral figure, but his profession may be held to represent the learned classes of the *filid* as a whole, and his fosterage and timely rescue of Niall reminds the royal audience of the mutual bonds which exist between the poets and their patrons.

Having completed his fosterage-period Niall returns to his home, but it is only after Eochaid acknowledges him as his son that he is able to release his mother from slavery. We have seen that illegitimate sons by women of low status first had to be acknowledged before they could become a member of the family, otherwise they were excluded from the inheritance and the lordship. Later, Niall and his brothers form a band of five and go on a circuit of Ireland. Such a circuit is also attested the annals and named in other saga-literature, so this particular part of the story may be based on a contemporary institution in which sons of kings go on a circuit within their father's lordship to establish their future position.⁹¹

The episode of the drink and the hag forms the core of the tale, and the political symbolism is here further expanded. Women, drink and sovereignty are often associated with each other in saga-literature (see below), and the *Echtra* is very

⁹¹ See §5.2. below at note 57ff for discussion. McCone, *PPast*, 173-4 points to the implications of *fian*-ship in this passage.

explicit on the connection between the three, especially the prose version. The fear which possesses the four brothers when each of them encounters the hag is not felt by Niall, and he certainly comes out as the bravest of them all. Unlike his half-brothers, Niall is willing to go all the way to win the drink of sovereignty, and had evidently the qualifications to be worthy of it. Because he showed such extraordinary valour, Niall is called *adbar flatha Temra* by the sovereignty-woman: 'material of the lord of Tara', a title reminiscent of the title *adbar rí* we find in the annals from the eleventh or twelfth century onwards as an alternative title for *rígdamna* (see §5.2.). In this context it means that the sovereignty symbol regards him - above his brothers - as qualified for the lordship of Tara on account of his fearlessness. She does not give him the succession itself, this is done by Eochaid at the end of the tale, but merely expresses her appreciation of Niall who has proven to be the stuff great kings are made of - this in contrast to his brothers, who seem to lack the essential royal touch.

Niall is willing to share the drink (of sovereignty) with his brothers, but only if they concede him the right to speak before them. We have already seen that this is one of the prerogatives of the senior or the lord, and as such it is interpreted by Eochaid: they have yielded the lordship to Niall. The prose version is even more outspoken: Niall is granted the seniority over them, in other words, the lordship and everything that goes with it - in the prose version he is thus allowed to speak before his brothers.

Finally, when Mongfind sets her sons up against Niall another test is laid before the five brothers. The ordeal at the smith's house shows that Niall is also the strongest. His superb qualifications surpass those of his brothers, and even if they are older and of better descent, Niall has proven himself more worthy than them to become the successor of his father in the kingship.

One will note that the *Echtra* reflects the opinions about succession in legal material quite accurately, and as regards the position of the junior and the senior we see once again that the junior is entitled to succession if he is better qualified. Considering the previous examples of this theme, we may regard the theme of the junior versus senior as one with explicit political connotations and a 'legal'

background, rather than being a general saga theme which is applied to political propaganda. This is already apparent in *Timna Chathair Máir*, and regarding the way the *Echtra* is constructed it appears that it draws heavily on this genre, and also on earlier traditions surrounding Niall and his brothers.

For example, the episode of the smith can already be found in the *Laud* genealogies, and is dated to the eighth century.⁹² Torna is mentioned as Niall's fosterfather in an early ninth century poem, in which he laments Niall's death.⁹³ The episode of the drink and the hag has a remarkable parallel in a tale from Munster, and regarding its political setting it is likely to be older than the *Echtra*, which may even have borrowed this element. There are two slightly different versions, in the *Metrical Dindsenchas* and in *Cóir Anmann*. The language does not give any clues as to an earlier date, though it is remarkable that it is sexually more explicit. In the story the five sons of Dáre encounter an awful looking hag who demands intercourse, or she will devour them all. In this case Lugaid Loígde takes the honours, and the hag is transformed into a beautiful woman who introduces herself as *flaithius Alban is Hérend*, the lordship of Scotland and Ireland. She then prophesies that Lugaid will be king of Ireland, or his son Mac Con.⁹⁴

We thus have some indications that the *Echtra* is not an original work, it draws upon existing traditions and saga-themes, but one can appreciate the manner in which it is shaped into a coherent tale which expresses current opinions about succession and qualifications for kingship with a distinctive propaganda message. It is obvious that the tale became quite popular, as we have two surviving poems, and two prose versions. In the late twelfth or early thirteenth century a reworking of the poem was made to suit the political changes of the day, and to glorify the new dominant dynasty in Ireland, Ua Conchobair of Connacht; it starts with the

⁹² *Laud* 304. The dating (on linguistic grounds) of this passage, and a translation, is by Gearóid Murphy, *Saga and myth in ancient Ireland*. Irish life and culture 10 (Cork 1955) 58-9. See *Laud* 303 for Mongfind, but here she is not explicitly referred to as Eochaid's wife.

⁹³ Kuno Meyer (ed.), 'Totenklage um König Niall Nóigiallach', in K. Meyer et al. (eds.), *Festschrift Whitley Stokes* (Leipzig 1900) 1-6: 3. In other tales Torna is the fosterfather of both Niall and Conall Corc of Munster, see Vernam Hull, 'Conall Corc and the kingdom of Cashel', *ZCP* 18 (1930) 420-1, and Stokes, *Cóir Anmann*, 311 (§54).

⁹⁴ Edward Gwynn (ed.), *The Metrical Dindsenchas*. Todd LS 8-11 (4 vols., London 1903-24) iv 134-43 (Carn Máil): 140-3. Stokes, *Cóir Anmann*, 317-23 (§68).

telling line 'the era of Síl Néill has come to an end...'⁹⁵

The theme of a woman acting as symbol of sovereignty by handing over a drink to the future king and/or sleeping with him is used in several texts, many directly related to succession.⁹⁶ Some of these sovereignty-symbols appear in the guise of legendary queens, such as Medb of Cruachain.⁹⁷ Mór of Munster is an example from the historical period, her death is even recorded in the annals (*AUi* 632).⁹⁸ The aspect which makes women or queens represent the sovereignty of a territory is that they married with *successive* kings of that territory, often former rivals. From the genealogies and annals we have some suggestive examples of Irish kings marrying the wife of their predecessor, which may suggest that queens were

⁹⁵ Brian Ó Cuiv (ed.), 'A poem composed for Cathal Croibhdhearg Ó Conchubhair', *Ériu* 34 (1983) 157-74. For a different interpretation of the *Echtra*, see Máire Herbert, 'Goddess and King: the sacred marriage in early Ireland', in Louise D. Fradenburg (ed.) *Women and sovereignty*. Cosmos vol. 7 (Edinburgh 1992) 264-75. She draws attention to the passive role of the woman in the *Echtra* in which the male seems to take the initiative, and argues that this reflects the development towards a strong kingship, combined with an Uí Néill claim to the kingship of Tara or Ireland in the eleventh century. In my view the candidate first has to prove his worth, and it is the woman who either accepts or rejects him. In any case, it is difficult to maintain that the suggested passive role of the woman is intentionally created to serve such an abstract notion, while the development of strong, dominant overkingships can be put one or two centuries earlier.

⁹⁶ Gerard Murphy, 'On the dates of two sources in Thurneysen's *Heldensagae* i: *Baile Chuind* and the date of *Cin Dromma Snechtai*', *Ériu* 16 (1952) 145-56, with an edition of *Baile Chuind*; K. Meyer (ed.), *Mitteilungen aus Irischen Handschriften* [Harleian 5280]: '*Baile in Scáil*', *ZCP* 3 (1901) 457-66; *Ibid.* (ed.), '*Das Ende von Baile in Scáil* [Rawlinson B. 512]', *ZCP* 12 (1918) 232-8. The first part from Rawl. B. 512 is in Rudolf Thurneysen (ed.), '*Baile in Scáil*', *ZCP* 20 (1936) 213-27. For discussion, see, for example, T. F. O'Rahilly, 'On the origin of the names Érainn and Ériu', *Ériu* 14 (1946) 7-28, esp. at 14-21; Proinsias Mac Cana, 'Aspects of the theme of king and goddess in Irish literature', *EtC* 7 (1956) 76-114, 356-413; 8 (1957) 59-65, and *PPast* 107-21.

⁹⁷ Joseph O'Neill (ed.), '*Cath Boinde*', *Ériu* 2 (1905) 173-85; Ó Raithbheartaigh, *Gen. Tracts*, 147-8 (The Lecan Miscellany, §49); *LL* 6416-23; Maura Power (ed.), '*Cnucha Cnoc os cionn Life*', *ZCP* 11 (1917) 39-55: 43 and 48 (§30). See also *TBC* (rec. 1), 1752-5, 1807-21, 2583-7, 3346-65, for Medb's daughter Finnabair in her mother's role. For discussion, see Tomás Ó Máille, '*Medb Cruachna*', *ZCP* 17 (1927) 129-46. The way Medb has been treated by historians is discussed in Doris Edel, 'Tussen mythe en werkelijkheid. Koningin Medb van Connacht en haar beoordelaars, vroeger en nu', in Fokkelien van Dijk-Hemmes (ed.), '*'t Is kwaad gerucht als zij niet binnen blijft*', *Vrouwen in oude culturen* (Utrecht 1986) 61-94. For a different point of view, see Patricia Kelly, 'The *Táin* as literature' in J. P. Mallory (ed.), *Aspects of the Táin* (Belfast 1992) 70-102.

⁹⁸ T. P. O'Nolan (ed.), 'Mór of Munster and the tragic fate of Cuanu son of Cailchin', *PRIA* 30 (1912-3) 261-82 (see also §5.1). Two texts concerning Mór's sister Ruitchern or Suitchern are edited by Gearóid Mac Eoin, '*Suitchern and Rónán Dicolla*', *ZCP* 36 (1978) 63-82.

sometimes treated as sovereignty figures.⁹⁹ A special case is formed by the queens of Tara. In the *Annals of Ulster* for the year 768 the death of Eithne, 'queen of kings of Tara' (*regina regum Temhorie*) is recorded, who 'deserved to obtain the heavenly kingdoms, having done penance' (*AU*). This is a strong indication that she had been the wife of two or more kings of Tara in succession. Unfortunately, Eithne is not mentioned in the *Banshenchas*, so the identity of her husbands remains unknown. Her father Bresal was the son of Fínnachta Fledach, the king of Tara; both were slain in 695 (G §18), and none of their descendants achieved any prominence afterwards. So, whoever married Eithne apparently did not do this to establish a political alliance; a symbolic marriage seems therefore a good alternative explanation.

In the ninth century, when Clann Cholmáin and Cenél nEógain were in a leading position within the Uí Néill, the two dynasties created marriage-ties by marrying off their daughters to those sons of kings they expected to succeed.¹⁰⁰ Of Áed Findliath (+879) we know that he married thrice: first to the daughter of the king of Ulaid - their son was Domnall (+915) - and then to Máel Muire, the daughter of the king of Scotland, their son was Niall Glúndub (+919). In 862 Áed succeeded his rival Máel Sechlainn as king of Tara, and also married Máel Sechlainn's widow, Lann, the daughter of the king of Osraige, and the mother of Máel Sechlainn's son Flann Sinna.¹⁰¹

The political advantages of this move are not really clear. Áed never showed any

⁹⁹ *FA* §207, cf. *AU* 728 (Fáelán kills his older brother Dúnchad and takes over the kingship of Leinster and his wife (+754 *AU*)), see G §39). For other possible examples, see Hull, 'Conall Corc', 905 (see *IKHK* 195); Dobbs, 'Descendants of Ir', 341; *Fenagh* 333-7; *AI* 840; *AU* 1171. Note also a curious passage in James Carney (ed.), *A genealogical history of the O'Reillys* (Dublin 1959) 94 (§23) concerning the giving of a man's wife to another, so that the former would be debarred from entering the lordship.

¹⁰⁰ See M. E. Dobbs (ed.), 'The *Ban-Shenchus*', *RC* 47 (1930) 282-339; 48 (1931) 163-234; 49 (1932) 437-89: 225-8 and *FA* §§292, 327, 366 for the marriages mentioned below. See also G §§12, 21. For a more recent and better edition of the *Banshenchas*, see Muireann Ní Bhrolcháin, 'The Prose *Banshenchas*', unpublished Ph.D. thesis (University College Galway 1980). See also her article 'The manuscript tradition of the *Banshenchas*', *Ériu* 33 (1982) 109-35.

¹⁰¹ Dobbs, *ibid.*, 225; she had first been married to Gaithíne, king of Laígis; their son was Cennétig (G §46). For previous discussion on this topic, see Alfred P. Smyth, *Celtic Leinster. Towards an historical geography of early Irish civilization A.D. 500-1600* (Dublin 1982) 77-83.

interest in Osraige politics, and in 862 Flann Sinna was about fourteen years old;¹⁰² the kingship of Mide had in the meantime passed on to another branch of Clann Cholmáin, one which Áed was sure to keep in check. There are no children recorded from Áed's marriage to Lann, which reinforces the impression that the marriage was symbolic rather than that it served political motives.

After Áed's death in 879 Flann Sinna took the kingship of Tara, and subsequently took Máel Muire, Áed's former wife, as his own wife (their son was Domnall +921). When this marriage happened is unknown, it may have been after Flann's inauguration as king of Tara - which would underline Máel Muire's status as sovereignty symbol - or when he took hostages of the Northern Uí Néill in 882. Like the previous example, at that stage another branch within Cenél nEógain held the kingship, and the political advantages must have been limited, apart from Máel Muire's prestigious status itself.

This is not the end of Flann Sinna's blood-ties with Áed Findliath, as we know he had two other wives. The mother of his (apparently oldest) son Máel Ruanaid was Eithne, a daughter of Áed Findliath who had first been married to Flannacán of Brega (+896). Flann's other wife was Gormflaith, the daughter of Áed Findliath's sister's son Flann of Brega (+868). She became the mother of Donnchad Donn, king of Tara (+944) and yet another Gormflaith (+948), one of the most famous Irish queens. This Gormflaith, the daughter of Flann Sinna, is known from several poems attributed to her, in which she is said to have been married to Cormac mac Cuilennáin, king of Munster (+908), his rival Cerball mac Muirecáin, king of Leinster (+909), and Niall Glúndub, king of Tara (+919), all being the leading kings of their day. As Gormflaith's poems are often from a later period and full of conflicting information, her marriages to these kings may not have taken place in actual fact, but considering the above examples it is certainly not impossible. Even if she was not a sovereignty symbol during her own lifetime, she certainly was made into one by later poets and writers.¹⁰³

¹⁰² Flann died in 916 at the age of 68 (AU).

¹⁰³ W. Ann Trindade, 'Irish Gormflaith as a sovereignty figure', *EtC* 23 (1986) 143-56. The same applies to Gormflaith (+1030), the daughter of Murchad of Leinster (+972), who had been married to Olaf Cuaran, king of Dublin (+980), Máel Sechlainn Mór, king of Tara (+1022) and Brian Boruma, king of Munster and Ireland (+1014), see *CGH* 13 (at the second note h), and *Derbforgaill* (+1193),

These events took place against the background of an alternating kingship of Tara between the two dynasties (see §5.1.), and the complex mutual bonds may have kept this alive; both the system of alternation and the marriage-alliances broke down in the tenth century. The similarities between the theme of women incorporating sovereignty by marrying successive kings and the above marriage ties are quite apparent, and it suggests that that the symbolism of marrying one's predecessor's wife was not lost on the kings of Tara, apart from other political advantages, continuation of a marriage alliance and humiliation of one's past rival, rewards which could all appeal to the king in question.

The above discussion not only serves to draw the attention to the possible symbolic background of the marriage relations of successive kings of Tara, it also illustrates the political complexities which could arise from the custom of polygamy. As in *Echtra mac Echdach Mugmedóin* this could lead to competition between half-brothers, when each had different political connections through their respective mothers. That this could influence the competition for succession under certain circumstances is without question, but the sources do not yield any examples which can be used to illustrate this. The lawyers did not take this aspect into account, since their division of the sons of a lord or king is simply by the marriage status of their mother(s) and their respective age. However, it can be argued that a senior son whose mother was politically insignificant could be surpassed by his junior half-brother whose mother was of high status, and whose paternal kin lend active support. The same applies to the status and political support of the son's fosterkin and, if they were married, their in-laws. Particular circumstances, succession struggles, political fluctuations, etc. could turn an advantageous alliance into a worthless or even disadvantageous one, with all its consequences for the son who was connected with it. Our documentation is not adequate enough to illustrate this, there are a few references to political alliances with fosterkin, maternal kin or marriage relations, but I have not been able to find examples in the early sources which specifically relate to competition between sons from which we can draw any

daughter of Murchad of Mide (+1153), wife of Tigernán Ua Ruairc (+1172) and abducted in 1152 by Diarmait Mac Murchada of Leinster.

conclusions.¹⁰⁴ For the practical outcome of succession struggles we should take the above observations into account, but they are not taken into consideration in the theory, apart from the reference to a person's *febas*, which may include his political affiliations. As regards seniority the annals and genealogies are more forthcoming with their information, which provides us with an impression as to how the theoretical preference for the senior worked in practice.

3.3. Seniority and succession.

The only entry in the annals which directly refers to senior rights in the pre-Norman period is in the *Annals of Inisfallen* for the year 1034: 'Flaithbertach Ua Néill took Ailech again, and the north of Ireland submitted to him on account of seniority (*ar sinserecht*).'

Seniority is used here to denote Flaithbertach's nobility and dignity, rather than solely referring to his old age. The king of Ailech had undertaken a pilgrimage to Rome, and his son Áed Athlamán had held the kingship in his absence. However, in 1033 Áed had died unexpectedly, and it is not clear who had taken over the kingship afterwards. The submission Flaithbertach received on his return was thus a token of respect for his dignity, rather than that the kings were impressed by his power. When he died in 1036, his descendants were rapidly overpowered by their rivals of Clann Domnaill (Mac Lochlainn), and for almost two centuries the name of Ua Néill would disappear from the annals completely. Although this entry indicates that seniority and dignity are strongly connected - a principle which we have met before - it does not tell us anything about succession. In the post-Norman period the annals contain a number of revealing references to seniority, but before these are discussed we have to consider other information which can be extrapolated from the annals and genealogies.

¹⁰⁴ The marriage relations of the kings of Tír Conaill and their most important sons in the Anglo-Norman period reveal a preference for sons of mothers of high birth (Ua Conchobair, Ua Néill, Ua Briain) or the primary vassals (Ua Gallchobair, Ua Dochartaig) to succeed, but it is difficult to judge whether these were also the senior sons or not, and whether their mothers were primary wives, secondary wives or successively married and divorced. See *OCler* §§ 58-9, 62, 93-5, 102, 104, 112, 116, 121, 126, 130, 133, 168, 170, 174, 180, 182, 194.

In saga-literature we have seen that the junior can take precedence of the senior if he is better qualified. We see this reflected in the more factual information provided in the genealogies, in which junior status means neither inferiority nor loss of claim to the kingship. This is for example expressed in a Middle Irish poem on the Leinster dynasties, which says about the descendants of Fiacha ba hAiccid (the junior in *Timna Chathair Máir*): 'The Uí Cheinnselaig are the race of Énna son of Labraid without misery; it is to the younger one rather than to a prosperous grandson (or: descendant) that they are fine progeny (*dont shóсор dar hua n-ana dó-som isat degclanna*).'¹⁰⁵ According to the genealogies Bresal Béolach, son of Fiacha ba hAiccid, son of Cathair Mór had two sons: Énna Nia (the father of Dúnlach after whom the Uí Dúnlainge, the leading dynasty of northern Leinster was named), evidently the oldest son in the poem, and Labraid, the younger, who was the father of Énna Cennselach. According to the regnal lists it was Énna Cennselach who succeeded his grandfather in the kingship of Leinster, and afterwards his son Crimthann (+483), before the senior lineage asserted its rights.¹⁰⁶

In a poem ascribed to Torna Ua Maílchonaire on the inauguration of Feidlimid, king of Connacht, the theme of the senior and the junior is interwoven with the position of certain kings of Connacht, who were all junior sons, but who still obtained the kingship for themselves and their descendants:

'Though Connmach was the eldest son of Muiredach Muillethan, Indrechtach son of Muiredach had the inheritance.

Tadg son of triumphant Cathal had famous sons, and the stem of Conchobar's race was the youngest of them.

So it was for Toirdelbach to whom everyone submitted: the tribute of Ireland without default was given to him while still a child.

There were many of his race older than he in contest with him; and all have heard

¹⁰⁵ Brian Ó Cuív (ed.), 'A Middle Irish poem on Leinster dynasties', *EtC* 18 (1981) 141-50: 147 (§8), with discussion at 148-9 note 8. The poem is from Rawlinson B. 502, and Ó Cuív dates its composition somewhere between the end of the eleventh century and 1120 (141). See G §38.

¹⁰⁶ *LL* 5406-8 (see G§38).

the story of Cathal Crobderg.¹⁰⁷

In his introduction to his Book of Genealogies, Dubhaltach Mac Fhir Bhisigh devotes a whole section on this topic, and explains why in several genealogies the junior branch of a dynasty is mentioned before the senior one, for example, the descendants of Eremón, son of Míl, proceed those of the older children of Míl, Clann Charthaig is put before Síil Súillebáin, Síil mBriain before Clann Mathgamna, Ua Conchobair before the elder lines of Síil Muiredaig, etc. This habit, Dubhaltach points out, is the result of the fact that it is lawful in Ireland to give a junior precedence in the sovereignty before the senior, according to the maxim *sinnsear la fine, feabta la flaith, ecnae la heclais*.¹⁰⁸ He explains that the person who possesses most power and clients, and is as noble as the senior, is entitled to the lordship - and this could be the junior. Apart from practical considerations, it would not do justice to have the royal lineage being tucked away in the prolific and complicated genealogies based on seniority.

Although he writes in the seventeenth century, Mac Fhir Bhisigh's observations are in accordance with the traditional rules of the earlier period, and his list of 'exceptions' is by no means exhaustive. However, the factual information supplied in the annals and genealogies is seldom specific, and to establish the order of seniority of a number of sons is often a matter of interpretation. Clues may be given by the patterns of succession from the genealogical charts, the successive appearance of brothers in the annals and the marriage records of their mothers. Of course, the circumstances under which certain kings succeeded are usually obscure, and whatever information we can distil from the sources cannot do much

¹⁰⁷ Myles Dillon (ed.), 'The inauguration of O'Conor', in J. A. Watt, J. B. Morrall and F. X. Martin (eds.), *Medieval Studies presented to Aubrey Gwynn* (Dublin 1961) 186-202: 192-3/199-200 (I have standardized the spelling of the names; see G §§63-4). Dillon dates it with some reservation to the fifteenth century, as the death of a Torna Ua Mailchonaire is recorded in 1468, but the poem itself is held to refer to Feidlimid mac Áeda (+1310). Mac Niocaill, 'A propos', 531, note 2, applies it to the reign of Feidlimid son of Cathal Crobderg (+1265). Katharine Simms, "'Gabh umad a Fheidhlimidh" - a fifteenth century inauguration ode?', *Ériu* 31 (1980) 132-145, on internal evidence of the various prose versions and poems, proposes an original prose-text from the twelfth or thirteenth century, with a fifteenth century date for the poem addressed to Feidlimid Ua Conchobair Ruad (143).

¹⁰⁸ Ó Raithbheartaigh, *Gen. Tracts*, 30 (§49); the whole section is at 28-30 (§§48-50). For the maxim, see ST §1 and §3.1. above.

more than give an impression. Still, from the available examples it seems that the senior son was normally the first to succeed if he was alive.¹⁰⁹

The point which is raised and illustrated with examples by Mac Fhir Bhisigh is perfectly brought out in the case of Brian Bóruma's reign and successors. Brian was in all probability the youngest son of Cennétig, king of Thomond (+951), whose sons Donn Cuan and Echtigern were already slain in 944, while Brian's brother Mathgamain was king of Dál Cais (and later of Munster) from 953 to 976. According to *CS* Brian was born in 924, *AU* takes it to be 941. Either way, it is likely that some of the sons of Donn Cuan and Echtigern were older than Brian, but after his death in 1014 the descendants of neither of the two brothers, nor of Mathgamain succeeded to the kingship; some of their descendants rose to distinction in a later period, but the kingship was reserved for the descendants of the illustrious Brian (G §§55-6).

A different case is formed by Niall mac Eochada (+1063), whose succession in the kingship of Ulaid followed internecine struggles between the descendants of his (elder?) brothers, which greatly reduced the number of rival candidates, and his long reign established the future domination for his lineage (G §2).

Although Mac Fir Bhisigh is correct in his observation that junior branches could rise to greater importance than the senior ones, this is not by definition connected with the Irish custom in giving the junior the kingship if he is better qualified: if the youngest brother outlived his older brothers, he was according to the rule of seniority perfectly entitled to the kingship; his position as a junior did not disqualify

¹⁰⁹ According to *FA* §177 (a late saga-text), Áed Alláin (fl. 732, +743) was senior to Niall Frossach (+778); the latter was born in 718 (*CS*). Considering the marriages of Áed Findliath, his son Domnall (fl. 863 (*AU*), +915) was much older than Niall Glúndub (see §3.2 above) (G §12). Flann Sinna's oldest son was probably Máel Ruanaid (fl. 895 (*CS*), +901), (see §3.2); another son of Flann, Aengus (fl. 903 (*AU*), +915) died as an old man (*CS*) (G §22). *AU* 728 cf. *FA* §207 (note 99 above) takes Fáelán (+738) of Uí Dúnlainge to be younger than Dúnchad (+728); *CGH* 117 c39 names Fáelán as the oldest son of Murchad mac Finn of Uí Fáeláin (+972) (G §40). Murchad (+1014) was undoubtedly the oldest son of Brian Bóruma; Conchobar (+1142) is named as the oldest son of Diarmait Ua Briain (*ALM* 386) (G §56b). Muirchertach Nár (+663) was the oldest son of Guaire Aidne (G §61a) according to *Lec.* 71 vc11. According to *Hy Fiachrach* 113, Domnall was the oldest son of Máel Ruanaid Ua Dubda (+1006), Máel Sechlainn (+1006) the second son. The latter had two sons: Niall, the eldest, and Taithlech, the second son (cf. *Lec.* 72 rc48); the descendants of Taithlech would secure the kingship of Uí Fiachrach Muaide after a few generations (see G §61b). Indrechtach (+723) was the first son, and Cathal (+735) the second son of Muiredach Muillethan (*BB* 93a 19-21) (G §63). *OClery* §1363 states that Cernachán (+931) was the oldest son of Tigernán of Bréifne (G §69).

him on any account. What matters is what happened in the next generation, and here other considerations could upset the whole system, as the two examples above also show.

The successive kings of Connacht of Uí Briúin Aí (Síl Muiredaig; Ua Conchobair) illustrate that considerations of seniority could be set aside to allow the son of the reigning king to succeed, but at the same time it seems that claims on account of seniority could be successful in the long run. (G §§60, 63-4). For example, Muiredach Muillethan (+702) succeeded before the brother of his grandfather Cellach (+705). Fínnachta mac Tomaltaig (+848) and Cathal mac Taidg (+973) were in the same position as Cellach; both must have been about 70 years old when they entered the kingship. Cathal even succeeded after the death of Conchobar, the grandson of his brother, and was slain after three months following a battle with the invading army of Murchad Glún re Lár, king of Ailech and Conchobar's brother in law.

Although there appears to be a tendency to favour a direct father-to-son succession among the kings of Connacht, especially in the tenth and eleventh century - the period of their remarkable rise in power - this may not be based on any convention, but simply result from the attempts of the reigning king to preserve his rule for one of his sons.¹¹⁰ The best known example of this kind is of course Murchad, the oldest son of Brian Bóruma, who was acting as king instead of his ageing father in all but in name. Although we lack specific information of this kind for the kings of Connacht, it is likely that they sponsored the future career of their sons as well. A combination of power, favourable circumstances, long life of the reigning kings (almost all outlived their brothers) and perhaps the pacifying of other claimants by granting them land or privileges resulted in a remarkably regular

¹¹⁰ An temporary breach in the smooth succession is the rule of Dub Daingen son of Donnchad ua Mailruanaid, who is named as king of Síl Muiredaig or king of Connacht in the annals when he was slain in 1034. He evidently succeeded Taidg in Eich Gil (+1030) as king of Síl Muiredaig (Áed Uallach Ua Ruairc held the kingship of Connacht), perhaps on account of seniority, as his great-grandfather Máel Ruanaid Mór may have been the oldest son of Taidg (+956), see G §64 (note also Máel Ruanaid's son Muirchertach, who died as *rígdamna* of Connacht in 967). In the poem ascribed to Torna Ua Mailchonaire, Conchobar (+973), brother of Máel Ruanaid, is not Taidg's oldest son (see note 107 above). In Ní Shéaghdha, 'The Rights of Mac Diarmata', 164, it is stated that the privileges Clann Mailruanaid enjoyed were granted 'in return for the kingship of Connacht.' (cf. note 57 above), while in other propaganda senior rights can be used as a pretext to claim privileges (see §3.4. below).

succession from father to son, starting with Cathal mac Conchobair, whose long reign (900-25) must have given him and his sons a far more powerful position than the sons of his two (elder?) brothers who had held the kingship before him.

An even more telling example is that of Toirdelbach (1106-56), the youngest son of Ruaidrí, who was only eighteen years old when he started his long and fruitful career as king of Connacht, a vigorous ruler who for decades forced the Irish kings to recognize his overlordship. Toirdelbach's reign effectively crushed all the royal aspirations of the descendants of his brothers and uncles, who almost all disappear from the records during his reign.

According to the genealogies, Toirdelbach's oldest son and heir was Áed Dall.¹¹¹ However, Toirdelbach bestowed the most favourable position on Conchobar. As early as 1126 Conchobar was made king of Dublin and Leinster by his father - he must have been about 20 years old at the time - and in 1143 he was given the kingship of Mide. Perhaps this is one of the reasons why Áed Dall revolted against his father, who blinded him in 1136. He imprisoned another son, Ruaidrí, in the same year, and again in 1143, despite Ua Briain, Ua Ruairc, Ua Fergail and the clergy of Connacht acting as Ruaidrí's guarantors; he was only released the following year. That same year Conchobar was killed by the lord of Fir Thulach, because Conchobar had no right to the kingship of Mide, and another son, Tadhg (Alaind), died of an epidemic (*AT/FM*).

Domnall Mór Midech seems to have taken over Conchobar's place at first; we see him campaigning in 1145 (*AT*) and 1148 (*FM*), but afterwards he keeps a low profile. In 1152 (*FM*) he was taken prisoner by his full brother Cathal Migaran, who was slain the following year. Domnall's expedition to Tuatha Ratha and his title as lord of North Connacht (and *tánaise* of Bréifne, see §5.4) at his death in 1176 (*FM*) suggest that he had his base in the area around Sligo.

In the meantime Ruaidrí had been active along the southern borders of Connacht (*AT* 1151, *FM* 1153, 1155), and at the death of his father in 1156 he assumed the

¹¹¹ Lec. 63 vd18-9 reads: '*sindser a cloindi 7 a oigri Aed dall*'. It is unlikely that this refers to the first of the three sons of Toirdelbach's primary wife (Tailtiu, daughter of Diarmait Ua Briain, +1128), Máel Ísu, abbot of Roscommon, who died in 1223, and could therefore not have been his oldest son; the third one mentioned is Tadhg Alaind. (G §65b-c). According to *FM* 1151, Derbforgaill, daughter of Domnall Mac Lochlainn, was the mother of three other sons: Áed, Cathal (Migaran) and Domnall (Mór Midech). Only one son of Toirdelbach named Áed is mentioned in the genealogies.

kingship of Connacht and immediately imprisoned his brothers Brian Bréifnech, Brian Luignech and Muirchertach Muimnech. Apparently, no love was lost between the various (half-) brothers, and the relationship between the descendants of Toirdelbach would further deteriorate in the future.

From the genealogical and annalistic record we see that seniority could be an important consideration, but it did not guarantee an undisputed right to succession. Attempts to settle the succession beforehand, by giving one son a clearly favourable position, could result in violent protests from other sons, which could even put their father's position in jeopardy. Ironically, this was also the fate reserved for Ruaidrí, who was first betrayed by his son Muirchertach, who, 'through hatred towards his father', invited Miles de Cogan to plunder Connacht, and who was blinded by his father for his pains (*ALC* 1177). Ruaidrí was finally deposed by one of his other sons, Conchobar Maenmaige, in 1189. Although such internal struggles between father and son were not common, it illustrates the length to which some were willing to go to win the kingship for themselves, and it also shows the power sons could wield in their own right.¹¹²

The way a certain son could be given a favourable position under his father, which allowed him to gain experience, a reputation, a following and acquire wealth, establish political relations and be awarded with a military command or an overlordship, will be discussed in chapter 5, which deals with the heir-apparent. Normally, such a position would be given to the senior, if only for practical reasons. This made the senior the obvious candidate to succeed his father, both for theoretical and practical considerations.

Of course, this does not mean that others were excluded forthwith, they just had to compete against higher odds. Furthermore, even if there was a junior brother or a candidate from another branch who was to succeed according to rules of seniority, a king could still promote his sons' career in such a way that he secured the succession for his descendants. As the legal tracts also indicate, claims on account of seniority were not absolute, and could be overruled by other

¹¹² For other examples, see §5.2. below for the sons of Flann Sinna; the son of Deoraid (Ruaidrí) of Uí Thuirtri was deposed by his own son, who was blinded afterwards (*FM* 1154); Muirchertach Ua Briain deposed his own father Toirdelbach (*AI* 1165.2); Cormac Liathanach Mac Carthaig also deposed his own father (*AI* 1175.4; 1176.4, 7), see §5.4. below.

qualifications. And, as the examples given above show, a younger son who finally succeeded after his senior brothers could still become so powerful that he eliminated competition from his senior kin for the future and secured the succession for his descendants. To be the junior was not always a disadvantage.

3.4. Seniority in the later period.

As the pre-Norman narrative and annalistic sources are not very revealing about the role of seniority in selecting the best candidate for the lord- or kingship, and do not give any direct comments or references to it, we have to turn to material available in the later period, and see if this can be related to the theoretical principles of seniority in the early legal material.

In the year 1228, less than 60 years after the coming of the Anglo-Normans, the *Annals of Connacht* have the following entry:

'Vast war arose between Áed and Toirdelbach, the two sons of Ruaidrí Ua Conchobair, after the death of Áed son of Cathal Crobderg, for the younger did not yield respect for the elder; so that all Connacht was ruined between them and turned into a continuous desert...'

The newly appointed Justiciar Richard de Burgh then presides over an assembly in Connacht on the matter:

'Most unfortunate was the decision they came to there, to give the kingship to the younger and to expel the elder, Toirdelbach son of Ruaidrí, though he was irreproachable as regards valour, nobility and generosity (*d'engnam na d'uasli na d'enech*). However, all the Connachtmen elected Áed son of Ruaidrí in the presence of Galls and Gaels.'¹¹³

¹¹³ *AConn* 1228.4-5; names standardized. Toirdelbach had first been supported by the Justiciar Geoffrey de Marisco (1227.9, 11), Áed by Richard de Burgh (1227.8). The two Anglo-Normans may have been on bad terms, see Goddard Henry Orpen, *Ireland under the Normans* (4 vols., Oxford 1911-20) iii, 172-3. See Simms, *From kings*, 48, for discussion and references which have been

One will note that the sentiments of the annalist perfectly match the opinions on senior rights expressed in legal material and saga-literature: as Toirdelbach's qualifications for kingship were beyond question, he normally would have been the one to become king, being the senior. There is no reason to believe that the annalist is already influenced by the Anglo-Norman rule of primogeniture, it would take another three and a half centuries before the Irish adapted primogeniture, under pressure of the English. Before that, as we shall see, they continued to follow their own customs.

The choice of de Burgh and the lords of Connacht to elect the younger instead of the elder may have been a purely political choice. De Burgh had been granted Connacht in fee in the previous year, and he apparently expected Áed to be a more complacent king than Toirdelbach. If so, his efforts were soon wasted. In 1230 Áed was incited to rebel against de Burgh by his major vassals Mac Diarmata and Mac Airechtaig, 'who all vowed they would never own a lord who should bring them to make submission to the Galls.' This prompted de Burgh to bring forward another candidate for the kingship of Connacht, Feidlimid, another son of Cathal Crobderg, who was made king after Áed had been banished.¹¹⁴

The course of events suggests that Áed owed his position as king, chosen in preference to his older brother, not so much to his personal qualities, but to external support in the form of the Justiciar; his powerful vassals Cathal Mac Diarmata and Donn Óc Mac Airechtaig may have played their own game, as both were entangled in the power struggles which raged in the province for several years.¹¹⁵ Under such circumstances, Áed's juniority was of small concern, but the condemnation by the annalist - even if he is biased - is an important witness to the customary preference for the senior.

Another example of the junior succeeding by means of external support is recorded later in the century:

incorporated below.

¹¹⁴ *AConn* 1230.2-8. Feidlimid was imprisoned by de Burgh the following year (1231.6), and Áed reinstated (1232.4). See G §§65a, c.

¹¹⁵ *AConn* 1225.4-5, 10, 13, 16, 25; 1227.3.

'Magnus Ua Conchobair came, with such of the men of Connacht, Uí Briúin and Conmaicne as he could get to join him, to seize the kingship of Connacht for himself and to depose his brother, Cathal son of Conchobar Ruad ... Magnus then seized the kingship and ousted his elder brother, who had held it for seven and a half years...'¹¹⁶

Although these two examples may not be representative of the problem as a whole, it is obvious that senior rights had only limited effect when they were not recognized by those who could command greater forces. Áed and Magnus illustrate that, notwithstanding the current customs and traditions, a junior could always make a bid for the kingship under the pretext of being better qualified, either for good reasons or just because he had the military might to back him up. For those who supported the junior's cause, plunder and booty were immediate rewards, while alliances and a general weakening of the kingship served political goals for the long term; to engage in an external succession struggle could thus be a profitable enterprise, and customary rights to the kingship could be set aside by the harsh reality of power-politics.

The destructive succession struggles which were often the result of junior sons retaining a powerful position under their father or older brother remained a feature of Irish politics until the English conquest:

'Tomás son of Cathal son of Murchad Ua Fergail was killed by the Meath Galls at Killeen. This Tomás attained the lordship of Annaly [Angaile] in opposition to Seaán son of Brian son of Murchad, although it is not right to oppose a good senior kinsman (*cen cor coir dol a n-again an tsinser-brathar maith*).'¹¹⁷

This annalist is stronger in his opinion about the right of a senior kinsman to succeed, as long as he is a 'good' senior kinsman, of course: to be qualified

¹¹⁶ *AConn* 1288.3. See G §65d.

¹¹⁷ *AConn* 1398.18. *FM* states that Tomás was slain 'after he had been elected lord of Annaly in preference to Seaán Ua Fergail, his senior kinsman. Seaán was then installed in the lordship of Annaly.' See G §75.

remains a primary consideration.

'Ua Raigillig, that is Eógan, died and a great war broke out among his kinsmen for the lordship of the land, till by the arbitration of the Justiciar and many of the great Galls and Gaels Fergal son of Seaán son of Cathal was proclaimed Ua Raigillig, though there were men older than him claiming the succession.¹¹⁸

'Domnall son of Fergal Ua Birn, *dux* of the lower half of Tír Briúin [na Sinna], and his wife i.e. Lasairfina daughter of Seaán son of [Conchobar] the Prior, died. Tadg son of Cairpre son of the Prior Ua Birn assumed the lordship after Domnall, in preference to senior descendants (*shinnser shlechta*) of Cormac Ua Birn, as is due to good merit (*amail is dhú do dhedh airilniudh*); and Máel Sechlainn Ua Birn, his other brother, assumed the tanistship (*na tanaisdechta*).¹¹⁹

'Ua Mathgamna, Conchobar Finn son of Conchobar son of Diarmait Ua Mathgamna, died. This Conchobar made his way to the headship of his native territory in spite of senior and junior (*fer do chusidh tar lamhaibh sinnser 7 soiser hi ccendus a duithe an Concobhar hisin*).¹²⁰

Considering that the Irish annals for this period are far more extensive than the pre-Norman annals, the amount of explicit references to seniority in the context of succession is far from impressive, but this is compensated by the uniformity in opinion which is expressed by all the annalists on this matter: the senior should normally succeed, if he is well qualified to do so, but if the junior is better, he is

¹¹⁸ *AConn* 1526.4 (see G §71).

¹¹⁹ *ALC* 1527 (my translation and square brackets); *AConn* 1527.19 has a shorter version. The grandfather of Tadg and Máel Sechlainn is not Seaán the Prior, both are sons of Cairpre son of Conchobar [the Prior] son of Cairpre son of Cormac (+1426) (*OClery* §§1171-5); Cairpre's death and descent is recorded at *AConn* 1520.11. Note 6 at *AConn* p. 665 is therefore incorrect: *FM* 1530 records the death of the daughter of Cairpre son of the Prior, the latter being Conchobar, not Seaán, cf. *AConn* p. 676 n. 1. For Domnall son of Fergal son of Tomaltach (+1444 (*AConn*), *damna taisig h. mBriuin*) son of Cormac (+1426), see *OClery* §§1181-2.

¹²⁰ *FM* 1513, my translation. Less explicit examples about seniority are at *AConn* 1287.1, 1366.11, 1401.10.

also 'lawfully' entitled to take the lord- or kingship. This is also the tenor of the poem *Ní haois fhoirfidheas a Aedh*, written for Áed Buidhe (+1444), younger brother of the lord of Clann Áeda Buidhe, Muirchertach Ruad (+1468).¹²¹ Here the principle of 'the senior in case of a family, dignity in case of a lord, wisdom in case of a church (*sinsir la fine, febta la flaith, ecna la heclais*)'(ST §1) is invoked as propaganda for Áed Buidhe's entitlement to the lordship in preference to his older brother.

The most extensive account from this period which refers to senior rights comes from the Papal Registers for the year 1495, in which a settlement is made between Diarmait Ua Donnagáin (Dermot Odonnagyn), brother of Donnchad (Donat), and Donnchad's oldest son Muirgius (?= Maurice) concerning the possession of the fief their family holds from the bishop of Ross:

'To the prior of [Ballinskelligs] ... and Donat Oconayll, canon of the church of Ardfert, and Rynaldus Omurtaly, canon of the church of Cork, mandate in favour of Dermot Ydonnagayn, canon of the church of Ross.

A recent petition on Dermot's part stated that although - by the ancient and approved custom hitherto peacefully observed of those parts (at least of the province of Cashel or the greater part of it, of which the diocese of Ross is) as often as any feudatory of the church or vassal, called a coarb (*converbium*), dies, and a brother by blood and a son, even a first-born son, of the deceased person remains, that same brother, if he is more suitable and capable of governing the fief (*feudium*) ... ought to succeed in the fief or coarbship in question and be nominated coarb - at another time, after the late Donat *etiam* Odonnagyn, sometime feudatory or vassal, called a coarb, of the fief of the church lands of Kyllmesna of the said diocese, which is understood to be the right and lordship of the bishop of Ross for the time under a certain payment (*census*) or commuted service (*servitium*) to be

¹²¹ T. Ó Donnchadha (ed.), *Leabhar Cloinne Aodha Buidhe* (Dublin 1931) 59-64. See K. Simms, 'Bardic poetry as a historical source', in Tom Dunne (ed.), *The writer as witness: literature as historical evidence* (Cork 1987) 58-75: 64-5 for discussion and additional references to bardic poetry addressed to Áed Buidhe. According to *NHI* ix, 143, Áed Buidhe was lord from 1425-44, and succeeded by Muirchertach Ruad, but Simms maintains that he never obtained the lordship. Note that Áed Buidhe's descendants secured the lordship over Clann Áeda Buidhe after Muirchertach's death (G §14a).

paid or made over annually to the bishop, had died, the said brother Dermot ..., more capable and more suitable for the ruling of the fief in question than others of his progeny or family prayed the then bishop of Ross to nominate him feudatory of the said fief or coarb and invest him with it in accordance with the aforesaid custom

- however, the said bishop, being ignorant and possessed by some spirit, having scorned Dermot and without reasonable cause, nominated Maurice Odonnagyn, son of Donat, in his seventeenth or eighteenth year of age, as coarb of the aforesaid fief or coarbship against the said custom.

Moreover, as the same petition added, the fief or coarbship in question lawfully belongs to the said Dermot in accordance with the said custom; and Maurice himself on account of the defect of age in question and lack of skill in governing the said fief is ineligible to hold it, and therefore all the other men of the said progeny, or the greater part of them, who ought to obey the coarb of the said fief for the time being and be ruled by him, blush and are unwilling to submit to Maurice as a junior, and the fief and the lands of it remain uncultivated and deserted; and if the aforesaid Dermot should not obtain the aforesaid fief or coarbship in accordance with the said custom, between the men of this progeny many killings and homicides will be committed.

Therefore the pope hereby commands that the above three ... shall inform themselves as to all the foregoing... and if they find that the fief ... lawfully belongs to Dermot, ... shall decree that the nomination of Maurice, as above, was made not entirely lawfully and is even invalid ... and shall invest the said Dermot with the aforesaid fief ... and also nominate him coarb or captain ...¹²²

This microcosm of an Irish succession dispute in the close of the fifteenth century has all the recognizable features of the large political struggles, including the support for the junior by a powerful patron, the importance of qualifications and

¹²² Anne P. Fuller (ed.), *Calendar of entries in the Papal Registers relating to Great Britain and Ireland. Papal letters vol. xvi. Alexander vi (1492-1503). Lateran Registers part one 1492-1498* ([Dublin] 1986) 308-9 (§442): 7 February 1495. A record of an O'Donovan succession dispute, in 1592, expresses the rule that the eldest and the worthiest should be chosen according to custom, and that illegitimate sons are not entitled to the lordship, see *Hy Fiachrach* 444-8.

experience, the members of the kindred who are unwilling to submit to the junior, and the threat of violence and disruptions if the dispute is not settled. The Pope (or his administrator) is clearly displeased with the choice of the bishop, and respects the regional customs as set out by Diarmait Ua Donnagáin in his petition. Hence, we can regard this as an indirect account of how the Irish viewed senior rights themselves, and the relevance of seniority to succession, in this case to the coarbship and the headship of the Ua Donnagáin branch which held the lands of Kilmeen in the diocese of Ross as a fief.

We find no trace of the rule of primogeniture here, indeed, the succession of the first-born is contrary to custom, which prescribes that the senior, if he is well qualified, should enter the vacant office. This Irish principle was much commented upon by English officials and observers in the sixteenth and seventeenth centuries, who all describe the Irish custom of succession in similar terms: not the first-born but the eldest and worthiest relative was entitled to the king- or lordship (see §5.4. below).

The above document reveals the accuracy of the English observations, and it raises the question if this rule existed in similar terms in the pre-Norman period. The fact that Domhnall Ó Duibhdábhoirenn in his Succession Tract extracted his knowledge indiscriminately from old and more recent legal material indicates that, as far as the theory is concerned, the principle of seniority had not developed much in the foregoing centuries. Apparently, primogeniture never appealed to the Irish as a rule, and direct father-to-son successions, when they occur (in some lordships quite frequently), are first and foremost the result of political ambitions or other circumstances, not of a wish to establish new rules for succession and inheritance. With the English conquest and the attempts to establish the rule of primogeniture among the Irish - which was only very reluctantly accepted, and often renounced - it is small wonder that for the sixteenth and seventeenth centuries we have abundant material which refers to the Irish custom of seniority, mostly written by English officials or by Irish under circumstances involving claims to senior

rights.¹²³

For the period leading up to the English conquest the Irish annals have little to say about senior rights, but if they refer to them, the principle is exactly the same as expressed in the Papal document and by English officials. The lack of references in historical texts to seniority, especially in the pre-Norman period, should therefore not be seen as a lack of the rule itself. As we have seen, the legal material and saga-literature are uniform in their treatment of the rights of the senior above the junior, and, although the rule may have become more pronounced and better defined in the later period, the basic principle probably functioned as a proper custom for both the early and later period.

Added to the annals and the document from the Papal Registers, we have several propaganda tracts in the Book of Lecan (late 14th c.) which use senior rights to claim certain privileges. Again, the information is from Connacht, most extensively worked out in the privileges of Ua Caemáin of Clann Chaemáin, a branch of Uí Fiachrach Muaide:

'Caemán was older than Dubda, and Caemán thought that the lordship was his own, but God did not permit that kings should be of his posterity; and they came to the following agreement about the kingship, i.e. his choice *túath* from the patrimony, and the privilege of being at the [right] side of the king of Uí Fiachrach; that he should get the kings' steed and battle-dress at the time of his inauguration, and should walk about him thrice after his instalment. And the *túath* he selected was from Tuaim dá Bodair to the Gleoir. The steed, battle-dress and raiment of Ua Caemáin to be given to Mac Fhir Bhisigh, the day that Mac Fhir Bhisigh shall give the name of lord to Ua Dubda.¹²⁴

¹²³ See §4.4. and §5.4. below. See *ALM* 348-50 for the order of seniority of the eleven sons of Donnchad, the younger of the two sons of Conchobar Ua Briain (+1425), and the lands given to them, and 353-5 for the order of seniority of the sons of Toirdelbach of Mac Uí Briain Aradh. See *Caithr. T.*, i, 171-92 = ii, 181-202, for these and other examples which refer to senior rights and a larger share and the lordship given to the senior.

¹²⁴ Lec. 72 c28-38, translated from Mac Fhir Bhisigh's copy from the seventeenth century with a more modern spelling in *Hy Fiachrach* 107-9, which I have used here (names standardized). At *FM* 1208 the death of Diarmait Ua Caemáin, lord from Tuaim dá Bodair to the Gleoir, is noted, but the

For the explanation of how the descendants of Caemán had lost their right to the kingship another section in the Book of Lecan relates a story about the curse of Saint Gerald - who died in 732 (AU) - on the wife of Caemán after she had insulted the saint. None of her children would succeed, and the lordship is by saintly intervention transferred to the descendants of Cathal, Caemán's son by his wife's bondmaid; his legitimate descendants will never obtain the kingship of Uí Fiachrach as a result. In consideration of kindred and seniority the descendants of Dubda grant Caemán's grandson the afore-mentioned privileges.¹²⁵

Caemán and Dubda were both sons of Connmach son of Donn Cothaid (+773), the last king of Connacht from Uí Fiachrach Muaide (G §61). As members of the Ua Caemáin family are mentioned in the annals from the thirteenth century onwards, albeit rarely, their claims - and those of Mac Fhir Bhisigh - may well derive from that period. It is the underlying reason, Caemán's supposed seniority, which is of particular interest here.

Although the text maintains that Ua Caemáin's privileges form a compensation for their loss of the kingship, rightfully theirs on account of seniority, it is not at all certain if this reflects the historical course of events. Certainly, the tale of Saint Gerald does not lend any credibility to this, on the contrary, but in any case it can be argued that in the fourteenth century, if not earlier, senior rights served as a solid explanation why privileges were granted to a certain family.

In a later hand in the Book of Lecan the descendants of Donnchad Mór Ua Dubda (+1337) claim similar privileges because Donnchad's younger brother had seized the kingship despite Donnchad's seniority: extensive territories and honourable

lands given to him may be based on the tract which supplies the above information. Note that Caemán has the first choice of land, similar to the choice of shares given to the senior in legal texts. See also G. Mac Niocaill, 'Jetsam, treasure trove, and the lord's share in medieval Ireland', *The Irish Jurist* 6 (1971) 103-10. In Proinsias Mac Cana, 'An archaism in Irish poetic tradition', *Celtica* 8 (1968) 174-81: 181, the intervention of Ua Caemáin between the lord and his poet is discussed.

¹²⁵ Lec. 73 c1-33, translation from *Hy Fiachrach* 139-45. At Lec. 73 b19-44 is a later insertion, repeating parts of the two original sections, see *Hy Fiachrach* 441-5; see G §61a. For the territories of Clann Chaemáin, see *Hy Fiachrach* 157-9; the usurpation of their lands by Clann Néill of Ua Dubda is at 167-9.

positions under the king of Uí Fiachrach are therefore their due.¹²⁶

Another example which also uses seniority as a pretext to claim certain privileges is that of Clann Connmaig. In the poem ascribed to Torna Ua Maílchonaire quoted above, Connmach is reckoned to have been the oldest son of Muiredach Muillethan, but he and his descendants never made it into the kingship. In the Book of Lecan Connmach is also the oldest son of Muiredach, and in acknowledgement of Connmach's seniority to the rest of the branches of Síol Muiredaig, their descendants have the privilege of drinking the first cup at a royal feast and of having the descendants of Muiredach's other sons rise up before their lord; their *rígháisech* ('royal-lord'), Ua Fínnachta, held 48 'ballys' of land on either side of the Suck before de Burgh drove him from his patrimonial lands.¹²⁷

The latter event probably happened in 1232, when Richard de Burgh overran Connacht following the succession struggle between the sons of Ruaidrí and Feidlimid Ua Conchobair, and the castle of Dunamon (Dúin Iomgáin) was built at Ua Fínnachta's mansion there.¹²⁸

The connection between Ua Fínnachta and the lordship of Clann Connmaig causes some problems. The prose inauguration tract which accompanies the poem of Torna Ua Maílchonaire in most MSS names two Ua Fínnachta families, of Clann Connmaig and of Clann Murthaile.¹²⁹ One of them is the door-keeper of the king of Connacht, and one of the four *ríghóisig* to whom 48 townlands are given by right of office (Ua Flannacáin, Mac Airechtaig, Ua Fínnachta and Ua

¹²⁶ Lec. 76 va1-vb47, text and translation are at *Hy Fiachrach* 417-25. The descent of Donnchad Mór (*rígdamna* of Uí Fiachrach in *Hy Fiachrach* 117; *tánaise* in *FM* 1337) is not correct in the text, he is presented as the brother of Taithlech (+1282), instead of his son, see G §61b.

¹²⁷ Lec. 68 vd10-31, text and translation (from Mac Fhir Bhisigh's copy) are at *Hy Fiachrach* 108 note b., also printed at *FM* 1232, note r. According to BB 93 a19-21 Indrechtach and Cathal were the oldest sons of Muiredach Muillethan.

¹²⁸ *FM* 1232. *AConn* 1233.4 records the demolishing of the castle by Feidlimid that year.

¹²⁹ Dillon, 'The inauguration', 189/197. 'Clainn Conmh-' is wrongly expanded to 'Clainn Conmhaicne' by Dillon. For the date, see note 107 above.

Maílbrénainn).¹³⁰ Although this is given to Ua Fínnachta of Clann Connmaig in the text in the Book of Lecan, it may well be that this privilege was given to the other Ua Fínnachta, as the annals record several lords of Ua Fínnachta as lords of Clann Murchada or Clann Murthaile, but none of Clann Connmaig; there is also an Ua Fínnachta family in the annals with strong clerical connections, and this may be the one belonging to Clann Connmaig.¹³¹ In the fifteenth and sixteenth centuries Clann Connmaig was ruled by the Mac Daid branch of Mac Uilliam (de Burgh).¹³²

Regarding the disappearance of Ua Fínnachta from the annals, both as lords and clerics, after 1361, their power must have rapidly declined after de Burgh had banished them from their lands, and the text may have been written as a claim to their privileged position they had enjoyed in the past. Of course, when the decline of their power or political affiliations affected their status and prestige, the kings of Connacht could be inclined to hand over such privileges as described in the text to more valuable vassals.¹³³

Seniority forms the main reason why both Clann Connmaig and Ua Caemáin claim that a special position under the king is due to them, and considering the similarity in privileges in both cases, the one text may have been based upon the other. In any case, seniority is used as a reason to give a person either entitlement to the lordship, or, if he does not receive it, compensations from his lord. This

¹³⁰ Ibid, 190/8, 192/201; 196/203 (poem). In J. O'Donovan (ed.), *The topographical poems of John O'Dubhagain and Giolla na Naomh O'Huidrin* (Dublin 1862) 45 (prose) and 55 (poem) also names an Ua Fínnachta family over Clann Connmaig, and one over Clann Murchada; Clann Murthaile is ruled by Ua Maonaig (mentioned at *AConn* 1260.3).

¹³¹ *FM* 1140, *FM* 1194, *AConn* 1225.31 for the Ua Fínnachta lords of Clann Murchada or Murthaile, who seem to fit in with the genealogy of the lords of Clann Murchada at Lec. 63 d11-21 (see G §63). Conchobar Máenmaige was killed in 1189 in Clann Connmaig by one of the members of his household, Magnus son of Flann Ua Fínnachta, perhaps the brother of the Sitric son of Flann Ua Fínnachta, lord of Clann Murchada (+1194). In 1225 Tadg Ua Fínnachta is recorded as officer (*fer grada*) of Áed son of Ruaidrí Ua Conchobair (*AConn* 1225.30). For the clerical family of Ua Fínnachta, see *FM* 1155, 1176 (?), *AConn* 1298.5, 1308.7 (?), 1326.5 (+1356.8). Two musicians of this family are recorded at *FM* 1269 and 1361. The text on the privileges of Ua Fínnachta mentions as the most illustrious member of the family then alive (in 1650) the priest James. The name Fínnachta does not occur in the short Clann Connmaig genealogy at Lec. 63 vd10-31.

¹³² *AConn* 1385.5, 1419.18, 1424.7, 1475.13, 1530.4.

¹³³ Simms, *From kings*, 29-30, for discussion of the changes in hereditary rights to inaugurate lords, which was taken over from ecclesiastical or poetic families by the lord's primary vassals or overlord.

principle can be dated to the fourteenth century, but probably goes back to an earlier period. The privileges both texts mention, to raise the first cup, and to be entitled to a special portion of land, seem to echo privileges given to the senior in early legal material, such as the right to speak first, and the *cumal senorba*. Unfortunately, we lack material of this nature before the twelfth century, which makes it impossible to prove the custom of compensation for disregarded senior rights, but it would serve as a possible explanation as to why some branches survive as separate lordships without claiming the kingship, while other branches disappear into obscurity straightaway.

The lack of material on senior privileges in a political context applies to the whole problem of the rights of seniority. We have abundant material for the theoretical foundation of senior rights dated to the pre-Norman period in both the legal corpus and in saga-literature, founded on the same principle: the senior was entitled to the lordship, the *cumal senorba*, 'choice of shares', and the right to represent and to speak on behalf of his kin, but if the junior was clearly better qualified than the senior, the lordship and all its privileges were given to him. For the later period the annals, propaganda texts and other records show that senior rights were indeed taken into account in one form or the other, and that this can be directly related to the principles attested for the early period. A development in which the rights of the senior were more clearly defined by custom may have taken place, but the overall impression is that senior rights also existed in the earlier period.

Charles-Edwards's view on the importance of seniority is expressed in negative terms: 'seniority is a rejected principle unless other considerations should be equal.'¹³⁴ He seems to have based himself on the material available in the Succession Tract (especially §21), but in the legal corpus and other sources, both in the early and later period, seniority does not seem to have served as a minor consideration when dealing with succession. I would define it in a more positive way: seniority was a basic principle which determined the order of succession if the senior was not clearly unfit for the office or the junior's qualifications (wealth, clients, leadership, etc.) were not clearly better.

¹³⁴ Charles-Edwards, *Kinship*, 100.

This has also a practical side, as the senior would normally be the first to embark on a career under his father, and the patterns of succession indicate that brothers usually succeeded one another according to seniority. What happened in the next generation after several or all the brothers had succeeded one another in the kingship will be discussed in §5.1., which deals with the principle of alternation. In practice, it seems that one's age became less relevant as a qualification for succession if the competitors were cousins or further removed, and under such circumstances considerations such as prominent descent and support carried more weight. In this way descendants from the junior brothers could still hope to succeed and even monopolize the kingship.

It could be objected that the annals and genealogies show that seniors did not always succeed before the juniors, but this discrepancy between theory and practice does not mean that senior rights only existed in theory, and were quite irrelevant as a qualification for succession. Certainly, senior rights could be set aside by the force of arms, or, in line with the custom, it could be overruled by better qualifications. However, the examples given in the annals, though not exceptional, are still accounts of extreme situations, and as such can hardly be expected to be taken into account in the theory. The importance of seniority cannot be disclaimed simply by referring to the exceptions to the rule as they are recorded in the annals, as we then have to conclude that, likewise, there were no customary inhibitions against a son taking up arms and even deposing his father, as there are examples of that kind as well. Such actions, created by circumstances we are not informed about, cannot be used as evidence against the existence of any customary rule of succession, it only shows that there were numerous attempts to upset it.

So far, we have considered a person's birthright: his descent from both father's and mother's side, and seniority, both qualifications which anticipate that the best candidate succeeds. Now we have to turn to those qualification which a person was deemed to have according to this birth-right, or by which a junior candidate could surpass senior competitors: wealth and personal qualities.

CHAPTER 4: QUALIFICATIONS OF PERSON AND PROPERTY.

4.1. Wealth as a qualification for succession.

In his discussion on succession, Charles-Edwards takes a person's *febas* to be the basic principle which governed succession, following the discussion of succession to the abbacy as given in *Córus Béscnai*, in which it is stated that a candidate 'is chosen and appointed according to excellence (*is iar feabus dogoathar 7 dogairter*)'(ST §8). *Febas*, which Charles-Edwards defines as 'worth', 'personal standing',¹ is a non-specific term which can cover a wide range of qualifications. In *Córus Béscnai* the glossator explains *febas* as 'the best material' (*adbar is ferr*) according to which one is entitled to the succession; it refers foremost to one's descent (the family of the patron saint has a better claim than the family to whom the land of the church or abbacy belongs, see §5.1. below), complemented by other qualifications which made a person fit for the office. Another gloss in *Córus Béscnai* seems to express the same principle in the line 'every superiority by hereditary right in accordance with justness (*cach aircindchecht iar nduthchus do reir choir*).'²

For succession in other offices one's suitability was measured by other standards, and consequently *febas* refers to different qualifications. Thus, the expression *febta la flaith* (ST §1) reflects the opinion that a lord was chosen according to a wide range of considerations, of which descent was of major importance. If the right descent for a certain office or status was lacking, the three generation and double qualification requirement applied, and the legal texts normally use the word *febas*

¹ Charles-Edwards, *Kinship*, 522, see §1.3. above.

² *CIH* 530.28, translation in *Bretha Nemed* 32. See also *CIH* 2269.40-2270.4 (*Uraicecht Becc*, *AL* v 55), which refers to abbots: 'their grades are as the grades of the church which they serve, even though they themselves may not be in holy orders, if their qualifications are otherwise good (*mat maith a folaid cheana*), see D. Ó Corráin, 'Irish vernacular law and the Old Testament', in Próinséas Ní Chatháin and Michael Richter (eds.), *Irland und die Christenheit. Bibelstudien und Mission. Ireland and Christendom, the Bible and the missions* (Stuttgart 1987) 284-307: 301, cf. Mac Neill, 'Law of status', 275 (§19).

to denote the required qualifications which had to be fulfilled.³ Seniority added to one's *febas* in a similar way, and a junior had to compensate for his lack of senior status by having a larger number of clients to be 'better' than the senior (see §3.1 above).

Just as proper qualifications are not a guarantee that the descent is in order, the right descent does not always guarantee that the proper qualifications are fulfilled: a son or grandson of an *aire tuíseo* did not automatically have the required number of clients or other qualifications which gave an *aire tuíseo* his status and honourprice, although he could claim to be paid honourprice according to the status of his father (half) or grandfather (one third), up to the third generation (see §2.2 above). Texts which take descent and seniority as qualifications for succession do not always take the other requirements into account, but silently assume that they are in order; if not, any claims solely by birth-right could be set aside. In this way descent and seniority do not work in the same way that primogeniture settles the order of succession beforehand: both have to be complemented by the normal qualifications, to guarantee that a lord has sufficient wealth, support and experience to take the burden of lordship. Normally descent and seniority guaranteed that this was the case, but the Irish laws have a practical basis, and want to ensure that a lord is fit to carry out his responsibilities, hence they stress that he should possess sufficient property and the personal qualities of a lord as regards behaviour, actions and physical form.

The property qualifications for the grades of lords have already been discussed to some degree (see §3.1). In *Críth Gablach* the lowest grade of the lords, the *aire désa*, has five clients of vassalage and five free clients. His honourprice (*eneclann* or *díre*) is calculated as follows: 'five *séts* in regard of his own house in the first place, and five in regard of the five houses that are in vassalage to him, without anything which may take away from his nobility in regard of qualifications, small and great, so that he may not be degraded from his authority (...*cen ní astlia a*

³ See ST §53 (discussed at §2.1) and §2.2. above, at note 30 and 38.

airechas di f(h)oltaib beccaib 7 móraib arná dia recht raltar).⁴ An *aire tuíseo*, the head of a noble kindred, who has fifteen base clients (and twelve free clients), consequently has an honourprice of twenty *séts*: five for his house and fifteen for his base clients.⁵ Essentially, the honourprice of a lord depends on the number of his base clients, as they provided him with a steady source of income.

A person's honourprice determined his status in society and his legal rights. Thus, an *aire désa* with an honourprice of ten *séts*, 'makes oath in compurgation, is binding surety, is paying surety, hostage surety, contracting party [and] eyewitness to that extent (*immustoinn, is naidm, is ráth, is aitire, is féichem, is fiadnaise friu*).'⁶ Apart from these legal functions, a person's status and honourprice determined the amount of compensation he (or his family) received when he was injured or killed, the number of people he could legally take under his protection, the number of his retinue (when on visitation of his clients to take food-renders, in an assembly, or on sick-maintenance), the quality of the sick-maintenance provided to him, etc., in short, all his legal rights and entitlements.⁷

According to this scheme, a nobleman's status depended foremost on his property, from which he could give fiefs in cattle to his clients, and from which he collected rent in return. However, this notion has its limitations. The *aire désa* is not only a lord because he has five base clients and may not diminish his qualifications, he should also be the son and grandson of a previous lord, his house should befit a man of his rank, he should protect his clients, be married to a woman of equal rank, etc.⁸ For the *aire tuíseo*, who is higher in rank and the head of a noble kindred, additional qualifications and functions concerning his function apply, and it is specifically required that concerning his legal obligations

⁴ CG 354-7 (cf. Mac Neill, 'Law of status', 297 (§108)). See also Charles-Edwards, 'Kinship, status', for the argument that the five clients of the *aire désa* consist of one lineage of freemen, and the next grade (ten clients) of two lineages, etc.

⁵ CG 387-8 (see §3.1. above).

⁶ CG 348-9 (cf. Mac Neill, 'Law of status', 296-7 (§107)).

⁷ CG 388-400 (ibid., 298-9 (§112)) as regards the *aire tuíseo*.

⁸ CG 335-47 (see ibid., 296-7 (§107-8)).

as contracting party, surety and witness he should fulfil his financial obligations without problems: 'he is able to pay them over without (having recourse to) requisition or borrowing, whoever may claim them (*at[a]comren cia tacra cen air[r]ech cen airliciud*)'.⁹

Thus, while a lord's property and clients may give him his status and honourprice, he still has to make sure that he meets his responsibilities adequately, as behoves a lord, and does not degrade himself in any way by his actions or conduct. *Críth Gablach* continuously stresses this point: a man's property has to be complemented by his standard of living and he should act in accordance with his rank, otherwise he loses his face, his honour, and his status. In *Míadsleхта* and *Uraicecht Becc* a person's dignity and honourprice (*míad 7 eneclann*) are said to consist of three elements: 'merit and worthiness and purity (*airilliud 7 indracus 7 idnae*).'¹⁰ They are glossed in *Uraicecht Becc* as: 'with regard to property ... with regard to word ... with regard to deed' respectively (*im tochus ... im breithir ... im gnímrád*), reflecting the basic (property) qualification, the fulfilment of one's duties and obligations, and proper conduct. We have already seen that an *ollam*, the highest grade among the poets, should be the son and grandson of another poet, be educated as a poet, and his moral behaviour (*idnae*) should be in agreement with his status to be qualified and acknowledged as an *ollam* with full honourprice (see §2.1).

Those who did not act according to their rank were demeaning themselves, and their honourprice was diminished accordingly:

'There are four magnates of the *túath* who degrade themselves into petty folk: a king who gives false judgement, a bishop who stumbles, a poet who fails in his duty, an incompetent noble. Those who fulfil not their duties, to them no *díre* is due.'

⁹ See above, § 2.2 (note 45). The last requirement (CG 398-9) is also mentioned for the *aire forgill* (426-7), the *tánaise rí* (442-3), and the *rí* (453-4), see CG p. 24 (note to line 398), from which the translation is taken.

¹⁰ *CIH* 676.27-8 cf. 583.5-6 (*AL* iv 345) and 1613.17-8 (*AL* v 97), cf. 348.10-3 (*Senchas Már*, *AL* i 43). See also §2.2. above (at note 40, cf. note 41), for another quote from *Uraicecht Becc*, in which property and worthiness (*tochus 7 indracus*) are the two components which determine honourprice.

(*Atat .iiii. sabaid tuaithe nodadesruithethat i mbeaib: rig gubrethach, epscop tuislech, file diubartach, aire eisindraic; nad oiget a mamu, ni dlegaiter doib dire*)¹¹

The Irish lawyers bring here the link between property, status and conduct to its logical conclusion: one can only claim legal rights and entitlements if one meets one's legal responsibilities. This is a principle which we will meet more often, and it not only applies to a person's individual behaviour, but also to his relationship with his partner, superior or dependant.

The examples given in the above passage from *Senchas Már* merely serve as a guideline, the *Heptads* give a wide range of additional instances which make a person lose his honourprice. In a general sense the following seven are mentioned in *Heptad 79*: 'being satirized when he has offended without making amends; false testimony by him against anyone; giving false witness; neglect of bond; violating his hostage-suretyship; evading his surety; betraying his honour.'¹²

All refer to situations in which legal obligations in society are not honoured or fulfilled. This is also expressed in the following passage, which first enumerates the relationship between a king and his people, stating that a king is entitled to their submission, but that the king should also honour his duties towards them in return: 'He is not a king who has not hostages in fetters, to whom the rent of a lord (*cis flatha*) is not given, to whom the fines of law (*cánai*) are not paid. (But) when a king receives submissions (*mama*), it is then *díre* of a king is paid (if he is) free from falsehood (*gáu*), from betrayal (gloss: of his nobles) (*easbrath*), from unworthy conduct towards his people.'¹³

¹¹ *CIH* 352.10-2; my punctuation (*AL* i 55), see Mac Neill, 'Law of status', 315.

¹² *CIH* 1938.20-2 (*AL* v 369), see Mac Neill, *ibid.*, 316. See also *Bretha Crólige* §16 (*CIH* 2290.10-34): those who do not fulfil their obligations towards their kindred, lord, the church or in respect of their land are not entitled to sick-maintenance. In §43 (2298.1-7) this is extended to those who refuse to give hospitality, are false to their honour or steal.

¹³ *CIH* 219.5-7 (*AL* iv 51).

More specific is *Heptad* 13:

'There are seven kings according to Irish law who are not entitled to *díre* or honourprice (*lóg n-enech*): the king who refuses every plight, not having his lawful (full) company of guests, for it is not refusal by anyone, if he have his lawful company, even though he refuses; the king who eats (goods of) theft and pillage; the king who betrays honour; the king who bears satire that defames him; the king (against whom) battle is won; the king whom a hound attacks as he goes alone without his lawful servitors; the king who does kin-slaying.¹⁴

The following *Heptad* mentions several identical prohibitions for the nobles, and also 'the noble who protects an evader of government so that it becomes evasion behind his back; the noble who does not yield judgement or due to man - such a one is not entitled to judgement or due from man (himself).¹⁵

Here it is not so much a man's evasion of his duties or responsibilities that dishonour him, as engaging in behaviour unfitting for a man of his rank. It is unlikely that a man who was guilty of such conduct lost his status forthwith, the examples given here probably refer to situations in which a king (or noble) could be sued or held responsible for his actions without being able to use his high status and honourprice as a legal 'barrier' by which he could swear those of lower status; the same applies to restitution he would normally get in accordance with his honourprice, to which he could not lay claim in such cases.¹⁶ This principle is also apparent in *Bretha Nemed*, which distinguishes between the noble church, which has good qualifications, and cannot be sworn as a result, and

¹⁴ *CIH* 14.34-15.4 (*AL* v 173); Mac Neill, *ibid.* *CG* 530-41 adds: a king who does manual labour, who goes alone (see §2.4 above, note 79), or who is wounded in the back through cowardice (Mac Neill, *ibid.*, 303-4 (§§126-8)). For kin-slaying (*finjal*), see §2.4. above. The annals give several cases of kin-slaying, normally in the context of succession struggles, but as we do not know their background, it is difficult to say to what extent it affected a candidate's or ruler's right to the king- or lordship.

¹⁵ *CIH* 15.5-9 (*AL* v 175); Mac Neill, *ibid.* 316. *CIH* 794.25-795.14 (*Heptad* 71, *AL* v 359-61) names the seven lords who are not entitled to the dues of clientship.

¹⁶ Cf. *GC* §33 (*CIH* 2196.29-2197.2), discussed at §4.5. note 112 below (on *frithfolad*).

a debased church, which has disqualified itself, and can be overthrown.¹⁷ Neither a claim to succession nor legal immunity could thus be claimed by one's birth-right, status or property, they had to be complemented by proper deeds and actions. If not, a lord could finally disqualify himself (*flaith anfoltach*), he would forfeit his rights over his people, and his lordship would become *anflaithius*: 'un-lordship'.¹⁸ This gave the nobility or an overking a 'legal' right to depose a king on account of his disqualification, if only for political reasons (see §4.2. and §4.5 below).

The equality which should exist between birth-right and behaviour is also present in texts dealing with succession, although it is not defined in a negative way by stating that certain degrading actions would diminish or terminate someone's claim to succession. This is probably because one was normally speaking allowed to make the right amendments and be redeemed. Besides this, a 'right' to succession was not absolute; in the end, what mattered was how a person used his birth-right and property, and fulfilled the promise of his outstanding qualifications. The Old Irish law-tracts *Cáin Fúithirbe* and *Di Astud Chirt 7 Dligid*, both quoted in ST, give a positive definition of the kind of behaviour which was expected from a king or a lord:

'THAT YOU MAY KNOW WHAT IS PROPER FOR A KING: THAT HE BE PROSPEROUS i.e. as regards a fief and chattels of subjection, or the three chief residences; THAT HE BE VERY SMOOTH i.e. affable without haughtiness; THAT HE BE VERY GENEROUS, THAT HE BE EXEMPLARY AMONG THE SONS OF GOD.'(ST §12)

'THE LORD OF ANY FAMILY IS HE WHO SUSTAINS THEM WITH DIGNITY i.e. he to whom the lordship of every family is due is he who has best wealth to furnish their food, or with whom are found the three chief residences; AND CUSTOM i.e.

¹⁷ *Bretha Nemed* §§2-4 (CIH 2211.4-21).

¹⁸ *Cáin Aicillne* §52 and §58 (CIH 497.14-8; 500.19-23); CIH 443.10-1 (*Díre* §36); 1774.34-7 (AL ii 209 comm). For the principle of the 'head' being disqualified, see below, §4.2, note 27 and §4.3, note 53.

'the pleasant or delightful custom' i.e. without (committing) unnecessary wounding or theft at all.¹⁹

The property qualifications - both use the three chief residences as such²⁰ - are here supplemented by the king or lord's conduct, which also brings out the way property should be used: to be given out as fiefs, to display generosity, to support one's family, etc. In the Succession Tract we find many extracts which put emphasis on the wealth a lord is deemed to possess, and Domhnall Ó Duibhdábhoirenn even supplies the comment 'thus the lord without property' (*sic flaith gin tochus*) on three occasions (ST §§25, 32, 48). The basic principle, that everyone is estimated by their wealth (§§30, 32, 51, 54, 60), also receives an exception on account of complaints or a blemish (§55), while one is admonished to do good with one's wealth (§59) - reflecting the opinion that everyone has the duty not to diminish his or her hereditary property.²¹ A man without property has no legal rights (§§32, 48, 57, 58, 62, 63), cumulating in the maxim 'a king without property is no king' (§38). As regards succession the importance of wealth is especially brought out when compared with seniority, as a junior with an excess of wealth or clients can still be entitled to succession (§24; TSH, see §3.1 above).

The importance of wealth and property is thus well established, but normally speaking in a general sense. Of the two instances in which a measurable amount of possessions gives entitlement to succession, an excess of five base clients (TSH) is connected with the difference between the senior and the junior (see §3.1. above), while the the three chief residences (see above) are often related to the position of the *aire forgill frisaicci ríge* ('an *aire forgill* who looks forward to the kingship') and the *tánaise ríge* in the meaning of heir-apparent (§5.3. below); both criteria seem to serve as an indication that a person is the main candidate for succession or the heir-apparent.

Considering the preoccupation of the Irish laws with property and status, it is not

¹⁹ See ST §17 for the text and glosses, see also §2.3 above, at note 58 and 59.

²⁰ See also ST §42; the three chief residences are discussed at §5.3. at note 159 below.

²¹ See §4.3 below, note 52 and 66.

so surprising that a man's possessions and wealth are taken into account when dealing with succession. It adds to a person's *febas*, and gives an indication of his background, his successful career and his abilities. However, it is also desirable for a candidate for succession to have more wealth than the others from a practical point of view. In the discussion of the *cumal senorba* we have already seen that this piece of land was appropriated to the lord as a demesne to enable him to assume responsibility for liabilities incurred by members of his kindred (§3.1). The description of the *aire tuiseo* in *Críth Gablach* quoted above that 'he is able to pay them over without (having recourse to) requisition or borrowing, whoever may claim them' is in accordance with this, and is likewise expressed at ST §17 (see above) and ST §18. All stress the importance of wealth for a lord to carry out his legal responsibilities on behalf of his kindred without failure, and to represent his people in external matters in a confident way. This makes the wealthiest candidate best equipped to protect and to take the responsibility for his family and kindred, and thus an attractive representative and leader. As is also expressed in TSH, it is likely that the wealthiest candidate, if he was not the senior, had to be clearly over-qualified in this respect. A small difference in wealth would not have justified a better claim, only a substantial difference would have served as a decisive qualification in its own right, given that all other qualifications are in order.

In *Scéla Conchobair maic Nessa* from the Book of Leinster the importance of wealth to win the favours of the nobility is exemplified:

Conchobar, at the age of seven, obtains the kingship after his mother Ness sleeps with Fergus mac Rossa, king of Ulaid, on condition that her son be granted a year's kingship, 'so that it may come to pass that his son may be called the son of a king.' For a year young Conchobar holds the nominal kingship (*congairther ríge*), during which he strips half of the population of their wealth and gives it to the champions of Ulster. After a year Fergus reclaims his pledges (*a giallu*). "A colloquy about it !" say the Ulstermen. They took counsel in a single assembly. They deemed it a great dishonour that Fergus had given them (to Ness) as a bride-price (*tindscra*). But they were thankful to Conchobar for his goodly gift to them. This then was their suffrage: "What Fergus sold, let it part from him: what Conchobar

bought let it stay with him.¹²²

There is a lesson to be learned here for every Irish king, which ties in with what we have seen so far: wealth gives a person status, but only by its proper use can honour and reputation be gained. Conchobar wins over the champions of Ulster by his generosity, and they bestow the kingship upon him as a result. It was expected of a king that he was generous, or, as *Senbríathra Fíthail* puts it: 'be generous that you may be dignified (*bat gartaid corbat sochraid*).¹²³ In *Cath Maige Tuired* this is defined in a negative way, by portraying the un-royal behaviour of Bres, who invites resentment to his rule by offering no entertainment and contests for his guests: 'However frequently they might come, their breaths did not smell of ale.'¹²⁴ Generosity often serves as a theme in the sagas to express royal quality, with the historical Connacht king Guaire Aidne being the ultimate example of a generous king. The annals and bardic poetry continue to express this ideal, the latter especially stressing the generosity of the patron towards his poet. We may assume that it was expected of a candidate for succession to be generous as well, and, needless to say, a wealthy person could better afford to be generous and thus impress his contemporaries than a relatively poor one.

We have seen that the number of base clients are indicative of a nobleman's wealth, and in TSH this is also connected with one's claims to succession. The law-tracts are notably silent about the connection between succession and a candidate's political support as indicated by his free clients, even in TSH the number of base clients are given more prominence than free clients, and both refer primarily to one's wealth. This is remarkable, as free-clients often formed the core of a ruler's political and military support, whose loyalty could be of crucial

¹²² W. Stokes (ed.), 'Tidings of Conchobar mac Nessa', *Ériu* 4 (1910) 18-38: 23-5 (§§5-7). See also V. Hull (ed.), 'How Conchobar gained the kingship of Ulster', *ZCP* 25 (1956) 243-5. For *tindscra*, see §2.2 above. Note also the importance given to royal birth in this passage.

¹²³ Smith, '*Senbríathra Fíthail*', 17 (§3.5), cf. K. Meyer (ed.), *Tecosca Cormaic. The Instructions of king Cormaic mac Airt*. Todd LS 15 (Dublin 1909), §6.15, §12.14, and §13.7: 'every generous person is righteous' (*fírén cech fíal*); §7 enumerates all the qualities the young should display to become old and kingly.

¹²⁴ Gray, *Cath Maige Tuired*, 33 (§36), cf. note 39 below.

importance. The lawyers, using a theoretical framework, do not state that the person with the most political support and military power has the best claims to succession, even if this was often the case in reality, probably because the number of free clients is an external matter which does not specifically refer to one's descent, senior status, wealth or other qualifications.

Here we arrive at the large discrepancy between theory and practice, between succession in petty lordships and overkingships, and between customs and power-politics. A quick read through the Irish annals may give the impression that succession was mainly decided by force, power, and resources, and Ó Corráin reached the conclusion that any customs and traditions had to yield to the harsh political reality (§1.2 above). In my view, this applies especially to those cases about which the annals inform us: succession in the large (dynastic) overkingships. Peaceful successions, whether in the overkingships or petty lordships, normally did not excite the annalists enough to inform us about it in their writings, and this may give the wrong impression that customs and traditions were always set aside by use of force. As has already been argued (§1.3 above), succession in the (dynastic) overkingships was often a matter of competition between the lords or kings of two or more related branches, a different matter from succession within a family.

Taking the hypothetical situation of a lord with a number of sons and no competition from other relatives, the question which now needs to be asked is how a son could acquire sufficient resources necessary to attain the lordship by either a surplus of wealth or political and military support. As descent and the order of seniority are qualifications which could not be changed from the outset, a son of a lord or king or any other candidate was to a large extent dependent on his father and his own personal qualities to be able to make a career, to enlist support from vassals and allies (for example his fosterkin, maternal kin or in-laws, see §2.6. above), and to show that he is the best and worthiest candidate for the kingship. Before we take a look at the opportunities a son had to acquire fame and fortune under his father's guidance, and to outdo his brothers, his personal qualities have to be considered, as they also form a part of his qualifications mentioned in the legal tracts, and by which he was able to establish his reputation as a leader and future king.

4.2. Personal qualities.

Kim McCone, on the basis of early Irish saga and legal material concludes that 'the ideal king in ancient Ireland was supposed to excel in the three basic areas of military prowess, mental discernment and physical beauty, thus combining the functions of warrior (*láech*) and judge (*brithem*) with his own specifically regal need for a perfect appearance.'²⁵

Indeed, the three qualities connected with kingship are almost proverbial. In *Cath Maige Tuired*, on the battlefield which gives the saga its name, Lug addressed every man 'in such a way that every man had the courage of a king or great lord (*rígh no roflatha*).'²⁶ In *Cath Maige Mucrama* Cormac mac Airt shows himself to be 'the son of a true prince' (*mac na fír[fh]latha*) when he gives good judgements while Lugaid mac Con, who had taken the kingship by force, only passes false judgements; Lugaid is expelled as *anfíath* forthwith.²⁷ In *Táin Bó Cúailgne* reference is made to 'Fergus with a beauty of a king' (*co n-ilcruth rígh*).²⁸

One only has to point to Cú Chulainn, the ideal warrior whose heroic deeds are enumerated in *Táin Bó Cúailgne* and other tales, and Murchad son of Brian Bóruma, who is pictured in *Cogadh Gaedhel re Gallaibh* as the heroic Irish fighting-machine with unlimited capacities, to appreciate the continuing importance given in the sagas and other sources to valour, courage and martial feats. As the Irish kings and royal sons were frequently engaged in raiding and warfare, these are personal qualities which would have been put to the test on numerous occasions, and establish the reputation of a candidate for succession among his contemporaries. The information from the sources at hand do not allow us to make anything but general remarks on this, but it stands to reason that a coward or one who could not handle weapons would find it very hard to earn the respect of

²⁵ *PPast* 122, with a good discussion on the topic at 121-31. See also Philip O'Leary, 'A foreseeing driver of an old chariot: regal moderation in early Irish literature', *CMCS* 11 (1986) 1-16.

²⁶ Gray, *Cath Maige Tuired*, 55 (§120).

²⁷ O'Daly, *Cath Maige Mucrama*, 59 (§64). See Ó Cathasaigh, *Heroic biography*, 62-5 for discussion.

²⁸ *TBC* (rec. 1), 1087.

others.

The usual way for a royal or noble son to show his abilities as a warrior and a leader was on cattle-raids and military campaigns. Success in cattle-raids could increase one's reputation not only on account of his deeds on the battlefield, it would also enrich the commander and allow him to generously grant parts of the booty to his followers, thus ensuring their future loyalty.²⁹ Often, cattle-raids were meant to levy tribute by force and compel the plundered territory into submission, and thus reflect current political relations and claims. Failure to defend one's territory would not only mean a loss of capital and reputation, plundered and impoverished vassals may well be inclined to search for another leader who could protect them more effectively.

From the late ninth century onwards the annals frequently record that royal sons led campaigns in their father's name, although this was presumably also common at an earlier date. This is clearly a way to 'educate' one's son for the future and put his qualities to the test, so that he could make a career as a leader, win the loyalty of his followers, and acquire fame and fortune. The position of Murchad son of Brian Bóruma under his father serves as a primary example of this, and leaves no doubt as to who was to be his heir, although Brian's other sons are also recorded as leading campaigns. In *Cogadh Gaedhel re Gallaibh* Murchad is leading the royal sons of Ireland under his personal command, 'for there was not a king of any *túath* in Ireland who had not his son or his brother in Murchad's household, for he was the lord of the volunteers of Ireland, and of her sons, next to Áed Ua Néill.³⁰ Future ties between the king and his heir and the vassals and his heir could thus be established, and success in military campaigns was necessary to acquire the necessary support for a candidate's claim to the succession.

The king as a good judge finds its expression in more general qualities as

²⁹ See Pádraig Ó Riain, 'The "crech rí" or "regal prey"', *Éigse* 15 (1973) 24-31, for the first campaign of a newly installed king, cf. *AU* 1083.6.

³⁰ *Cogadh* 169 (§97). In *AI* 1011 both Murchad and his brother Domnall led a campaign in Cenél Conaill; the latter died the same year. Donnchad mac Briain led an army into Leinster while Murchad attacked Dublin in 1014. See also *FM* 1153 for the army under the command of Ruaidrí son of Toirdelbach Ua Conchobar, in which were several kings and lords of Connacht.

knowledge and learning in connection with succession.³¹ *Críth Gablach* enumerates the qualities a king should possess as follows:

'Let him be impartial, righteous between weak and strong ... let him be a man of full righteousness on every side; let him be a man of enquiring of knowledge, let him be an abode of patience.'³²

The obit of Niall son of Domnall Mac Lochlainn (+1119), favourite of his father who died before he could succeed, describes him as '*ri domna Ailigh 7 Ereinn*, and paragon of Ireland in form and understanding, in honour and wisdom (*tetra Ereinn ar cruth 7 ar cheill ar ainech 7 ar ergna*).³³ Those who aspired to royalty had to be educated, a qualification which is difficult to measure, but which seems to have been part of the normal upbringing of a royal or noble son; an ignorant king would be difficult to tolerate for his people.

The annalists, especially those of the Anglo-Norman period, often use similar descriptions to describe kings or their potential successors. Favourite words are *enech* (lit. 'face': 'dignity', 'honour'), *engnam* ('skill', 'martial deeds'), *egnam* ('wisdom' or 'generosity'), *dénium* ('performing', 'doing') and *cruth* or *delb* ('form', 'figure').³⁴ The latter denotes the person's royal and noble stature, without any deficiencies or blemishes. The prescription for a king to be unblemished is well-known enough, and does not need extensive discussion here. An early example is in the Old Irish law-tract *Bechbretha*, which recites:

'Congal Cáech, whom bees blinded in one eye. And he was king of Tara until [this] put him from his kingship.'³⁵ In the sagas the blemished king is frequently used

³¹ See §2.3, note 61 (young Conaire acquiring wisdom). For the legal background, see §4.1. above, at notes 11 and 15, and also note 35 below.

³² *CG* 526-9 (my translation, following Binchy's notes; cf. Mac Neill, 'Law of status', 303 (§§124-5)). See also Meyer, *Tecosca Cormaic*, §6.14, 40, §7.19; *ST* §§9, 12, 17.

³³ *AU* 1119 (G §13). For the meaning of *ri gdamna* in this context, see §5.3.

³⁴ See Appendix 1, section 2, for examples.

³⁵ *CIH* 449.25-7, see Charles-Edwards and Kelly, *Bechbretha*, 69 (§§31-2), with notes at 123-31, in which other (later) examples from the legal corpus are cited, including those referring to Cormac mac Airt's blemish of having one eye, which forced him to leave Tara, cf. Meyer, 'The expulsion of the Déssi', *Y Cymmrodor* 14, 106-7 (§3), etc., (see §3.1. note 49 above) and *CIH* 250.13-5 (*AL* iii 85). Congal Claen's falsehood is related in *Bretha Étgid*, at 250.36 (*anfír*) and 926.5 (*gáu*) (*AL* iii 89). See also 1929.18; *ST* §55; Bergin and Best, '*Tochmarc Étaíne*', 149 (§§9-10). For the blemished king in

as a theme, for example in *Cath Maige Tuired*: 'There was a contention regarding the sovereignty of the men of Ireland between the Túatha Dé and their wives, since Níadu was not eligible for the kingship (*ar nirb' inríghae Níadoo*) after his hand had been cut off.'³⁶

The rule not to have a blemished king appears not to have been an absolute one. *Aided Fergusa maic Léti* relates how Fergus' face becomes horribly distorted from fear when he sees the monster of Loch Rudraige. As it would not be proper to have a blemished king in Emain Macha the wise men of Ireland decide not to depose Fergus, but to hide him away from the common people and other persons who might taunt him with his blemished face. Finally, after seven years he is scolded by a bond-maid, whom he kills in a rage, and afterwards he fights the monster of Loch Rudraige to the death.³⁷

Likewise, Conchobar mac Nessa reigns for another seven years with a blemished face after the calcified brain of Mes Gegra is stuck into it, thrown by the Connachtman Cet mac Mágach. The Ulstermen choose to bear his blemish, rather than risking that an operation would kill him. Conchobar is being warned that he should not get overexcited, and only when his druid tells him about the crucifixion of Christ he gets into a frenzy, and dies because of it.³⁸

In *Cath Maige Tuired* Bres is blemished by satire because of the poor entertainment he offered, 'and they did not regard him as properly qualified to rule from that time on (*7 nibo sofoltach friu di sin*).'³⁹ He asks to be allowed to extend his rule for another seven years, to which the assembly of the Túatha Dé Danann complies, as long as certain conditions are met.

the Old Testament, see *PPast* 143.

³⁶ Gray, *Cath Maige Tuired* 27 (§14).

³⁷ D. A. Binchy (ed.), 'The saga of Fergus mac Léti', *Ériu* 16 (1952) 33-48: 38/42-3 (§6-7). See *CIH* 352.25ff (*AL* i 65ff) for the incorporation of the outline of this saga in *Di Chetharslicht Athgabála*.

³⁸ Kuno Meyer (ed.), *The death-tales of the Ulster heroes*. Todd LS 14 (Dublin 1906) 2-21 for various versions. The tale here referred to, version A, is the oldest, and is summarized and discussed in *PPast* 74-5. The above two examples which give the exception to the rule are also discussed in *PPast* 123.

³⁹ Grey, *Cath Maige Tuired*, 35 (§40).

The respite of seven years given to each is certainly remarkable here, and may be connected with the period of seven years after which the allegiance to a lord was renewed (see §4.5. below). In all the three tales the blemished king is allowed to continue his rule after his vassals have taken counsel. Here it is not a legal rule or 'taboo' (*geis*) which forbids them to remain in the kingship, but their own vassals which make the decision either to accept or reject the blemished king.⁴⁰ This is probably more in line with reality, and it may also offer an explanation why kings who have a blemish are still allowed to continue their rule, without upsetting the existing customs or regulations.⁴¹

A clear example of this is formed by Brian Bóruma's son Donnchad, whose right hand was cut off in an assault in 1019, but who continued to reign until he was forced to abdicate in 1063. It is possible that Donnchad was given a dispensation by his vassals and was allowed to continue his reign because of his reputation and descent, in spite of the competition from his half-brother Tadhg, whom he killed in 1023. On the other hand, Donnchad's blemish and kin-murder may have sparked off resistance to his rule, and we can be sure it enabled his main opponent, Tadhg's son Toirdelbach, to strengthen his claims to the kingship of Munster, even though he was exiled to the court of his fosterfather Diarmait mac Maíl na mBó in Leinster.⁴²

In the annals several kings are given the epithet *cáech* ('the one-eyed'), *dall* ('the blind'), *bacach* ('the lame') or *got* ('the stammerer'), suggesting either a physical deformity or another peculiarity which could be regarded as a blemish.⁴³ Moreover, there are examples of kings not given such names, but who were still

⁴⁰ See M. Dillon (ed.), *Serglige Con Culainn*. MMIS xiv (Dublin 1953) lines 233-45 (§§21-2) for nobles choosing the king, and even the kings choosing the overking.

⁴¹ D. A. Binchy, *Celtic and Anglo-Saxon kingship*. O'Donnell Lectures 1967-8 (Oxford 1970) 10, takes the inability of a blemished king to rule to be a legal rule, but only refers to *Aided Fergusa maic Léti* for his proof, at note 20. See also Simms, *From kings*, 11.

⁴² See D. Ó Corráin, *Ireland before the Normans*. The Gill history of Ireland 2 (Dublin 1972), 133-7. *FM* 1063 records that Toirdelbach was Diarmait's fosterson.

⁴³ Simms, *From kings*, 50-1, see also *AI* 1016.5 and 1078.5. For *glúndub* (as in Niall Glúndub, king of Tara 916-9) as a physical deformation, see '*Leighes coise Chéin...*', *SG* i 296-305: 301-2 = ii 332-42: 338.

blemished, such as Donnchad mac Briain and Tigernán Ua Ruairc (+1172), who had only one eye,⁴⁴ and as the early annals hardly ever use such nick-names, it is difficult to maintain that blemished kings were automatically deposed in the early period, but that they continued to rule in the later period. The evidence suggests that a blemish could disqualify one for the kingship, but not inevitably, if the blemish did not forestall a normal rule, and the nobility and other royal members were willing to accept it.

However, for all periods the blinding of a person was a sure way to put him out of (competition for) the kingship forever without actually killing him. This is most clearly expressed in the *Annals of Connacht* on the death of Tadg Dall son of Áed son of Cathal Crobderg Ua Conchobair in 1272, who is described by the annalist as: 'the best "material of a king" (*adbar rí*) there was in his province, till he was blinded by the Uí Raigillig.'⁴⁵

Although the sources are universal in propagating the theory that a king should be blameless in form, word and deed, and that those who do not meet these requirements are unfit to rule, we have to be careful not apply this too strictly to the historical situation. The sources often express an ideal rather than a precondition for rulership. It added to a king's royal stature or *febas* if he showed those qualities the annalists and poets cultivated, but we can be sure not all the Irish kings were so good, valorous, strong and handsome as they are depicted. A serious lack in character, intellect or physical form could disqualify a person from succession, simply because it would obstruct his ability to rule and lead his people. This is expressed in a general way in the laws, but is probably more a customary and practical rule than a legal ordination by which both king and people had to abide. A candidate who lacked the royal qualities would find it hard to earn respect and receive support in any case. As in so many cases, the laws show what is proper and practical, not what is an irrevocable rule. It could not be expected that all kings had qualities such as are given to Conaire in *Togail Bruidne Da Derga*:

⁴⁴ Giraldus Cambrensis, *Expugnatio Hibernica* (Scott and Martin, eds.) 113-5 (§41).

⁴⁵ *AConn* 1272.2 (my translation). He was blinded and castrated in 1244 (*AConn* 1244.2). For *adbar rí*, see §5.2.

'There is not a fault in that man as regards form and appearance and attire, as regards stature and symmetry and proportion, as regards eye and hair and whiteness, as regards wisdom and manners and eloquence, as regards armour and apparel and equipment, as regards beauty and wealth and worth, as regards habits, heroism and family.' (*nicon fil locht and isind fir sin eter chruth 7 deilb 7 dechelt, eter méit 7 chórae 7 chutrummae, e[ter] rosc 7 folt 7 gili, eter gáis 7 álaig 7 erlabrae, eter arm 7 erriud 7 écosc, eter áni 7 immud 7 ordan, eter gnáis 7 gaisciud 7 cenél*)⁴⁶

In all, the candidate's personal and physical qualities speak for themselves once we accept that they have a practical basis, which is often expressed in customary rules and principles. No matter how excellent his birth-right, if a candidate showed great deficiencies in his mental or physical capacities, he was regarded as unfit to rule, and in this the Irish differed from the rules on the continent, where at times deformed or mentally unstable kings were running the country. All these qualities can be said to influence a person's *febas*, and this gives the notion *febta la flaith* a vague meaning, as stress could be laid on each particular qualification: descent, seniority, wealth, support, generosity, righteousness, valour and form. The law-tracts, sagas, annals and other sources are quite uniform in their opinion as to what constitutes a good king or a good successor, and taking all the qualifications together they ensure that the best man, the worthiest to rule, is chosen. The theory is a triumph of practicality, but is subsequently defeated by the practice itself. As there is no absolute right to succession according to birth-right, and as *febas* is a term which can be interpreted in many ways by laying stress on one particular quality, each candidate could make a claim to be the worthiest according to customs and regulations if such was needed. Even the possession of military might and powerful allies can be said to give one sufficient *febas* to be entitled to rule.

However, there is more to this than the countless succession struggles which seem the outcome of this vague rule of succession, as at times succession appears to have been regulated peacefully or according to some agreement between the

⁴⁶ *TBDD*, 1070-8 (§102), text as given above and translation are from *PPast*, 121, at which other examples of this kind from the sagas are given.

main contestants. We have seen that within a noble or royal family the lack of senior status can be compensated for by the number of clients the junior has in excess of the senior (§3.1), and this begs the question as to how a junior could be in a position to do so, which opportunities were offered to him to outdo his older brother or uncle, to show that he was the best candidate on account of his personal qualities, and to acquire support from his vassals and other allies. For this we have to turn to the position of the son during the lifetime of his father, taking again the situation of a king with several sons and no outside competition as our hypothetical basis.

4.3. The legal relationship between father and son.

The relationship between a father and his son is quite similar to that of a husband and his wife, which we have already discussed at §2.5. I give here an example from *Córus Béscnai*:

'The servile tenant of the lord, the dependent monastics of the church, kin deserters who are proscribed, sons, women, incapable people, deranged people, imbeciles, incompetent people, lunatics [are all] correctly one and the same: neither obvious over-payment nor disadvantageous contract nor advantageous contract is secured upon them without their truly adult [superiors] directing their contracts.'

*(Fuidri flatho, dóer-manaig ecolso, foíndledaig fine bite for airfócrú, maic, mná, baith, bailedaig, drúith, dochuinn, dásachtaig, fóenán chummu choir: ní astaither saithiud na dochor na sochor foraib cen a fírchodnachu oc forngairiu a cor)*⁴⁷

The technical term the legal texts employ to denote the son who is under the authority of his father is *mac béo-athar* ('son of a living father'), who is legally speaking *báeth* ('foolish', 'senseless', thus 'incapable'): he cannot engage in any legal transaction or fulfil a legal function; contracts made by a *mac béo-athar* are

⁴⁷ *CIH* 522.1-4 (*AL* iii 11) and 2132.6, normalized and translated in McLeod, *Contract law*, 62, as introduction to his paragraph discussing the legal capacity of sons, at 62-71. See below at note 63 for the various contracts mentioned here.

generally considered to be invalid.⁴⁸ However, not all sons whose fathers are still alive are completely dependent on their father, as *Berrad Airechta* explains:

'But there are three sons of a living father according to Irish law; i.e. the cold son and the warm son and the fully fostered son (*mac úar 7 mac té 7 mac ailte*).

The cold son; it is the latter who is cold in the manner of [his] evasion of the father so that he is refused his protection and his harbouring. ... A contract with that son, moreover, is no contract.

The second son, the warm son, that [is] the son who is in the warm care of his father (*i tesgaire a athar*) [and] under his proper control so that he has no power over foot or hand (*cos ná lám*). The latter's contract, moreover, is no contract.

The fully fostered son, he is that son allowed independence in society (*mac sóer-lécthe in sin hi túaith*) because his father allows him to do anything he wants, i.e. whether profession or husbandry. He is competent moreover to contract, save contracts which burden inheritance (*orbae*) i.e. of monastic service or base clientship (*mainche nó gállnae*).⁴⁹

The *mac úar*, *mac té* and *mac ailte* are also called *mac ingor* ('unfilial' or 'undutiful son'), *mac gor* ('filial', 'dutiful' or 'pious son') and *mac sóerlécthe* ('son allowed independence') respectively. The *mac ingor* is the son who refuses to provide maintenance (*gaire*) to his father, or is disobedient in general. The laws take the failure to provide maintenance to one's parents without justification as a serious offence, for which the father could expel his son from his lands and disinherit him, and adopt another son to maintain him instead.⁵⁰ However, a father's deeds and

⁴⁸ See the example and references given §2.5. above at note 90, and *Di Astud Chor* §57 (CIH 989.5-10) and *Berrad Airechta* §§35-6 (CIH 593.24-6), quoted in McLeod, *ibid.*, 62-3.

⁴⁹ *Berrad Airechta* §36 (CIH 593.26-34), normalized and translated in McLeod, *idib.*, 64.

⁵⁰ CIH 451.23-7 = Charles-Edwards and Kelly, *Bechbretha* 75 (§39); CIH 534.26 (AL iii 53); GEIL 102-3. For a comparison with the Welsh equivalent of the *mac ingor*, see D. A. Binchy, 'Some Celtic legal terms', *Celtica* 3 (1956) 221-31: 228-31. The annals give the example of Áed Ingor (AU 793; Meyer, '*Baile in Scáil*', 234 (§17)): 'Áed the Impious', but it does not appear that his name is related to his refusal to maintain his father. He became later known as Áed Oirdnide, 'Áed the Ordained' (+819, see G §12). The same usage is in FM 868 (vol. ii, p. 508, line 5). For the right of inheritance of a *mac ingor* and the adopted son, see §2.4. at note 82 above.

actions could give rise to a situation in which the son was legally entitled to refuse his duty. *Córus Béscnai* names as examples of a father who has disqualified himself to be entitled to maintenance: a father who hates his son, who leaves his son without land, or who forces him to become a base client (lay or monastic), due to unnecessary liabilities he incurred.⁵¹ *Di Astud Chirt 7 Dligid* states on the same topic:

'There are three contracts which a son of a living father reverses against his father and the books of Irish law do not reckon their reversal as impiety (*ingoire*) for him. [Contracts] for alienating [the] pick of [his] chattels which is capable of being a pledge from him against death, for alienating his proper land-holding, for alienating anything which is due to him from livestock and inanimate chattels so that there is nothing [left] with which he can make his living.'⁵²

For the father to alienate anything of the hereditary property or burden his heirs with debts was just as serious as the refusal of a son to maintain his father; neglect of the one could be held as a valid reason not to be given the other.⁵³ Although the law-tracts basically give the father the free hand at making contracts, when he endangers his son's maintenance by alienating land or property, the son is allowed to annul it.

The *mac gor* has a better relationship with his father than the *mac ingor*, but according to *Berrad Airechta* his contractual capacity is just as limited as the latter: 'he has no power over foot and hand (*cos ná lám*)'. Neil McLeod argues that the *mac gor* refers to a youth who has not yet completed his fosterage period, and the

⁵¹ *CIH* 534.26-9 (*AL* iii 53); 1817.22-30 (*AL* iii 63), cf. 534.10 (*AL* iii 51) and 535.30-1 (*AL* iii 55); 1381.7-9 (Smith, 'Advice to Doidin', 73/76); 1122.7-8.

⁵² *CIH* 227.7-10 (*AL* v 437), 1869.3-7, translation in McLeod, *Contract law*, 69.

⁵³ *GC* §23 (*CIH* 2195.19-23), on the disqualified 'head', and §30 (2196.18-21): the son does not have to provide *gaire* if his father made him a base client of a lord; *CIH* 536.1-22 (*Córus Béscnai*, *AL* iii 57-9). This relationship between father and son in which both parties have to fulfil their respective duties is also expressed in *Cáin Lánamna* §3 (*CIH* 504.20-5), *Di Astud Chirt 7 Dligid* (*CIH* 240.29-36, *AL* v 481), both given in McLeod, *ibid.*, 66-7, *CIH* 359.20-5 (*AL* i 91, corrupt), and *Cáin Aicillne* §58 (*CIH* 500.19-23). See §4.1. above for this rule applying to the lord and his client.

mac sóerlécthe to the fully fostered youth (cf. *Berrad Airechta*), who is older than fourteen - or seventeen, in some texts.⁵⁴ He bases himself mainly on a gloss in *Uraicecht Becc* in which the *fer midboth* is described as: 'it is the latter whose foot and hand are not restrained (*is é-side nad comathar cos na lám*)'.⁵⁵ We can even be more specific, as the *fer midboth* is divided into two categories in *Críth Gablach*, and judging from their respective description it seems that the gloss in *Uraicecht Becc* specifically refers to the 'higher' *fer midboth*; the 'lower' *fer midboth* is still in a dependent position:

'Why is this man called a *fer midboth* ('man of middle huts')? Because he has come from childhood, from the law of fosterage, and has not reached manhood. Is a particular age assigned to the *fer midboth* who swears concerning penalties? An age of fourteen is assigned. The reason he cannot maintain testimony is that he who has not already taken possession or inheritance is not capable of testimony except regarding every trifle before seventeen years, unless a free adult (*fer Féne*) maintain it with him.⁵⁶

This *fer midboth* is clearly under the supervision of an adult, and his contractual abilities are severely restricted. The *fer midboth* 'who maintains testimony' (*con-óí insci*) is allowed a measure of independence:

'Is [a particular age] assigned [to him? It is assigned] from fourteen years to twenty, to beard-encirclement. Though it be that he acquire the estate of a *bóaire* before he have an encircling beard, his oath does not avail except according to the oath of a *fer midboth*. Moreover, though he be without taking inheritance until old age, his oath still does not go beyond the *fer midboth*. His fief is five *séts*, his render a

⁵⁴ McLeod, *Contract law*, 64-5.

⁵⁵ *Ibid.*, 65 and 88, note 33 for discussion of this passage at *CIH* 665.9 = 1606.10-1 = 2325.20. McLeod rejects the emendation to *nad coimdethar* : '... he has no power over...' as suggested by Thurneysen (*Bürgschaft* 11). If Thurneysen is correct, the gloss to *Uraicecht Becc* refers to the 'lower' *fer midboth*, see below.

⁵⁶ *CG* 30-7 (with a note at p. 25); The translation is by McCone, *PPast*, 203-4.

wether with its accessories. That is the render of an *óen-chinid* ('sole kin'), a man who does not occupy possessions or land himself. ... No one is allowed to set up his house as long as he is a minor until he is capable of separate estate ownership (*sain-trebad*) and taking possessions (*gabál selb*), (and this applies to) a *fer midboth* as long as he be an *óen-chinid* except his lord be counterbound...⁵⁷

The distinction between the 'higher' and the 'lower' *fer midboth* is marked by both age and inheritance. Without an inheritance or possessions a person remains a 'lower' *fer midboth* until the age of seventeen, and afterwards becomes a 'higher' *fer midboth*, until such time that an inheritance or a fief is secured - which may only come to pass at an advanced age (see below, §4.4.). With possessions, a boy of fourteen already had the status of a 'higher' *fer midboth*, but he had to wait until the age of twenty or until beard-encirclement before he could move up in status according to his possessions.⁵⁸

As the 'lower' *fer midboth* is still dependent, without possession to give him status, his position is quite similar to that of the *mac gor*, whose limited contractual capacity can readily be explained by his young age and lack of property. As he still lives on his father's estate, we can even draw a parallel between the 'lower' *fer midboth*, the *mac gor* and the *gormac*, the sister's son or adopted son who lived on the lord's *cumal senorba* to provide *gaire*.⁵⁹

The 'higher' *fer midboth* can similarly be equated with the *mac sóerlécthe*, or the 'fully fostered son' as *Berrad Airechta* calls him. He is 'capable of separate estate ownership and taking possessions', and once he reaches adulthood he can make

⁵⁷ CG 66-73; translation by *ibid.*, 204. I have followed McCone's interpretation here. Earlier discussions are by Thurneysen, in *IR* 83-7, Neil McLeod, 'The two *fer midboth* and their evidence in court', *Ériu* 33 (1982) 59-63, and *ibid.*, 'Interpreting', 59-61. A threefold distinction of the *fer midboth*-class is made in *Uraicecht Becc* (*CIH* 706.18-22; *AL* v 87) marked by the age of fourteen, twenty and thirty, or until beard-growing (which makes the last group rather superfluous), a simplified scheme which hints at a misunderstanding of the original distinction.

⁵⁸ Bieler, *Irish Penitentials*, 127 (*Penitential of Cummin*, x, §3) and 129 (x, §5), and *Bretha Nemed* §24 (*CIH* 2213.23-4) also give the age of 20 as the age of adulthood.

⁵⁹ See §3.1. above. Of the *fuidir*, who could also live on the *cumal senorba*, is said: 'it is he [the lord] who has to pay for his trespasses i.e. of foot and hand', *CIH* 248.13, 17 (*AL* v 513, cf *IR* 63 (*Fuidir*-text §1; Thurneysen does not give this marginal gloss), which also indicates his dependence on the lord.

any contract according to his honourprice, which is derived from his property (see below). *Bretha Crólige* confirms this, as it states that from the time that children are seven years old 'they are paid *díre* according to the honour of their father or any other person fostering them up to the conclusion of seventeen years; after that they are paid *díre* according to their own deserts.'⁶⁰ It may be that in due course the age of seventeen became the legal focus-point which signified the transfer from the period of fosterage and dependence to nominal legal independence.⁶¹

On the whole, it is understandable that one is warned not to engage in contracts or legal transactions with a son of a living father: a *mac ingor* has almost no legal rights to start with, due to his unfilial behaviour, and a *mac gor* has no independent property of his own to enable him to fulfil his obligations as, for example, a surety, while contracts which could incur any debt or liabilities would be invalidated by his father, who would otherwise bear the responsibility.⁶²

⁶⁰ *Bretha Crólige* §7 (CIH 2288.6-8). *Díre* refers here to the payment made if one was injured, which for under-aged persons was related to the honourprice of their father; it is not related to contractual capacity. The text refers to the 'age of choice' (*aimser toga*) in particular, set at fourteen for girls and seventeen for boys, see CIH 1770.3-4 (AL ii 193 comm), cf. 388.33-4 (AL i 183) 1768.32; 1769.1-2 (*Cáin Íarraith*, AL ii 186); Meyer, *Betha Colmáin maic Lúacháin* 20 (§20) and *TBC* (rec. 1), 376-80. Most of these texts refer to property, and thus apply to boys in particular. See also 673.27-34 (= 682.16-23; 1363.16-24), which gives the age of seventeen at which a boy can act as a witness to contracts (*im cor 7 im cundrad*), and 28 as a witness concerning ownership (?) and land (*im rudrad 7 im ferand*). For the age of 28, note G. Mac Niocaill, 'Admissable and inadmissable evidence in early Irish law', *The Irish Jurist* 4 (1969) 332-7: 335. The end of the fosterage period is given as fourteen in *Berrad Airechta* §10 (CIH 591.35-6) and *CG* 33-4 (at note 56 above). In Gray, *Cath Maige Tuired*, 27 (§14) and 29 (§§23-4) the career of Bres is given a social context similar to the one expressed in *Críth Gablach*: Bres is chosen by the women of the Túatha Dé Danann, whose adopted son (*gormac*) he was, to be their king, although he is under-aged. He grows at a double speed, so that at the age of seven he appears to be fourteen, and he is then given the sovereignty, with seven of his maternal kinsmen standing surety; his mother gives him land on which he settles. The ruinous consequences of his rule form an antithesis of the fortunate rule of the beardless Conaire in *Togail Buidne Da Derga* (see §2.3, note 61). The period between the end of fosterage and the age of choice may be connected with *fián*-ship, see *PPast* 203-20.

⁶¹ The annals name two kings of whom we know that they were only seventeen years old when they attained the kingship: Flaithrí son of Dub Slánga (+1022 (AU); G §2) and Feidlimid son of Áed Ua Conchobair, who was sponsored by his fosterfather (AConn 1310.7, 1316.5; G §65c). Toirdelbach Ua Conchobair was only eighteen years old when he became king of Connacht (AT 1156, G §64).

⁶² *GC* §7 (CIH 2193.5-6); *Di Astud Chor* §54 (988.9-24 = 1963.17-20), §57 (989.5-10); Meyer, *Triads* §218; *GEIL* 80, 170; note 50 above. *Cáin Aicillne* §38 (CIH 491.24-5) summarizes their position in the line 'A proscribed person [without contractual freedom] is ... every son of a living father whose contract is not independent (*Is airfócrach ... cach mac béo-athar nadbi sóer a chor*), see McLeod, *Contract law*, 63. This is also expressed in *Heptads* 17-8 (CIH 17.4-19.2; AL v 183-91) and 27-32 (CIH 25.28-29.16; AL v 217-29).

As soon as the legal texts bring the difference between an advantageous contract (*sochor*) and a disadvantageous contract (*dochor*) into the discussion, the difference in legal rights between the *mac gor* and the *mac ingor* finally becomes apparent, and this is worked out in detail in a gloss in *Gúbretha Caratnia*:

'The advantageous and disadvantageous contracts of the *mac ingor* are dissolvable. The advantageous contracts of the *mac gor* are retained and the disadvantageous contracts and his over-payments are dissolvable. The advantageous and disadvantageous contracts of a *mac sóerlécthe* are retained, except three contracts i.e. monastic clientship, base-clientship, anything which burdens the kin, and his over-payments are dissolvable, etc.'

(*It taithmechtha a sochuir 7 dochuir in meic ingoir. It fastaidi sochuir in meic goir 7 i[t] taithmigthe a dochuir 7 a díubarta. It fastaide a sochuir 7 a dochuir in meic sóerlécthe acht trí cuir .i. manchi, gíalna, ní as-len fini, 7 it taithmigthe a díupart 7rl.-)*⁶³

Córus Béscnai specifies this even further as regards the *mac gor*:

'A *mac gor* annuls every disadvantageous contract against his father. He does not annul every advantageous contract. He objects even though he cannot dissolve. It is thus [with] the father against the *mac gor*: he annuls every disadvantageous contract, he does not annul every advantageous contract.'

(*Im-fuich mac gor cach ndochor ima athair. Ní imfuich cach sochor; fo-éigi ceni ro-thaithim. Is samlaid int athair frisin mac ngor, im-fiuch cach ndochor, ní imfuich cach sochor*)⁶⁴

⁶³ GC §7 (CIH 2193.7-10), normalized, and translation based on Thurneysen's, cf. CIH 536.1-11 (AL iii 57-9) and *Di Astud Chor* §1 (CIH 2040.27-8), see the discussion at note 66 below.

⁶⁴ CIH 563.1-3 (AL iii 57); norm. and transl. by McLeod, *Contract law*, 68, cf. 521.21 (AL iii 9): 'One approves of what one does not impugn (*At daim na foeige*)' (my transl.), and *Cáin Aicillne* §41 (492.34-5). The same principle is used for the division of the inheritance, see §3.1. above.

A disadvantageous contract can for example refer to the selling of land or another action which could cause the loss of hereditary property or burden the family, as we have seen above; neither father nor son can engage in such a contract on his own without the other having the right to invalidate it.⁶⁵ For examples of advantageous contracts we have to turn to the *mac sóerléithe*.

Berrad Airechta gives a remarkably independent position to the *mac sóerléithe*, who can engage in farming or take up another profession, and who is free to make contracts independently, unless they are related to monastic service and base-clientship. The gloss in *Gúbretha Caratnia* gives the same exception, while *Córus Béscnai* names the forcing of the son into base-clientship as one of the reasons for a son not to provide maintenance to his father.⁶⁶ The possible disadvantages in becoming a (monastic) base-client are connected with their possible effect on the family and their lands, as *Berrad Airechta* also states. The principal Old Irish tract on base clientship, *Cáin Aicillne*, discusses the interest of the family in one of its members becoming a base client of a lord, in which the same principle is followed as between a father and his son, a man and his wife, etc. (the *lánamain*-relationships, see §2.3):

'The kin mutually annuls [contracts] for each other. The kin members annul for each other, they swear together for each other, they lend reciprocal aid to each other, they lend reciprocal support to each other. Competent is every man of the kin who preserves his kin-land, who does not sell it, who does not alienate it, who does not secretly deplete it, who does not attack it through offences nor through contracts: he is competent to annul the contracts of his kin. Everyone annuls the contracts of his near-relatives - if it be he who assumes responsibility for their offences and their

⁶⁵ For a short but crucial discussion on *sochur*, *dochur* and *míchor* (illegitimate contract), see R. Thurneysen, 'Sochor', in John Ryan (ed.) *Féilsgribhinn Eóin Mhic Néill: essays and studies presented to professor Eoin Mac Neill* (Dublin 1940), 158-9. On contracts in general, see McLeod, *Contract law*, with detailed discussion on various types on contracts. See also note 53 above.

⁶⁶ See above, notes 47, 51 and 63. See also *CIH* 2040.33-4 (comm. to *Di Astud Chor* §1, see McLeod, *Contract law*, 80; 263/7), which includes the giving of a daughter of a base client to a son of a lordly grade as a contract that burdens the kin.

paying suretyships and their contracts and their offspring and their dealings with inherited land together with the resultant liability of care on him who has claimed [his share of] the kin land (...- *mad é ara-neastar a cinta 7 a rátha 7 a curu 7 a ciniuda 7 a ngnímu orbai co n-íardaige goire ad-ruidlecht fintiud*).⁶⁷

McLeod concludes: 'Provided a kin member behaves correctly with regard to the kin, he is entitled to step in to protect the mutual interests of the kin if they are threatened by the contract of the kin member. A contract will threaten kin interests when the potential liabilities under it exceed the resources of the contracting kin member (... his 'credit rating' as measured by his honourprice) or when the assets of the kin (usually in the form of the kin land) are directly affected by the contract.'⁶⁸

A contract of base clientship could incur these 'potential liabilities', and it is therefore a *mac sóerlécthe* (or any member of the kin) cannot enter into such a relationship without the kin's approval, as the heavy penalties (including loss of land) connected with base clientship could fall on the kin if the son could not fulfil its conditions.⁶⁹ Free clientship, which did not involve heavy penalties, and which could be terminated at any given time, did not have such risks attached to it, and was evidently not considered to be a disadvantageous contract. *Heptad* 50 gives seven examples of advantageous contracts which a *mac béoathar* could conclude:

'There are seven contracts which a son of a living father makes without his father, which the father does not reverse against his son. Even though the father should not authorize them, they are contracts [nevertheless]:

⁶⁷ *CIH* 489.8-27 (*Cáin Aicillne* §§32-3), norm. and transl. by McLeod, *ibid.*, 81. Cf. *CIH* 442.22-25 (*Díre* §35).

⁶⁸ McLeod, *ibid.*, 81. For the general principle of liabilities and responsibility, see §4.1. above and §4.4. below.

⁶⁹ See §3.3, cf. *Cáin Sóerraith* §9 (*CIH* 1777.26, 30) and 2011.10-2012.3, cf. 785.18-20 (*AL* iv 241-7). If the heirs of a base client could not fulfil their obligations towards their lord within a month, he had a right to divide their lands into three parts: one for the base client's family, one for the church and one for himself, see *Cáin Aicillne* §24 (*CIH* 486.26-487.3) and *CIH* 745.36-746.5 (= 142.34-41), both discussed in R. Thurneysen, 'Aus dem irischen Recht iii', *ZCP* 15 (1925) 302-76: 374-6.

the renting of land when there is no room on the land with the father;
 [contracts required under] the regulation of neighbour-relations on the land in which he is acknowledged;
 The purchase of an article in relation to buying equipment for his holding to the extent that it is required in husbandry;
 the purchase of joints of meat for his house until there is an abundance for coshering;
 a joint-ploughing agreement when he is not ploughing with [his] father;
 fosterage-fee with the addition of offspring;
 the proper brideprice for a primary wife of equal birth.

For the benefit of those contracts is greater than the disadvantage.'

*(Ataat secht cuir fo-cheird mac béo-athar sech a athair nach tintaí int athair ima mac; cinis forngara int athair, it cuir: fochraic thíre in tan nad talla i tír la athair; cáin comaithcheso hi tír i n-ataimther; crecc séoit; tincur a threibe do lóg ón méit ad-daimther trebud; crecc aige carnai ina thech corrici forcraid cue; comal comair in tan nad n-air la athair; íarrath la focraid cinedo; coibche théchtae fri cétmuintir comchenéoil. Ar is mó torbae inna cor sin oldaas a n-indred)*⁷⁰

The examples which are given here give us a good impression of the wide variety of transactions a son could engage in, and they suit the *mac sóerlécthe* in particular; the *mac gor* could also retain his advantageous contracts, but in view of his proposed minority and lack of possessions, it is doubtful if the contracts mentioned here apply to him. The picture given by *Heptad* 50 certainly speaks of an independent position of the son in question, with his own household and profession. He could be married, have his children fostered by others, and be the client of a lord, to whom he provided hospitality (*cóe*).⁷¹

⁷⁰ *CIH* 45.17-46.18 (*AL* v 285-7), norm. and transl. by McLeod, *Contract law*, 70.

⁷¹ For providing hospitality (i.e. feeding your lord as a form of tribute), see D. A. Binchy, 'Aimser chue', in Ryan, *Féilsgribhinn Eóin Mhic Néill*, 18-22. According to *CIH* 169.38-170.3 the honourprice of a *mac gor* was half of that of his father, and that of a *mac sóerlécthe* and any person of the father's household one-third (and of a *mac ingor* one-fourth, see *CG* 124-8), a difference which results from the greater independence of the latter, similar to the difference in honourprice between the *cétmuintir* and *adaltrach*, see §2.5., at notes 81-2 above.

Charles-Edwards argues that a father retained a great deal of authority over his son, whose unauthorized contracts he could annul in a swift way, and take possession of any property which was exchanged between his son and the other party; contracts between kinsmen without a living father were not as easy to be set aside, here negotiation was the name of the game, and if a contract was annulled, any property involved did not become automatically forfeit.⁷²

However, the example he gives to illustrate his point, unauthorized entering into base clientship, is an exception to the rule, and certainly does not represent the normal relationship between the father and the *mac sóerlécthe*. As we have seen, *Berrad Airechta* already states that the *mac sóerlécthe* can make any contract he wants, advantageous or disadvantageous, without his father's specific authorization, except contracts which may burden the kin, such as entering into base clientship. The text does not state which procedure would be followed if a son neglected this prohibition, and Charles-Edwards assumes that the rules as set out in *Cáin Aicillne* §39 apply, which considers a son of a living father to be *báeth* ('senseless'), incapable of making contracts without the authorization of his head (*cenn*). It is unlikely that this basic rule applies to the *mac sóerlécthe* as well, who was far from *báeth*, as is clear from the legal freedom he is given in other legal tracts. I think it more likely that a *mac sóerlécthe* was a full member of the kin, with his rights and entitlements based on his property and behaviour, as any other freeman. This is also understood in *Di Astud Chor*, as it names among the seven contracts which are secured after a certain interval, after which they cannot be reversed anymore: 'the contract of every *mac sóerlécthe* and of every man as against the kin-group: three days.'⁷³

⁷² Charles-Edwards, *Kinship*, 36-44, especially at 37 and 42-3. The picture given by Patterson, *Cattle-lords*, 189, in which the son is totally at the mercy of the father, which gave rise to social unrest, is certainly too negative. Note that in texts which warn not to make contracts with a son (of a living father) the glossator in almost all cases takes this to refer to the *mac ingor*. At *CIH* 704.15 the *mac sóerlécthe* is equated with the *cétmuintir* and the *bé cuitchernso* (see §2.5. above). See also note 76 below for the argument that an *ócaire* is often a young farmer who has not yet inherited; he is not described as *báeth*.

⁷³ *Di Astud Chor* §1 (*CIH* 1348.21-35). The interval for a contract of a woman without her spouse is set at 15 days, of an illicitly contracting son (*mac míchorach*) at a month, the longest possible period.

The rights of the *mac sóerlécthe* and an ordinary member of the kin are the same in this respect. If the *mac sóerlécthe* were still bound to his father as Charles-Edwards proposes, it would mean that even a man in his forties or fifties, whose father was still alive, had significantly less independence than someone who had just reached adulthood, but whose father had already died. One can imagine that this would be more likely to upset the relationship between father and son and between kin-members and lead to parricide than that it would be beneficial for and unify the kin. If we accept that the *mac sóerlécthe* had an independent status, the prohibitions for the *mac sóerlécthe* are basically the same as for any other adult member of the kin - an impression which is underlined by the description of the 'second' or 'higher' *fer midboth* discussed above, who was in the 'waiting room' to take his possessions (a fief or inheritance) and be given his own status.

This does not mean that the father lost his authority over his son, but he could not intervene in his transactions and contractual agreements at will. If a son showed grave disrespect, was disobedient and refused to maintain his father, he could still be publicly proclaimed as being a *mac ingor*, and this rendered him unable to make any contracts, he lost his right to inheritance, and was outlawed.⁷⁴ This, however, must have been a measure not lightly taken, and it is unlikely that a father had the right to proclaim his son if he did not agree with his transactions.

The term *mac sóerlécthe*, 'son allowed independence', thus seems to be a good description of his position, and, unless there were just reasons to restrict his freedom, it would seem that a son was given this status as soon as he reached adulthood and took possession of land or a fief. The legal (or customary) independent position of the son of a living father who had reached adulthood and had taken possession to a certain extent determined his position within the kindred, and as regards succession to the opportunities he had to enrich himself and exhibit his qualities as a potential leader. This provides us with a good basis from which we can continue the discussion.

⁷⁴ See *Cáin Aicillne* §§38-9 (*CIH* 491.24-36), cf. §2.5 note 90 above, and note 62 above. *CIH* 20.29-30 (*Heptad* 22, *AL* v 203-5) stipulates that a woman who begot a child on a son of a living father despite his father's prohibition (as he was proclaimed), had to rear the child herself. See §2.4 above, note 82 for the proclaimed son not being entitled to the lordship.

4.4. The son's share of the kin-land.

In order to make a living, the independent son needed a piece of land on which to settle, and a fief from a lord as starting capital, taking it that he had not yet inherited. *Heptad* 50 names among the contracts which a *mac sóerlécthe* could make without the approval of his father 'the renting of land when there is no room on the land with the father' and 'a joint-ploughing agreement when he is not ploughing with [his] father'. Apparently, it was expected that a son would remain on the land of his father to set up his new household, but if he could not do this (or did not want to), he was allowed to establish economic ties with others, and make '[contracts required under] the regulation of neighbour-relations on the land in which he is acknowledged'. It is probably assumed that such contracts were made with other members of the kin, as joint-husbandry and neighbour-relations were especially applicable to kinsmen, as is clear from *Bretha Comaithchesa* ('Judgements on Neighbourhood'):

'A question: whence grows joint-husbandry? From plurality of heirs. How is that? They first divide their shares and their holdings, and each of them fences against the other and each of them grants a precinct to the other.'⁷⁵

In matters of farming, trespassing, the collective use of a mill or plough and other 'economic' affairs, the co-operation between neighbouring kinsmen and agreements on joint-husbandry could be beneficial to all parties, and avoided each individual member having to rely on his own labour and resources to make a living. This applies especially to the lower classes of the commoners, such as the *ócaire*, who is described in *Críth Gablach* as owning 'a fourth of a ploughing outfit - an ox, a plougshare, a goad, a halter - so that he is capable of joint-husbandry, a share in a drying kiln, a mill, a barn; a cooking pot'; the more affluent commoners and

⁷⁵ *CIH* 64.18-20, translation by Charles-Edwards, *Kinship*, 47, who has a detailed discussion on the relationship between kinship and neighbourhood at 415-30; note especially the example given at 419 from the Old Irish propaganda tract *De Maccaib Conaire* (ed. Lucius Gwynn, *Ériu* 6 (1912), 144-53: 149) in which an alliance between the *Múscraige* and *Eóganacht* is explained by their neighbouring territory and (falsely assumed) bonds of kinship between their ancestors. For the re-allotment of land and making a permanent division, see §3.1. above, and below.

noblemen could normally rely on their own capital.⁷⁶

Those who engaged in neighbourhood agreements within the kindred were thus more or less forced to co-operate. This could give rise to dissension, but could also strengthen the ties of kinship, by providing mutual assistance and protection. An interesting point raised in *Bretha Comaithchesa* is that farmers of different status are still considered each other's equals in the law of neighbourhood.⁷⁷ As a son of a living father could freely make agreements of joint-husbandry as soon as he had acquired possession, this meant that his independent position (which I have proposed earlier) was matched by an equal status with his fellow kinsmen within the law of neighbourhood, which enabled him to take full part in the economic life of the family. It is unlikely that the position of sons of men of higher rank was any different in this respect: they, too, took a fief and set up their own household, probably within the lands owned by their father or the kin.

The advantage of making contracts with kinsmen was not restricted to joint-husbandry; *Cáin Aicillne*, in an important passage, expresses the beneficial nature of contracts between kinsmen in general:

'More proper is every joint-husbandry, every rent, purchase, selling, trading, contract, free clientship, base clientship [and] service with [a member of the] family, lawful according to the nearness of kinship; they mutually participate in [dealings with] offspring and liabilities and benefits and debts and resultant liabilities (?).'
(*Coru cach comsa, cach focrec, cach crec, cach rec, cach cunnrud, cach cor, cach ceilsine, cach giallnu, cach fognum fri fine teachta iar comfocus coibfine,*

⁷⁶ CG 95-7 (my translation, cf. Mac Neill, 'Law of status', 287 (§78)), compare with the *mruigfer*, CG 191-2 (ibid., 291 (§90)), who hardly has to share anything. See also GEIL 100. CG 187-9 explains the name *ócaire* as being related to: 'the youthfulness of his status because it is recent since he took [to] husbandry' (my translation). Binchy rejects this in his glossary (CG pp. 101-2. under 'ócaire'), but Charles-Edwards, *Kinship*, 361-2 argues in its favour: an *ócaire* was often (but not by definition) a young farmer who had been given a fief in land (as his share in the kin-lands would be too small) and cattle, and the description of the contracts which a *mac sóerlécthe* could make (*Heptad* 50, above) seems to confirm this.

⁷⁷ CIH 64.6-9 (AL iv 69), see Charles-Edwards, *ibid.*, 419.

ciniud 7 cin 7 somuine 7 domuine 7 iartuigiú con-teathgatur)⁷⁸

The family forms here the proper basis for all contracts and transactions, founded on mutual assistance and responsibility between kinsmen. In general, kinship solidarity and unity within the family was best served when the individual members co-operated, fulfilled their duties, and corrected defaulting members. *Heptad* 50, *Bretha Comaithchesa* and *Cáin Aicillne* all agree on the advantages joint-husbandry (between kinsmen) offered, and the latter also extends this to bonds of clientship.

From the above it seems that it was considered best for a son to receive land and become the client or vassal of the lord of the family, being his father or another kinsman. Charles-Edwards argues that 'clientship within the kindred could provide a convenient way of giving a young man the land and stock to begin farming before he had inherited in the normal way.'⁷⁹ Again, we have to presume that sons of noble birth also took their fief from within the kindred, but neither the early Irish law-tracts nor the later commentators and glossators give much information on this, they are almost secretive about the phase between a son reaching adulthood and taking an inheritance, and his ties with his father, fellow-kinsmen and lord remain obscure - perhaps another indication that the status of a son of a living father was basically the same as any other adult member of the family once he had acquired property.

The question how all these adult sons fitted into the family-lands, and if their descendants would remain there, even if they did not obtain the lordship, is one the lawyers do not care to answer in detail, although they sometimes hint at the problem. Given the Irish law by which a person's status was basically measured by his possessions in land or clients, and the custom of equal inheritance for all the sons, it stands to reason that it would only be a matter of time before a family would find that each individual could not retain the status of his forefathers. *Críth Gablach* expresses this when dealing with the *aithech ara-threba a deich*

⁷⁸ *Cáin Aicillne* §34 (CIH 490.1-4), normalized and translation based on Thurneysen's, cf. *Cáin Aicillne* §§32-3 (note 67 above), which also stresses the joint responsibility of kin-members.

⁷⁹ Charles-Edwards, *Kinship*, 362.

('base-client who farms in his tens'), one of the subdivisions of the *bóaire*-class: 'What breaks this man off from the status of *bóaire*? Because it may be that there are four or five men who are the heirs of a *bóaire* so that it is not easy for each of them to be a *bóaire*.⁸⁰

Downward mobility was a threat to the descendants of commoners and noblemen alike, and the laws see it as a duty for each freeman to increase his possessions, or, at least, not to diminish the kin-lands.⁸¹ Unlike the kin-lands, a certain share of individual acquisitions could freely be bestowed in a bequest or testament to others, such as one's offspring, thus improving their future prospects.⁸² The time of inheritance (or succession) was a crucial stage, in which the fate of a whole generation could be decided, and it is understandable that the laws pay so much attention to a person's right to the inheritance (see §2.4 and §3.1 above), a sensitive subject which could give rise to violent disputes between kin-members.⁸³

As already has been pointed out, agreements on joint-husbandry could solve some of the problems caused by fragmentation of the family-lands, and solidarity within the family or kindred was essential to make this work. This also applies to the redistribution of land of a kindred which had died out, to which the legal texts refer as *díbad* ('extinction'). When a family died out, their next-of-kin would be entitled to the largest share of their land (per adult freeman), and those further removed to a

⁸⁰ CG 129-31, translation by Charles-Edwards, *Kinship*, 351.

⁸¹ See for example §4.1 note 4 and §4.3. note 66 above. For downward mobility to the class of hereditary serfs (*senchléithe*), see §5.3. note 147ff below.

⁸² See §3.2. above. For the *maccslabrae*, the gift to one's child, see *Berrad Airechta* §9 (CIH 591.31-4), CIH 294.1-12 (AL iii 309-11), 1109.14-23, discussed at GEIL 121-3.

⁸³ Ludwig Bieler (ed.), *The Patrician texts in the Book of Armagh*, *Scriptores Latini Hiberniae* x (Dublin 1979) 149 (Tírechán 32 (1-5)), for the example of a duel by two brothers concerning their inheritance. Patrick comes with the ideal solution: he takes it all for himself. According to *Córus Béscnai* (CIH 533.17-20; 535.1-2 (AL iii 49, 53), cf. CIH 442.22-5 (*Díre* §35) (see GEIL 122-3), a person could only give one-third of his possessions to the Church, and grant one-half or two-thirds of his own acquisitions to anyone he liked. A sensible rule, as it debarred people from selfishly giving all their property to the Church or one favourite son, leaving little or nothing for other offspring or kin, which could create social unrest. See also CIH 50.1, 5-8 (*Heptad* 55, AL v 301-3): a battle for a share of the inheritance is a lawful battle, and see §2.4. note 82 above for the inheritance becoming forfeit by those who had engaged in kin-murder.

smaller part (per head of the branch) - a system already present in its basic form in the *Collectio Canonum Hibernensis*, and in the 'Kinship Poem', dated to the seventh century.⁸⁴

The division of *díbad* was connected to an equal division of liabilities (*cin*), and kinship solidarity was thus expressed in the sharing of all matters, whether profitable or non-profitable (see §2.2. and §2.5. above). In *Cáin Aicillne* it is stated that the head of the family has to be capable of dealing with these matters (ST §9). This stands to reason, not only because they are sensitive matters to start with, but also because they related to the unity within the family or the kindred. We can assume that, if certain members refused to pay for liabilities, they were not entitled to a share of the *díbad* as a result - unless the head of the kindred forced them to pay. This is not clearly expressed in the laws, but it is difficult to envisage how this system worked otherwise. I have already discussed the likelihood of the same principle being in force with the share of the *cumal senorba* (as part of the *díbad*) and entitlement to the lordship. In this way the unity within the kindred depended on the willingness of members to take responsibility for the others, to co-operate and to follow the head of the kindred.

The solidarity between members of the same family, and on a wider scale of the same kindred, which was crucial for the whole system of distribution of profits and losses, would be supported by mutual arrangements and contracts, such as joint-husbandry and clientship. The re-distribution of *díbad* within the kindred could hold impoverishment of certain members of the kindred temporarily at bay, and there is even some evidence that those with the smallest plots of land would get a larger share than those with more substantial holdings, so that the former could maintain the status of freeman as long as possible.⁸⁵

For noble kindred groups the same advantages of unity within the kindred apply,

⁸⁴ See §2.2, notes 23-4 for references, and Patterson, 'Patrilineal kinship', for a discussion of the connection between the distribution of *cró* ('wergeld') and *díbad* and the promotion of kinship solidarity by the Church and secular lords. Patterson attributes this to influence from contacts with the Vikings and other peoples, but she neglects the connection between *cin* and *díbad* already apparent in the early 'Kinship Poem'. For the relevance of *CCH* xxxii, 9 (cf. Numbers 27:8-11), see Dillon, 'Relationship', 176-8; it is translated in *PPast* 103.

⁸⁵ Discussed at *GEIL* 104. For redistribution in the later period, see Nicholls, 'Land, law and society', 18-9.

but it is difficult to establish if and how the legal scheme worked in practice. One may presume that succession struggles caused the noble kindred to split up, and the branches to go their own way sooner than happened with commoner ones, but especially in the early period the existence of large dynastic overlords such as the Uí Néill, Eóganachta and Uí Briúin testifies that bonds of kinship continued to be valued (or imposed) and to determine political relationships.

References to the re-sharing and division of kin-land (*fintiu*) among noble families in the early period are scanty and difficult to place in a proper context. For the later period the sources become more informative, which may allow us to fill in the gaps of our knowledge for the earlier period, in so far as there are obvious similarities between the two periods.

One of the most clear statements on land-partition is in a document explaining the division of lands among the O'Sullivans (Ua Súillebáin) of Beare and Bantry from 1587. I quote the relevant passage here in full, as it also refers to the demesne lands of the lord and the *tánaise*, the importance of seniority in the system, and the reasons according to which a new lord was chosen:

'The proper inheritance of land belonging to the O'Sullivans is 15 quarters, each quarter containing three ploughlands. The one half whereof was by ancient custom allotted to the O'Sullivan, lord of the country for the time being. The other half to be divided and distributed amongst the worthiest and best of the name, as cousins and kinsmen of the lord, as a portion to live on, viz., to the tanist, the best part of the said one half which is two quarters, each quarter containing three ploughlands. To the second eldest next the Tanist which is Donnel O'Sullivan the plaintiff there is allotted of the said one half, six ploughlands (that is two quarters), and so the rest to be divided among the other kinsmen.

But it is to be understood that this order was in some times altered and so ought to be according to the custom of the country, that is, according to the diminution or increase of the said name of the O'Sullivans; which alteration should be when the name would augment; then everyone's portion was diminished to give living to the newcomer; and if the name were diminished then the portion of the deceased to be divided among the outlivers. But the lord's portion which is the first half did

never alter but continue still to O'Sullivan for the time being.⁸⁶

It is difficult to judge how far back this 'ancient custom' goes, but certainly the re-distribution of the lands of a deceased member of the kin features in the early period, and is attested in various other lordships in the sixteenth century.⁸⁷

The inquisition of 1593 on the lordship of O'Callaghan (Ua Cellacháin) reports:

'The custom is that every kinsman of the O'Callaghan is to have a certain parcel of land to live upon, and no estate passeth thereby, but the lord ... like his predecessors before him who were O'Callaghans for the time being may remove him (the kinsman) to other lands [within the kin-land] according to the custom.'⁸⁸

Ó Buachalla, in discussing this re-allotment by the lord, notes that 'every kinsman' here (and probably also in the case of O'Sullivan) refers to those who are sons and grandsons of a former lord.⁸⁹ This is confirmed in a report by Nicholas Browne, son of Sir Valentine Browne, who reported in 1597 on the case of Diarmait son of Tadg Mac Carthaig, lord of Múscraige (1565-71), who had his brothers Cormac and Domnall banished, denying them a share of the land set aside for them as kinsmen of the lord. Browne writes that Cormac and Domnall 'have a right to have their shares in the country (of Muskerry) because I see the order of the Irish (where controversies are decided by their Brehons) is to give a living to every gentleman

⁸⁶ Liam Ó Buachalla, 'Some researches in ancient Irish law 4. Gavelkind in south-west Munster in the sixteenth century', *JCHAS* 53 (1948) 75-79: 78-9, quoting from the *Calendar of State Papers 1584-1587*, 363-4. Ó Buachalla states that the document appears to have been written by Donell O'Sullivan Beare (son of the previous chief Donell Crón), who was disputing the chieftainship with the current chief, Sir Eoghan, his father's brother.

⁸⁷ Liam Ó Buachalla, *ibid.*, 79, and *ibid.*, 'Some researches in ancient Irish law 3. The gavelkind mentioned by Sir John Davies', *JCHAS* 53 (1948) 1-12.

⁸⁸ Ó Buachalla, *ibid.*, 76, quoting the *Calendar of Patent Rolls of Elizabeth*, 25 October 1594, see also Butler, *Gleanings*, 84; my square brackets.

⁸⁹ *Ibid.*, 77. Note the comments made by Nicholls, *Land, law and society*, 18 and 25 note 61, referring to the discussion by Butler, *Gleanings* 80-94, on the same document; Nicholls ignores Ó Buachalla's article, but seems to affirm his conclusion.

of the sept whose fathers and grandfathers were lords of the counties.¹⁹⁰ In the genealogies of Mac Briain Ua Cunaig it is related that of the three sons of Mathgamain son of Diarmait, the progeny of Cennétig and Brian the bastard were excluded from the inheritance: 'their other brother, Diarmait son of Mathgamain son of Diarmait, never by way whether of heritage or of affinity apportioned to them a single sod of their father's or of their grandfather's land, but, according to the strict rule of inheritance, kept all in his own hands.'¹⁹¹

Although the above examples are all from the sixteenth century, deal with Munster only, and do not take variations in customs in both time and place into account, certain features can be related to the early period. The re-distribution of the *díbad* has already been discussed, and the initial re-allotment of land is discussed in my paragraph on land inheritance (§3.1). It is tempting to relate this to the three generation requirement and the 'land of father and grandfather' which often appears in the glosses to denote hereditary family-land, and which is ruled by a *flaith geilfine* (see §3.2. above). As all the examples proceed from kinsmen having a right to a share of the kin-land, and the restriction of the meaning of kinsmen in two of the cases to the *gelfine*, it makes one wonder what happened with those who fell outside the *gelfine* of the ruling lords in the fourth generation.

The solution is found in other documents from the same period, in which the descendants of a common ancestor at some stage decided to abandon the system

⁹⁰ Ó Buachalla, *ibid.*, 77. See also §5.1. below on Cormac's testament, and G §50. See also *CIH* 1619.1-1623.6 for a pleading, probably of the sixteenth century (1619 note a), involving a dispute about the lands of Mac Namara (Mac Con Mara), in which various Old Irish laws are quoted (for example the extract of *Cáin Fúithirbe* quoted at §2.2. above, see ST §29), and in which reference is made to the land of father and grandfather (1619.13; 1621.25-6 = 740.12-3) and the three generation requirement (e.g. *fri ré .iii. comarba*, at 1619.21). Kenneth Nicholls cites from a chancery bill of c. 1588, in which Shane Delamar of Culvin claimed the chieftainship, as he, by virtue of being a great-grandson of a previous chief 'is by custom enabled to be cheiftayne', see *NHI* ii, 423, note 5 (P. R. O. I., chancery pleadings, bundle E, no. 214).

⁹¹ *Caithr.* T. i, 185 = ii, 195. For their descent, see G §56a., they probably lived in the first half of the sixteenth century (see the year 1514 mentioned at i, 187 = ii, 197). The partition of the lands of Uí Chunaig by Conchobar Mór (fl. ca. 1450) is also recorded in detail. He gave two-thirds of the lands to two related branches, and one-third to himself, which he divided in smaller portions among his cousins and brothers, on conditions of service, rent and acknowledgement of his lordship and that of his heirs. His senior cousins were given an extra piece of land which had been given to Conchobar by the two other branches (i, 185-8 = ii, 195-7).

of re-allotment and make a permanent division of the land, in which each would get his own share, to be divided among his descendants henceforth. The senior would usually receive the demesne lands and compensation from his fellow kinsmen, who were to recognize him as their overlord.⁹² This system is already attested in the early text on Conall Corc and the Corco Loígde, with the variation that certain kinsmen could form a partnership (*coindelg*) and continue to re-allot among themselves.⁹³

The picture in the sixteenth century documents on the workings of the system of land-partition (called 'gavelkind' by the English) cannot be held as evidence for the same in the early period, but certain common features at least allow it to be used to gain an impression of how the system worked in its rudimentary form. It also explains the continuous branching of families from the main line which is so characteristic for the Irish dynasties in both the early and later period, another indication that the Irish system of land-partition did not go through revolutionary changes over the centuries. However, one glance at the genealogies of the noble and royal kindreds shows that some families were far more successful in setting up their own lordships than others, and this calls for an explanation.

Strictly within the boundaries of the kin-land, there is not much chance for a lineage to escape fragmentation, nor could a given son of a lord get a larger share of the kin-land than his brothers or his cousins, due to the system of re-allotment. Only when a permanent division was made the more numerous branch would see their lands become more rapidly fragmented after the next permanent division than a less numerous branch, and likewise be more in danger of declining in status.

⁹² Nicholls, *Gaelic and gaelicised Ireland*, 62-3; Mac Niocaill, 'Seven Irish documents', 49; *ALM* 348-50 and 362-4, discussed by Ó Buachalla, *ibid.*, 147-8. The re-allotment normally took place every Mayday (Beltaine), the usual day for the start or termination of contracts, a custom already attested in the early period, see *CL* §28 (*CIH* 515.15), *GC* §44 (2198.24-6), and also *Fenagh* 191.

⁹³ Hull, 'Conall Corc', 902-3 for two examples. Hull's suggestion that the brother who outlived the rest would be entitled to the whole share ('On Conall Corc', 72) is based on *CIH* 740.5-6 (part of *CIH* 739.40-740.9 which discusses *coindelg*), but this may be a particular variation. See also *CIH* 218.31 (*AL* iv 51): '*cach críche condelg*' ('to every territory its covenant'), translated by Binchy in Calvert Watkins, 'Indo European metrics and archaic Irish verse', *Celtica* 6 (1963) 194-249: 237. *DIL*, 'coindelg', does not give the examples in the text on Conall Corc.

In the competition between the sons for the succession to the headship of a common family the opportunities a son had to become wealthier than his brothers were rather limited, as the common ownership of land and common responsibilities forestalled a son's chances to make huge private profits from farming. Only after his father's death a permanent division with his brothers could be made, but at that stage it was already decided who was to be the next head of the family. A father could show his favour to a certain son by giving him a bequest or endowment, but this may not have been a usual way to influence the succession, if it could do so at all. Generally speaking, the son of a living father had to display his qualities during his father's lifetime, and unless he showed outstanding personal qualities, the normal rule of seniority was likely to apply as a customary rule to decide succession, hence: *sinser la fini*.⁹⁴

For a son of a noble or royal family the same rule that he had to make his career in his father's lifetime and before the inheritance was divided applies, but in his case the opportunities to show his worth were far better and more diverse. It should be clear from the foregoing that these opportunities were not offered by a son's share of the kin-land, they had to be found outside it. Here the role of the father becomes relevant for the son's career opportunities. Just like a common lord, a noble lord or king faced the dilemma of how to preserve unity within his kindred, and how to keep fragmentation of the lineage and decline in status of its members at bay. As they were the ones in power, they could take the initiative, dictate the rules and force them upon their subjects to guarantee that at least their own descendants and close relatives were given a comfortable living. To explain how a lord or king could achieve this, we first have to consider the power which they had over their subjects and their lands, and how they could impose their rule to promote the career of their sons.

⁹⁴ ST §1. The commentary in TSH applies this rule especially to the lordship of a common family.

4.5. The rights of the king.

For the question of a king's control over his vassals and the land they were settled on, and the role played by the king's sons in this, we have to turn to the nature of clientship and vassalage. Our information on this is severely hindered by the difference between base and free clientship as expressed in the Old Irish legal corpus, with an additional complication formed by the fragmentary state of the main text on free clientship, *Cáin Šóerraith*, and the confusion displayed by the glossators and commentators dealing with the text.

One of the main features which separates base clientship from free clientship is that with the former failure to provide the necessary food-renders and services in return for the fief in cattle or premature termination of the contract incurred serious penalties, while with the latter provision of the food-renders could be postponed until seven years, and it could be terminated at any given time, as long as the original fief was restored.⁹⁵ The services of free clientship are often of a military nature, and the bond between lord and vassal has strong political connotations.

Free clientship was normally regarded as more honourable and less demanding than base clientship, notwithstanding the higher renders a free client had to return to the lord. Normally a free client - who could be of noble status himself - had sufficient wealth to afford such high renders without unduly diminishing his capital.⁹⁶

If a base client died before he had fulfilled his obligations, his heirs had to carry them out instead; normally, the contract ended with the death of the lord. The hereditary nature of base-clientship is strengthened by its terms, which more or less certified that a base client and his heirs (who each would want to retain their status)

⁹⁵ See §3.2, and Charles-Edwards, *Kinship*, 344-6 for discussion.

⁹⁶ Charles-Edwards, *Kinship*, 356-7. See also Marilyn Gerriets, 'Economy and clientship: clientship according to the Irish laws', *CMCS* 6 (1983) 43-61, for a general discussion, and *Ibid.*, 'Kingship and exchange in pre-Viking Ireland', *CMCS* 13 (1987) 39-72, for a valuable discussion which demonstrates that the fief of the free-client was rather symbolic, especially in a political context. This question is also treated in N. T. Patterson, 'Material and symbolic exchange in early Irish clientship', *Proceedings of the Harvard Celtic Colloquium* 1 (1981) 53-61.

would remain in need of a grant in cattle as fief from a lord.⁹⁷ One may expect that a base client and his heirs would probably receive their fiefs from the same lord and his heirs.⁹⁸

This link between a base client, his heirs (sons) and the lord is also apparent in the share of compensation a lord was entitled to if his client or the client's son was killed or injured, called *forbach*. According to *Cóic Conara Fugill* and *Di Astud Chirt 7 Dligid* a lord was entitled to one third of his base client's *beocoirdíre* (*díre* for a wound which was not deadly), and one seventh of his base-client's *marbdíre* (*díre* for a deadly wound). The last figure is also given in *Cáin Adomnáin* (with the congregation of Colum Cille acting as 'lord' over the monks and women the law protected). According to *Cóic Conara Fugill* the lord was not entitled to a share of his free client's *marbdíre* at all, while the commentator of *Cáin Sóerraith* is as bewildered as ever.⁹⁹

We have to suppose that an adult, independent son of a noble lord or king would normally receive a fief from his father (if he held the lord- or kingship) as a free client; to be a base client, even within one's own family, would certainly have been unacceptable for a noble or royal son. As we have seen, bonds of clientship were regarded as best engaged in within the family (§4.4). The Old Irish law-tract *Di Dligud Raith 7 Somaíne* from *Senchas Már* distinguishes between the *finerath*, the fief of the family, and the *inerath*, a fief given to someone outside the family, but the section dealing with them appears to be missing.¹⁰⁰

⁹⁷ Charles-Edwards, *ibid.*, 357-9; In *Bretha Nemed* (of Munster origin) this is even more apparent, as each difference in grade adds one generation of service (a *bóaire* to an *aire désa* one generation, a *bóaire* to an *aire ard* two generations, etc.), see *ibid.*, 359-60 (CIH 2230.16-7, 24-35). See also §4.3, note 66 above for the debts incurred in base clientship having to be paid by the heirs, and §2.2. above for the three generation qualification in connection with hereditary clientship.

⁹⁸ *Ibid.*, 358.

⁹⁹ CIH 1039.4-7 (CCF 55 (§124)); 226.5-7; 13-6 (AL v 435 gloss); Meyer, *Cáin Adomnáin* 29 (§43); 1774.9-14 (*Cáin Sóerraith*); CG 85-6 (cf. *Cáin Aicillne* §5, CIH 1780.19-20, 29), etc. In *Cáin Sóerraith* 248, Thurneysen argues that it appears from the later glosses and commentaries that the conditions of free clientship became more tight in due course. On the lord's entitlement to a share of one-seventh of the *díbad*, the *cumal senorba*, see §3.1. above.

¹⁰⁰ CIH 432.27; 433.3; 918.1.

As to the status of the royal son under his father, I take up the suggestion made by Charles-Edwards that an *aire forgill*, the highest grade of nobleman under the king, usually belonged to a royal family; his status was higher than that of an *aire tuíseo*, the head of a noble kindred.¹⁰¹ The position of the *aire forgill* and his connection with succession will be discussed in detail in chapter 5, and for now it is sufficient to note that he had a large number of base and free clients in vassalage, which apparently went with the fief he received.¹⁰²

The question which arises is whether these clients were settled on the kin-land the royal or noble son had in his possession or inherited. From the annals and other sources we know that a royal son could be given a lordship outside the kin-lands (see §4.5. below). He did not possess the lands in question, but was as lord able to exact rent and service from the population, which gave him status, an income and support. Of course, he still owed allegiance to his father or whoever of his family would hold the kingship, but at the same time he was lord in his own right, and had every opportunity to display his abilities as future successor and to participate in politics and military campaigns. Naturally, such a lordship was not awarded to every son, and the father or head of the kin could thus exercise some control over who was to be favoured for the succession. Part of this system was the position of the heir-apparent, which will be discussed in chapter 5. To check this theory, we have to investigate by what right the king was allowed to give a part of his vassals to his son.

The power of the king over the nobility and commoners within his *túath* is expressed in *Críth Gablach*, stating that the *rí túaithe*, under the name 'king of peaks' (*rí benn*), has: 'the seven grades of the Féni with their subdivisions in clientship (*i céilsini*).'¹⁰³ Superior to the the *rí túaithe* are according to the Old Irish

¹⁰¹ Charles-Edwards, '*Críth Gablach*', 62.

¹⁰² According to CG 426 an *aire forgill* receives his fief (*taurchreicc*) from a 'great-lord' (*márfiaith*). The *aire désa* receives it from a lord (*flaith*) (343), the *aire tuíseo* from a king (391), but this distinction may not be meaningful; CG does not mention from whom the *aire ard*, the *tánaise rí*g and the king and overking receive their fief.

¹⁰³ CG 449-50.

laws on status the 'king of territories' (*rí túath*) or 'overking' (*ruirí*), who has three or four kings in vassalage, and the 'king of overkings' (*rí ruirech*), whose title speaks for itself.¹⁰⁴ The hereditary right of the overkings to have their vassal kings in clientship is nowhere stated, and their titles seem to be an indication of their achievements, which added to their status.

Later legal passages convey the same impression that the king of a *túath* is the natural lord over his vassals. In a commentary in *Cáin Aicillne* it is stated that every person receives his fief from the *flaith gelfine* - who receives his fief from the king - or directly from the king (ST §10). According to the commentator of *Cáin Sóerraith*, who offers various interpretations, one can neither decline the offer to become the free client of one's own king, nor terminate any bonds of free clientship one has with one's own king.¹⁰⁵ A free client of an external king was not bound to such restrictions, but the bonds between the two could become hereditary after three generations.¹⁰⁶ The external king apparently refers to a king who became the overlord of another king, similar to the usual scheme in the later period in which a 'king of territories' (the *ruiri* of the Old Irish texts) had at least three kings of a *túath* in vassalage, and a 'king of a province' (*rí cóiced*, synonymous with the *rí ruirech* or *ollam rí*) five 'kings of territories' (ST §41). Provided that the usual rules of free clientship apply, this would mean that the overking has no right by his title to claim the submission of vassal kings, except after three generations - a relatively long period, considering that free clientship could be terminated at will, and that it would have to be renewed after the death of the lord by his heir.

However, this does not mean that the overkings had no authority over their vassal kings. *Críth Gablach* enumerates the rights of a king over his *túatha*, the plural indicating that it refers to the rights of the overking.¹⁰⁷ He can call for 'an assembly, and a convention for enforcing authority, and a hosting to the border

¹⁰⁴ CG 444-89, etc., see GEIL 17-8 and McLeod, 'Interpreting', 59-60.

¹⁰⁵ CIH 1774.34-7 (AL ii 209), 660.16, cf. 1991.37-1992.43 (= 1323.10-1333.20 = 1044.20-6).

¹⁰⁶ CIH 965.3-10 and 1774.29-31 (AL ii 207), cf. §2.2. above.

¹⁰⁷ CG 502-29 (Mac Neill, 'Law of status', 302-3 (§120-5)).

(*óenach 7 dál do chundriug 7 tochomrac do crích*).¹⁰⁸ The overking took a pledge from his subordinate kings for attendance at hostings (*slógad*) (to protect the *túatha* and force defaulting ones into line), for ordinance (*rechtge*) (government and law-enforcement), and for treaty (*cairde*) (alliances and agreements) between two or more *túatha*.¹⁰⁹

Críth Gablach gives as examples of the *rechtgai* which are enforced by the king over his *túatha*: '*rechtge* after defeat in battle, that he may unite his *túatha* thereafter so that they may not destroy each other; and *rechtge* after a pestilence; and a king's *rechtge* such as the *rechtge* [over other kings] of the king of Cashel in Munster. For these are the three *rechtgai* [of a king] to which it is proper for a king to bind his *túatha* by pledge: *rechtge* for the expulsion of a stranger kindred (*echtarchiniuil*), for example, against the Saxons, and *rechtge* for the preparation of crops (?), and a law of religion that kindles, such as the Law of Adomnán (*recht Adamnáin*).¹¹⁰

The rights of the overking in military, political and legal matters over his vassal kings are quite considerable, and it illustrates the political developments which were taking place at around 700. In Old and Middle Irish texts on the rights of the kings of Cashel and other overkings we see this confirmed, and indeed extended, with particular attention being paid to the relationship between the overking and his vassal kings in terms of clientship and services.

¹⁰⁸ CG 503 (ibid., 302 (§120)). For discussion of the *óenach*, see Binchy, 'The fair of Tailtiu'. In 1033 Donnchad king of Osraige held the *Óenach Carmain* to demonstrate his overlordship of Leinster. In 1079 Conchobar Ua Conchobair Failgi did the same. Toirdelbach Ua Conchobair held the *Óenach Tailten*, connected with the kingship of Tara, in 1120, and his son Ruaidrí in 1168, to underline their superiority in Ireland.

¹⁰⁹ CG 509-13 (ibid., 303 (§122)), with an explanation at 514-24 (ibid., 303 (§123)). See also Mac Neill, ibid., 302, note 2, and the glossary in CG by Binchy under 'slógad', 'rechtge' and 'cairde'. In the Middle Irish text on *cró* and *díbad*, *CIH* 600.1-601.11, the over-king and his vassal-king(s) are being paid for law-enforcement in territories under their submission (*GEIL* 23). For examples of compensation exacted by the overking for the killing of one his vassals who was under his protection, see *AI* 1093, *FM* 1167, *AT/FM* 1168 (two examples).

¹¹⁰ CG 517-24; ibid., 303 (§123), from which the translation is taken, except that I have left *rechtge* ('government') untranslated, and have taken Binchy's comments on line 523-4 into account. The reference to the Saxons may be connected with the raids of the Angles in 685; the *Cáin Adomnáin* was promulgated in 697 and renewed in 727; the *Cáin Pátraic* in 737 and 767. Note the interval of 30 years in both cases.

The difference between base and free clientship as described in the legal corpus on the one hand, and the distinction made in the genealogies and other texts between rent-paying peoples and free-peoples on the other has already been discussed by several scholars.¹¹¹ In general terms, the rent paying peoples (*aithech-thúatha* or *dóerchlanna*) were bound to the overking in a similar way to a base client to his lord, with all the burdens of submission, taxation and service; their unfree status was hereditary. The free kindreds (*sóerchlanna*) were granted the same status as free clients: they had to provide a certain amount of service and assistance, mostly of a military nature, and did not pay tribute but protection-money (*cumtach*), which they could reclaim if they were not properly protected by the king. Some were exempt from accepting a fief (*rath*), and were thus not obliged to pay revenue (*somaíne*).¹¹²

It has to be remarked that not all texts are uniform in their outline, and they are not free of propagandistic or artificial constructions. Still, they give an impression of the measure of control the overking claimed or exercised over his vassal kings. The most powerful sub-kings are given a free status, with each enjoying particular privileges and entitlements, often explained by a historical event, a right to the kingship or by blood-relationship. For example, in *Frithfolad ríge Caisil* (probably from the eighth century) it is stated:

¹¹¹ Notably in Liam Ó Buachalla, 'Contributions towards the political history of Munster, 400-800 AD', *JCHAS* 56 (1951) 87-90; 57 (1952) 67-86, 59 (1954) 111-26; 61 (1956) 89-102, and Gerriets, 'Kingship and exchange'. See also the secondary literature referred to in the notes below.

¹¹² See Gerriets, *ibid.* The most important text which lists the duties and entitlements of the various ruling dynasties towards the king and vice versa is *Frithfolaid ríge Caisil fri túatha Muman* ('Counter obligations of the king of Cashel towards the peoples of Munster'), of which there are two recensions. The first is in H.2.7. (187 a27-188 b11), Lec. (52 b26-51 - imperfect) and YBL col. 339 (see J. G. O'Keeffe (ed.), 'Dál Caladbuig and reciprocal services between the kings of Cashel and various Munster states', in J. Fraser, P. Grosjean and J. G. O'Keeffe (eds.), *Irish Texts* i (London 1931) 19-21); recension two is in Lec. 192 b36-192 vb11. A summary of a conflation of the two recensions is in *IKHK* 196-9, with further discussion in the reviews of *IKHK* by Binchy, 'Irish history and Irish law II', 22-31 and by D. Ó Corráin in *Celtica* 13 (1980) 150-68: 162-3. O'Keeffe, 'Dál Caladbuig' §9 is partially translated in V. Hull, 'A passage in Dál Caladbuig', *ZCP* 30 (1967) 12-3. Dál Caladbuig §5 and §7 are translated in Gerriets, *ibid.*, 68 and 46. The background of the people after whom the tract is named is discussed by D. Ó Corráin, 'Dál Calathbuig', *Éigse* 12 (1971) 13-6. In a legal context *frithfolaid* can be used as a reason to dissolve a crime, by balancing it against a previous offence committed by the victim, see GC §33 and §52 (*CIH* 2196.29-30; 2199.25-6).

'At the end of seven years every *túath* is again entitled to their fief from the king of Munster. The Osraige are not entitled to protection payment, for there were kings of their seed, except anything the king offers to them. The Leinstermen are not entitled to protection payment from the king of Cashel, as Fáilbe Fland paid the Tribute on their behalf to the Uí Néill.'

(*Cind uii. mbliadan beos dliges cach tuath a rrath o rig Muman. Ni dlegat Ossraige cúmdach ar robetar riga da sil acht ní dafoirg in ríg doib Ni dlegait Laigin cúmdach o ri Caisil ar rohic Failbe Fland in Bórama tara cend fri hUib Neill*)¹¹³

The most powerful vassal kings who are given a free status are often related by kinship to the overking or provincial king. In *Frithfolad ríg Caisil* this applies to the kings of Uí Fídgeinte, Eóganacht Locha Léin (*rí Iarluachra*), Eóganacht Raithlenn and, in the second recension, also the Dál Cais (*rí Tuadmuman*).¹¹⁴ A later text, akin to *The Book of Rights* (ca. 1100), simply states: 'The free peoples of Cashel, moreover i.e. the Eóganacht, wherever they are in Ireland' (*Saerthuatha Caisil immorro .i. Eóganacht gach dú tát fo Erind*).¹¹⁵ Although one may expect that free status was maintained by those who were powerful enough to secure their independence from the overking, the explanation of bonds of kinship with the ruling dynasty or a (past) claim to the kingship applies even to those who are not particularly powerful, but who appear to have retained their traditional free status, or, at least, claim to do so.

This does not mean that every kindred related to the royal dynasty enjoyed a free status, but rather that this was negotiated and granted in exchange for loyalty and support. We have already discussed the fact that claims on account of seniority could result in a free status and certain privileges, and this fits in well with the overall picture (see §3.4 above). To defend such rights and secure them for the

¹¹³ O'Keeffe, *ibid.*, §16; my translation. A contract of base or free clientship normally had to be renewed every seven years.

¹¹⁴ *Ibid.*, §17. In *Fenagh* 357, concerning the rights of the king of Cenél Conaill it is stated that Clann Murchada, Clann Dálaig and Clann Domnaill have a free status 'because the kingship is their due.' (G §6)

¹¹⁵ M. Dillon, 'Three texts related to the Book of Rights', *Celtica* 6 (1963) 184-92: 186 (line 20-1).

future a measure of propaganda would do no harm, but from the two recensions of *Frithfolad ríge Caisil* it is clear that at some stage the historical reality overtook traditional privileges. We see the same happen with some of the dynasties related to the Ua Conchobair kings of Connacht: by disintegrating, by losing their power, or simply by giving their loyalty to the wrong candidate for succession, they could lose their rights, privileges and even their independence.¹¹⁶

Judging from *Frithfolad ríge Caisil*, which continually stresses the privileges of the vassal kings, the power the king of Cashel exercised over his vassal kings was not very tight, but we have to be careful to place this in its historical context. It is improbable that the kings of Munster were as powerful as their successors of the eleventh and twelfth centuries, and even from that period there are works like the *Book of Rights* which continue to elaborate on the free status enjoyed by the various noble and royal dynasties.¹¹⁷ On the other hand, the nominal rights of the king of Cashel to hostages and bonds of clientship with his vassals appear to be recognized without question, an important aspect which illustrates the gradual development towards the provincial kings regarding their province as their own *túath*, in which they had a right to the nominal submission of their vassal kings. We have seen above that the law-tracts do not specifically discuss this right of the overking, but it is a logical step from the other means of control the overking had over his vassal kings, and perhaps the 'king's *rechtge* such as the *rechtge* [over other kings] of the king of Cashel in Munster' mentioned in *Críth Gablach* (see above) refers to this.

Another early text, which is incorporated in the genealogies in Laud 610 and known under the name of 'The West-Munster Synod' or 'Mac Arddae's Synod', also regards the king of Cashel as paramount in Munster by right of his title. The text relates how the vassal kings of West Munster (*Íarmumu*), headed by the king of

¹¹⁶ See Simms, *From kings*, 2-3, 29-30, 65 (cf. 71, 84), 85, for the changes in hereditary privileges and offices in the Norman period. See also my discussion at §3.4. above.

¹¹⁷ In Dillon, *Lebor na Cert*, the free-clients have a right to *tuarastal* ('stipends', 'wages') from the overking. Accepting stipends was a sign of submission (*AI* 1011; *AU* 1080, 1084), see Simms, *From kings*, 101-4, 117-9 for discussion. For a comparison of the height of those stipends mentioned in the annals (*AU* 1166; *AT* 1166 (two entries); *FM* 1154) see for example *AU/FM* 1157; *AT* 1151, *AT* 1143 (400 cows as *éraig* for the killing of Conchobar son of Toirdelbach Ua Conchobair) and *AT/FM* 1168 (700 or 800 cows for the killing of the king of Delbna).

Ciarraige Luachra, shift their allegiance from the king of Eóganacht Locha Léin to the king of Cashel; the latter is acknowledged as the sole overking of Munster, who is even given the right to install all the kings in the province:

'... West Munster will be free by choice whatever king may be of the progeny of Oengus mac Nad Froích, and it should be he that should be king over every *túath* in Munster, and there should be no king in the North but the king of Tara, and it is he that should place a king over every *túath* in Leth Cuinn.'¹¹⁸

Here the rights of the overking are even extended beyond his province. The division of Ireland between the king of Tara who ruled over Leth Cuinn (Mide, Ailech, Airgialla, Connacht and sometimes Ulaid) and the king of Cashel over Leth Mogha (Munster, Osraige, Leinster) may 'officially' have taken place in 737, when Áed Alláin and Cathal mac Finnguine held a conference (*dáil*) at Tír dá Glass (Terryglass), on the same occasion (it seems) when the Law of Patrick was proclaimed over Ireland.¹¹⁹ Such a proclamation was the prerogative of the overking according to *Críth Gablach*, and that the two kings could apparently do this for the whole of Ireland is telling.¹²⁰ 'The West-Munster Synod' already testifies to the two kings being paramount in Ireland, while *Frithfolad ríge Caisil* includes Osraige and Leinster

¹¹⁸ *Laud* 315-7: 315. Summarized and partially translated in *IKHK* 216-8, from which the above translation is also taken. See also §3.1, note 51 above, in which the text on Conall Corc states that all Munster is to be in the hostageship of Cashel.

¹¹⁹ *AU* 737; *IKHK* 209, cf. 202-3. See also the discussion on the title of *ri Érenn* below. The names Leth Cuinn (Conn's Half) and Leth Mogha (Mug's Half) derive from Conn Cétchathach, ancestor of the Uí Néill, Connachta and Airgialla, and Eógan Mór (Mog Nuadat), ancestor of the Eóganacht of Munster (G §1), who were contemporaries according to the genealogists. The 'theory' behind the king of Ireland having all the provinces in hostageship is already expressed in the Old Irish law-tract *Míadślechta*, *CIH* 583.7-12, concerning a poem on Conchobar mac Nessa, as illustration of the highest grade of king, the *triath*, in the text. See Liam Breatnach, 'Varia VI (3): *Ardrí* as an old compound', *Ériu* 37 (1986) 192-3: 193 for the text and translation. However, only later commentators and glossators acknowledge the king of Ireland (with or without opposition) as a king with his particular legal status, rights and entitlements.

¹²⁰ See *CG* 503, at note 108 above. For kings issuing their own laws, see *AI* 1040, 1050, 1068, cf. D. Ó Corráin, 'Nationality and kingship in pre-Norman Ireland', in T. W. Moody (ed.), *Nationality and the pursuit of national independence* (Belfast 1978) 1-35: 23-4.

as territories claimed to be under the suzerainty of Cashel.¹²¹

Whatever deal was struck between the kings of Tara and Cashel, Uí Néill ambition soon destroyed the fiction. The *Bórama* legend gave the kings of Tara an excuse to exact tribute from Leinster, which they did on several occasions, and it is remarkable that this is also acknowledged in *Frithfolad ríge Caisil*.¹²² The authority exercised by the kings of Tara is amply demonstrated by Áed Oirdnide (king of Tara 797-819). After the death of Domnall, king of Mide, in 802, the *Annals of Ulster* record: 'A hosting by Áed against Mide, and he divided Mide between two sons of Donnchad i.e. Conchobar and Ailill.' This remarkable action, the first of its kind recorded in the annals, can still be seen in the context of the overking making a settlement between rival factions within the Uí Néill. However, the same annals record three years later: 'A hosting by Áed to Dún Cuair, and he divided Laigin between two Muiredachs i.e. Muiredach son of Ruaidrí, and Muiredach son of Bran.' (G §§39-40) The former king of Leinster, Finnachta son of Cellach (G §38), had submitted to Áed the previous year, and from Áed's action it is clear that the king of Leinster was treated as a disobedient vassal king who simply could be deposed, and whose hostages were given to two rival kings. Any traditional rights of the kings of Leinster in whatever context of clientship or their relationship with the king of Cashel are clearly ignored here: the kings of Tara had the power, and they had no qualms about using it if necessary.

The next step was taken by Máel Sechlainn (king of Tara 846-62), who went 'with the men of Ireland' (AU) on a hosting in Munster in 858, and obtained hostages from every corner of the province. The next year he made peace with Cerball of Osraige:

'A royal conference (*righdal*) was held at Ráith Áeda Meic Bric of the nobles of Ireland, including Máel Sechlainn, king of Tara, and Fethgna, *comarba* of Patrick, and Suairlech, *comarba* of Finnia, to make peace and amity between the men of

¹²¹ Also expressed in Hull, 'Conall Corc', 893-4.

¹²² AU 707, 722, 738; note 113 above. For the Middle Irish saga, see W. Stokes (ed.), 'The *Bórama*', RC 13 (1892) 34-124, 299-300.

Ireland, and as a result of that meeting Cerball, king of Osraige, gave his full dues to Patrick's congregation and his *comarba*, and the Osraige were alienated to Leth Cuinn (*i ndilsi fri Leth Cuinn*), and Máel Guala, king of Munster, warranted the alienation.¹²³

In effect, Osraige was cut loose from Cashel's suzerainty, and incorporated within the overlordship of the kings of Tara. The next year Máel Sechlainn led an army of the Southern Uí Néill, Leinster, Munster and Connacht to Armagh to seek battle with his rival Áed Findliath, his later successor in the kingship of Tara. Although Máel Sechlainn never received Áed's submission, his success in being the first king of Tara to take hostages from the king of Cashel, thus combining the nominal submission of both Leth Cuinn and Leth Mogha, entitled him to be named as *rí Érenn* at his death in 862 (*AU, CS*). Although Máel Sechlainn's successors were also paramount in Ireland, the title of king of Ireland was not automatically awarded to the king of Tara, he had to have held the hostages of Cashel as well, and even then partisan interest shows that the bestowing of the title was one of achievement and honour, and not one to which the king of Tara had a hereditary right.¹²⁴ One may even wonder whether titles such as 'king of Ulaid' or 'king of Connacht' (not to mention 'king of Airgialla') in the early annals are not based on the same notion, and that kings were still inaugurated as the king of their sept or kindred, rather than king of the province they claimed to rule, which may be a later development.

To keep up with the political developments, the annalists introduce the title of

¹²³ *AU* 859; I have left *comarba* ('successor') untranslated. Note the use of 'the nobles of Ireland', which indicates that the annalist considers Máel Sechlainn to be paramount in Ireland. *AU* 861 calls Gormflaith, daughter of Donnchad Midi (king of Tara 770-97), wife of Niall Caille (king of Tara 833-46) and mother of Áed Findliath '*regina Scotorum*'. The first reference to Leth Cuinn is in *AU* 748. See also §3.2. above, at note 100ff.

¹²⁴ *AU* gives the title of king of Ireland in the tenth century to Niall Glúndub (+919, called both king of Tara and king of Ireland during his life) and Congalach Cnogba (+956), *CS*, from Clonmacnoise, gives it to Flann Sinna (+916) and his son Donnchad Donn (+944). See also Jaski, 'Decline of Uí Néill', 18-22. Note that in *AU* 1013 Brian Boruma is called 'king of Ireland' and Máel Sechlainn Mór 'king of Tara' in the same entry, which shows that Brian did not usurp the kingship of Tara, he simply held the hostages of both Leth Mogha and Leth Cuinn, and therefore deserved the title. For the title *rigdamna Érenn* see §5.2. The 'high-kingship of Ireland' which is often associated with the kingship of Tara is a later notion, but often wrongly applied to this period. The title *rex Hiberniae* given to Domnall mac Áeda (+642) and his grandson Loingsech mac Aengusa (+703) in *AU* may not be contemporary, and does not reflect that these kings had succeeded in dominating Ireland.

'high-king' (*ardri*) to denote those kings who imposed their rule on territories or provinces without having an ancestral right to it.¹²⁵ By this time, the large dynastic overkingships such as the Uí Néill, the Eóganacht and Uí Briúin were dissolving and gradually making place for territorial overkingships, of which the Dál Cais (Ua Briain) and Uí Briúin Bréifne (Ua Ruairc) were the most noteworthy exponents. As early as 1106 we find the abbot of Armagh levying a tribute on Munster per *trícha cét*, a territorial unit ('thirty hundred': the muster of the territory), and not per *túath* or another division by kindred group.¹²⁶ The result of these developments was that kings now began to force their authority upon neighbouring lords irrespective of their kindred or ancestral rights, and forced them into vassalage.

The growing power of the overkings in this period has been sufficiently discussed by other scholars and the arguments need not be repeated here.¹²⁷ Their vassals appear as members of the king's household and administration and as military commanders, not unlike the vassals of the West-European feudal lords, and in similar fashion the overkings began to claim nominal territorial rights. Normally, to receive submission from a lord or king did not involve any claims to his land, and a royal son who was given clients in vassalage did not receive their lands. However, the more powerful kings had ways, both legal and illegal, to enforce their authority in such a way that land could be obtained directly, by buying it or declaring it forfeit, or indirectly, via an overlordship.

Apart from the legal ways to buy land and to claim unoccupied land the Old Irish legal texts acknowledge that land can be declared forfeit as a payment for

¹²⁵ CS 919 (?), AI 950 (Ruaidrí ua Cannanáin, contestant for the kingship of Tara, named as *ardri Conaill*), CS 956, 972, 974, 980 = AU 980 (Olaf Cuaran, the powerful king of Dublin, named as *ardri Gaill*), AU 1022, 1064, AI 1072, 1092-3, AT 1152, MA 1152, AI 1161, etc. Discussed by Ó Corráin, 'review IKHK', 153-4. For its earlier use outside the annals, see Breatnach, 'Ardri as an old compound'.

¹²⁶ James Hogan, 'The *trícha cét* and related land-measures', *PRIA* 38 (1929) 148-235. The Anglo-Normans often used the existing *trícha céts* to form their division of the land into cantreds.

¹²⁷ Ó Corráin, *Ireland before the Normans*, 120-73; *Ibid.*, 'Nationality'; Simms, *From kings*.

misdeeds or not fulfilling one's obligations as a base client.¹²⁸ This is most elaborately worked out in the introduction to the Old Irish law-tract on distraint, *Di Chetharslicht Athgabála* (see ST §53a), which contains elements of a story also found in 'The saga of Fergus mac Léti', while the events related in 'The Expulsion of the Dési' form another example.¹²⁹ In historical documents and the annals we see that this legal principle was also carried out in practice.¹³⁰

In propaganda texts this theme is gratefully exploited to explain the settlement of certain peoples in territories far from their native lands or claims to certain territories. For example, the slaying of Brión by Dathí (Nath Í) son of his brother Fiachra resulted in a large part of the lands of the Uí Fiachrach being claimed as *éraic* (wergeld) by the Uí Briúin,¹³¹ and the Osraige claimed to belong to Munster, as the land they had settled on had been given as *éraic* by the Leinstermen, who had slain Eterscél, the king of Munster.¹³² Likewise, Thomond belonged to Munster, as it had been handed over as *éraic* for the killing of Crimthann mac Fidaig by the Connachtmen, although in Connacht propaganda it is considered as theirs, which the men of Munster had conquered as sword-land.¹³³ The slaying of a third Munster king, Fergus Scandal (CS 583) also resulted in land being given as *éraic*, this time the territory of the Éile, which is mentioned in various

¹²⁸ See *Din Techtugad*, CIH 205.22-213.37 (AL iv 3-33), GEIL 186-9, and Charles-Edwards' chapter on *tellach* in *Kinship*, 259-73. The compilation *Téit an fearann a cintaib* ('Land is forfeited for crimes' is at CIH 1317.17-1319.11 (AL 265-73). For land declared forfeit for the defaulting heirs of a base client, see §4.3. note 69 above.

¹²⁹ CIH 352.25ff (AL i 65ff); Binchy, 'The saga of Fergus mac Léti'. This is dated to the eighth century at 35, but note that the three contenders for the sovereignty are called *ríghigernai*, a title current in the later period. For 'The Expulsion of the Dési', see §3.1. note 49 above.

¹³⁰ J. O'Donovan (ed.), 'Irish charters in the Book of Kells', in O'Donovan, *Miscellany of the Irish Archeological Society*, 127-58: iv (137-41); Dobbs, 'Descendants of Ir', 85; Meyer, *Betha Colmáin mac Lúacháin*, 53 (§53); FM 1072; AU 1177; AConn 1462.3, 6-7.

¹³¹ *Hy Fiachrach* 5; Ó Raithbheartaigh, *Gen. Tracts* 161 (§114).

¹³² Stokes, 'The death of Crimthann', 187 (§20).

¹³³ R. I. Best (ed.), 'The settling of the Manor of Tara', *Ériu* 4 (1910) 121-72: 155 (§33), cf. Máirín O'Daly (ed.), *Beir mo sciath, scëo fri úath*, *Ériu* 20 (1966) 191-201: 197 (§23). Another reference to swordland is at CGH 151 (142b13-9).

sources.¹³⁴

Land could also be given as a pledge, and would become forfeit if it was not redeemed.¹³⁵ In the sixteenth century it was quite common to receive cattle in exchange for a piece of land as a pledge that the cattle would be returned; if not, the land remained in the hands of the one who granted the original cattle.¹³⁶

Both the legal principle and the sagas - which blow it out of proportion - must have been known and appreciated by their royal audience. It is a small step from receiving land in atonement for a crime, or as a pledge, to demanding it when your authority is being spurned. If disobedient vassals could be banished, deposed, blinded or killed, the rights of the overking over the vassal's lands could also be imposed, with or without a valid legal excuse. Land thus received could be handed over to a loyal vassal, to a claimant to the succession who was supported by the overking, or to the overking's son.¹³⁷ In some early charters we find that grants of land to the Church are often witnessed and guaranteed by the overking, which demonstrates his interest in and control over these matters.¹³⁸ A spectacular example of an overking dealing with his enemies by depriving them of their territories is Muirchertach Ua Briain's grant of Cashel, seat of Eóganacht Caisil (Mac Carthaig), to the Church in 1093 (CS). The Church apparently accepted it

¹³⁴ Dillon, *Lebor na Cert* 86; Ó Raithbheartaigh, *Gen. Tracts* 138; For references in legal tracts, see §3.1, note 48 above.

¹³⁵ *CIH* 2004.13 (*Do breithemhnas for gellaib*), cf. *GC* §8 and §32 (*CIH* 2193.12-6, 2196.26-8); 35.19-24 (*Heptad* 37; *AL* v 251-3); 63.7-13 (*Heptad* 65; *AL* v 349-51); W. M. Hennessy (ed.), 'The Battle of Cnucha', *RC* 2 (1873-5) 86-93: 91 (from *LU*); Hull, 'Conall Corc', 904. *AConn* 1225.17 records how Inis Crema and Castlekirk island were taken as pledges from Áed son of Ruaidrí Ua Flaithbertaig by Áed son of Cathal Crobderg Ua Conchobair.

¹³⁶ Nicholls, *Gaelic and gaelicised Ireland*, 65-7; Mac Niocaill, 'Seven Irish documents', 59.

¹³⁷ See *AU* 563; *TBC* (rec. 1) 1238-43 (land offered to Cú Chulainn); *TBC* LL 4704-6 (Fergus as exile, given land by Medb and Ailill); *Cogadh* 130-1 (B version) (Áed Ua Néill demands a half of Mide and Tara as his own inheritance to aid Máel Sechlainn Mór against Brian Bóruma); Gwynn, 'De Síil Chonairi Moir', 140-1; *Fenagh* 343-5. In the late tract *Ceart Uí Néill* the Muintir Chuimne enjoy certain privileges, as they had killed Mac Lochlainn, see Myles Dillon (ed.), 'Ceart Uí Néill', *Studia Celtica* 1 (1966) 1-18: 13.

¹³⁸ O'Donovan, 'Charters in the Book of Kells' ii (131-3), vi (143-7) and also i (129). See also *AU* 804; *CS* 1093, 1101; *AT* 1127, 1143, 1156; *FM* 1148, 1157, 1176; James Mac Caffrey (ed.), *The Black Book of Limerick* (Dublin 1907) 34 (Domnall Ua Briain's grant of land of Mungret and Uí Mamnach to St. Mary's in Limerick); For other charters, see James F. Kenney, *The sources for the early history of Ireland: Ecclesiastical* (1929; repr. Dublin 1979) 768-70.

wholeheartedly, there is no indication that it was considered an illegal grant on Muirchertach's behalf.

In 1114 the *Annals of Ulster* record:

'An army [was brought] by Domnall ua Lochlainn with the Cenél nEógain and the Cenél Conaill and the Airgialla to Glenn Rige, and they drove Donnchad from the kingship of the Ulaid and divided Ulaid between Ua Mathgamna and the sons of Donn Sléibe, [reserving] Dál nAraide and Uí Echach however to himself.'

In 1159 Muirchertach Mac Lochlainn installed Donnchad Ua Máelsechlainn as king of Mide 'from the Shannon to the sea', which was followed by an alliance between Ruaidrí Ua Conchobair and Tigernán Ua Ruairc, two kings who had a major interest in Mide, of which they held parts within their overlordship. After defeating this coalition, 'Muirchertach devastated Tír Briúin and plundered Muintir Geradáin. He gave Tír Beccon, Tír Fiachach, Caille Follamain, Sodair and Finntan, which were his own lands (*dia fherann fein*), to the men of Mide.'¹³⁹

Six years later Muirchertach Mac Lochlainn banished Eochaid mac Duinnslebe from the kingship of Ulaid, but reinstated him again at the request of Donnchad Ua Cerbaill, king of Airgialla, 'and Eochaid gave him a son of every *toísech* in Ulaid, and his own daughter, to be kept by Ua Lochlainn as a hostage; and many jewels were given him, together with the sword of the Earl. He also gave up [the territory of] Bairche to Ua Lochlainn, who immediately granted it to Ua Cerbaill i.e. Donnchad; and a townland (*baile*) was granted to the clergy of Sabhall, for the luck of the reign of Mac Lochlainn.'¹⁴⁰

¹³⁹ *FM* 1159 (standardized spelling). See map 2 in Appendix 5 for the situation of Uí Beccon, Caille Follamain (G §21) and Cenél Fiachach. Sodair is situated to the east of Kells. These lands probably had been under the control of Ruaidrí and Tigernán previously. In 1157 Muirchertach had granted land near Mellifont in the same district (*FM*). In 1160 he granted 'the land of defence' (*feronn an iomchosnamha*) to Tigernán Ua Ruairc after making peace with him, which may also refer to a part of Mide.

¹⁴⁰ *AU/FM* 1165 (quoted from *FM*, standardized spelling). Bairche is situated in the barony of Mourne, south co. Down.

If the overkings could treat provincial kings in this way, it can be suspected that petty kings and lords in their vicinity were not much better off if they did not act loyally and faithfully towards their lord. Of course, the above examples show some extreme measures, which often took only temporary effect, and could only be carried out if the overking had the power to do so and was not dependent on the loyalty of the vassal whose territorial rights he violated. The nominal claim of the overking to possess all the territory within his overkingship whence he derived the right to bestow it on loyal vassals is particularly well documented in Connacht after the coming of the Anglo-Normans. Although the Anglo-Normans may have contributed to the idea that the king had absolute control over his kingdom and the lands within it, the way the successors of Toirdelbach Ua Conchobair dealt with this problem can also be seen as an extension of the powers already held by the provincial kings before that time (see §3.3. above).

Ruaidrí son of Toirdelbach Ua Conchobair, after his fall from power following the coming of the Anglo-Normans, went in 1183 on a pilgrimage, probably forced to do so by his son Conchobar Maenmaige. When Ruaidrí returned in 1185 it was in the company of Domnall Ua Briain, and both plundered the west of Connacht until peace was made between father and son, and Connacht was divided between them. A year later Ruaidrí was expelled into Munster again. The annalist ruefully remarks: 'By the contest between both the Connachtmen were destroyed. Ruaidrí, however, by the advice of the Síil Muiredaig, was again recalled, and a *tricha cé*t of land was given to him.' Conchobar proceeded to bring the rest of Connacht under his control, 'and Áed Ua Ruairc went into his house, and gave hostages to Conchobar, and gave Tír Tuathail to the Connachtmen.'¹⁴¹

After Conchobar had been slain by his own followers in 1189, the Síil Muiredaig

¹⁴¹ ALC 1186. Tír Tuathail is the part of co. Roscommon north of the river Boyle. Its lordship was given to the Mac Magnusa branch of Ua Conchobair (G §65b), and was later part of the Mac Diarmata overlordship (G §67). Another example of this kind is given in *AConn* 1257.2: 'Conchobar son of Tigernán Ua Ruairc submitted to [Feidlimid] Ua Conchobair and his son [Aed] and made peace, offering them their own choice of the territory of Bréifne. The Stone-castle on Cherry Island in Loch Garradice was yielded to them, and Áed son of Feidlimid son of Cathal [Crobderg] put a garrison in it.' Note the similarity of giving a piece of land as part of the *cumal senorba*, see §3.2. above. Ua Ruairc burned the castle later that year; Áed Ua Conchobair's reaction was to install Sitric son of Ualgarg as king in opposition to Conchobar, but his candidate was killed immediately afterwards (*AConn* 1257.5-6).

invited Ruaidrí to return, and he took their hostages, 'for the hostages that had been delivered up to Conchobar Maenmaige were on Inis Cloghran, an island in Lough Ree, at that time.' Two years later Ruaidrí was forced to leave once again, but his journey via Cenél Conaill and Cenél nEógain to the Anglo-Normans of Mide and Ua Briain of Munster to seek help to recover his kingdom was in vain. From Munster 'the Síil Muiredaig sent for him, and gave him lands i.e. Tír Fiachrach [Aidni] and Cenél Áeda na hEchtge.'¹⁴²

Politically speaking, Ruaidrí's days were over (he died in 1198), and Cathal Carrach son of Conchobar Maenmaige became now the main contestant for the kingship, which had been taken by Toirdelbach's youngest son, Cathal Crobderg. The latter held a tight control over his vassals. For example, in 1196 he expelled Ruaidrí Ua Flaithbertaig, king of West Connacht, with whom he later made peace, 'and his territory was given to him.'¹⁴³ Three years later the annals record: 'Peace was made by Cathal Crobderg and Cathal Carrach; and Cathal Carrach was brought into the country, and land was given to him.'¹⁴⁴ It is likely that these are the lands which had formerly belonged to Ruaidrí, as we see in 1200 the deposed Cathal Crobderg leading a hosting to Tír Fiachrach Aidni, to seek battle with Cathal Carrach there, which was repeated the following year, when Cathal Carrach was leading a prey to Cenél Áeda na hEchtge and Thomond (ALC). Although he claimed to be king, Cathal Carrach had not yet established his power over the Síil Muiredaig patrimony.

Cathal Carrach was slain in 1202 by the Anglo-Normans, who helped Cathal Crobderg back into the saddle after his fall from power. One of his first actions was to have his main vassals imprison Toirdelbach, son of Ruaidrí. Toirdelbach escaped the following year, 'and Cathal Crobderg made peace with him, and gave him land.'^(ALC). In 1207 'Cathal Crobderg Ua Conchobair, king of Connacht, expelled

¹⁴² *ALC* and *FM* 1183-93; all direct quotations are from *FM* (standardized spelling). For the mentioned districts, see G §61b.

¹⁴³ *ALC* 1196.

¹⁴⁴ *ALC* 1199 (= *FM* s.a. 1198). See also *AConn* 1291.7, in which Niall Gelbuide makes peace with Magnus Ua Conchobair, whom he had tried to depose earlier, 'and his land was given [back] to him in full.'

Áed [son of Ruaidrí] Ua Flaithbertaig, and gave his territory to his own son, Áed son of Cathal.¹⁴⁵ After the death of Cathal Crobderg in 1224 'Áed Ua Conchobair his son reigned after him; for he had been king in effect by the side of his father (*uair ba ri ar tothacht re lamaib a adur reme*), and already held all the hostages of Connacht.¹⁴⁶ A year later Áed faced rebellion from the two sons of Ruaidrí, Toirdelbach and Áed, aided by Áed Ua Néill. 'This was done at the instance of Donn Óc Mac Airechtaig, royal chieftain of Síil Muiredaig, who wished to revenge himself for the confiscation of his land and patrimony; and when he revolted the whole of Connacht revolted - Síil Muiredaig and West Connacht with Áed Ua Flaithbertaig - excepting only Mac Diarmata, i.e. Cormac son of Tomaltach.'¹⁴⁷ The reason for the confiscation is not mentioned in the annals, but it shows which measures could be taken to punish rebellious vassals and kinsmen - a power by which others could feel themselves threatened and which caused them to revolt. The annalist relates that 'the sons of Ruaidrí felt confidence in their own lieges (*a n-airecht fein*, lit: 'their own assembly'), having been asked to come into the country by each one separately, except Cormac son of Tomaltach Mac Diarmata with Dáuid Ua Flainn and the rest of his officers (*aes grada*).' Abandoned by his vassals, Áed sought protection from the Anglo-Normans, who were his allies 'since he, like his father before him, was liberal of wages and gifts (*tuarasdail 7 tindlaicti*) to them', and with their help he banished the sons of Ruaidrí to Áed Ua Néill in a merciless campaign which wrought destruction throughout the province.¹⁴⁸

4.6. The expanding dynasties.

The above historical narrative, in which I have concentrated on the territorial rights of the king, shows the power a king had to promote the career of his son and to

¹⁴⁵ *FM* 1207 (standardized spelling; *mac Cathail* is not translated in the ed.). See also *FM* 1051: 'Amalgaid son of Cathal [Ua Flaithbertaig], king of West Connacht, was blinded by Áed Ua Conchobair, king of East Connacht, after he had been held in captivity for the space of one year and more; after which he [Ua Conchobair] fixed his residence in West Connacht', and *AI* 1061: Áed banished Ruaidrí Ua Flaithbertaig 'and afterwards took the kingship thereof'.

¹⁴⁶ *AConn* 1224.3, see also §5.2. below.

¹⁴⁷ *AConn* 1225.4 (spelling standardized). Donn Óc was the son-in-law of Áed Ua Flaithbertaig (*AConn* 1225.16). For the dealings of Ruaidrí's sons, see §3.3. above.

¹⁴⁸ See *AConn* 1225.5-6 for the above quotations.

exclude rival claimants, thus trying to settle the succession beforehand. The attempts by Cathal Crobderg to act as the rightful 'feudal' lord of all Connacht, whose vassals merely held their lands in fief by his consent shows the feudal tendencies current in Irish politics at this stage. The annalists are confused between the granting away of lands or overlordships, but the power of the king to bestow them to ensure the loyalty of an unruly kinsman or to accommodate a future heir is telling, certainly as complete territories are handed over in this fashion. There were some dangers involved in this system: a son could become too powerful - as Ruaidrí found out - or some vassals could resent the tight control exercised over them, and eagerly support any other rival candidate for the kingship to assert their independence - as happened with Áed. A king always had to find a balance between a powerful rule, to ensure of the support of his major vassals, and to keep his rival kinsmen happy, and often these three did not agree with each other. The case above is a typical result of a dynasty which had been at the height of its power, and was now on the brink of collapse due to internal rivalry created by a huge number of possible candidates for the kingship. Toirdelbach's fertility did not do his descendants a great service, and like the rivalry between the sons of Flann Sinna, which introduced the downfall of Clann Cholmáin of Mide, and so many other examples, numerous offspring created an enormous pressure within the dynasty, and the only way to escape total fragmentation was to expand.

4.6. The expanding dynasties.

In the preceding paragraphs we have discussed the independent position of the adult son, and that, in order to acquire wealth or make a career, he had to find his opportunities outside the kin-lands. We have seen that the rights of the overkings over the territory and his vassals he claimed to rule increased in time, and that this enabled them to extend their power and to grant away territories and overlordships to loyal vassals and sons. The latter could upset the order of succession, as a king could favour his son and enhancing his chances for succession and exclude his younger brother or another relative who would normally be entitled to the succession according to his birth-right.

This process is directly related to the expansion of the main Irish dynasties. Irish history is not typified by large conquests and frequent changes in the ruling dynasties. Unlike Western Europe, vast territories and the lord- or kingships that went with them could not be obtained by marriage, and the swift way the Anglo-Normans took control of the land, occupied and settled it was simply not within the reach of even the most powerful of the Irish kings. For this, power and military might was too fragmented and spectacular achievements too temporary to bring about any revolutionary changes. Brian Bóruma is a perfect example of this phenomenon: it took him decades of exhausting raids and warfare to become paramount in Ireland, and after his death his son Donnchad had great difficulties in maintaining power even within his own kingdom. Brian's successes were strictly personal, they were certainly remarkable, upset the already crumbling political structure of the day and benefited his descendants to no small measure, but they did not establish a new, lasting rule over Ireland. It was one thing to achieve paramouncy, to consolidate it was a different thing.

The important changes which took place followed a more gradual pace, and this certainly applies to the expansion of the leading dynasties and their 'conquest' of neighbouring lands. We have discussed the increasing control of the provincial and overkings over their vassals, and the ways disobedient vassals could be punished by depriving them of their rule, or even of their lands, and that sons, kinsmen or loyal collateral branches could be favoured in the opposite manner. The annals give several remarkable instances of this, some of which have been discussed earlier on (see §3.3 above), but they often took only temporary effect; the genealogies provide us with a more stable picture, and show us those achievements which lasted beyond a lifetime.

The success or downfall of a dynasty as a whole was to a great extent connected with their ability to expand, whether their direct rule or their territories. In due course, notwithstanding warfare, epidemics, plagues, famine and other catastrophes which could reduce the number of kinsmen, a kindred-group increased in population to a degree which is for example attested among the Dál Cais: 'By about the middle of the ninth century there were some fifty distinct land-holding branches of the Dál Cais in east Clare. By the eleventh and the twelfth

centuries, excluding the ruling O Briens, who were themselves highly prolific, there were some 200 Dál Cais families in the same area, each bearing an individual surname.¹⁴⁹ The Dál Cais gradually expanded to neighbouring territories, but for those who were hemmed in between other powerful peoples, this was not always an available option. In such case the pressures from within, considering the succession and the need for preservation of status, could lead to feuds in a manner described in the *Book of Fenagh*:

'They [the Conmaicne of Dún Mór] thought their inheritance and land too confined, and their kin and blood-relations too numerous. Therefore it is that they projected a truly horrid fratricide, and breach of brotherhood, among themselves. Caillin rescued them, his own kin and co-brethren, the descendants of Conmac son of Fergus and Medb.¹⁵⁰

Caillin, the reputed founder of the monastery of Fenagh, has his timely intervention immediately followed by a series of claims to tribute, but notwithstanding this propagandistic turn of events, the use of the theme of overpopulation and its outcome is a good illustration to the matter under discussion.

As we have seen, for commoner families the opportunities to extend their lands were limited compared with the noble families, who had more power and resources either to buy or confiscate lands or rule them indirectly, and who could expand over the heads of smaller lords. In a way, this is characteristic for Irish political society throughout its history, as we can observe a gradual expansion of the most powerful lordships and a decline and even complete disappearance of the smaller ones into vassalage and base clientship, until by the sixteenth century there were only a few

¹⁴⁹ Ó Corráin, *Ireland before the Normans*, 45.

¹⁵⁰ *Fenagh* 175 (verse) and 183 (prose); another example is at *VTrip* 127, which relates that twelve sons of Amalgaid were contending for the kingship. The 24 *cenéla* in the land refused to accept a king with a nickname. See also *AI* 1027: 'Muirédach Ua Flaithbertaig besieged Cathal, son of Ruaidrí [Ua Flaithbertaig], on Inis Crema in Loch Oirbsen [now Lough Corrib], and divided his land despite him (*roind a thíre fris*).' *AConn* 1226.3: 'Domnall son of Ruaidrí Ua Flaithbertaig was killed by the sons of Muirchertach Ua Flaithbertaig after the house in which he was had been taken by them and Feidlimid son of Cathal Crobderg. A pitiful deed was that, to kill an *adbur rig Iarthair Connacht* and gain no land and no patrimony (*gan tir 7 gan duthcus*) thereby.'

major lordships left.

This development is already attested for the pre-Norman period. The most notable example is the expansion of Síl nÁedo Sláine of Brega, in the wake of the Uí Néill conquest of the Midlands. The Cianacht of Northern Brega fell victim to the descendants of Conaing (+662), whose kings began to name themselves as kings of Cianacht or kings of Cnogba (Knowth), a title still held in 789 by a king of Gailenga.¹⁵¹ Another branch of Síl nÁedo Sláine, Síl Dlútaig, likewise appropriated the kingship of Fir Cúl in the eighth century.¹⁵²

This sort of expansion could take place into territories occupied by vassal peoples, but also into lands held by kinsmen, either distantly related or only a couple of generations removed. For example, the kingship of Uí Dróna (and Trí Maige) was held by a branch of Síl Cormaic from the ninth century onwards; both belong to Uí Cheinnselaig.¹⁵³ In Osraige the family of Ua Brénainn likewise acquired the lordship over the territory of Uí Duach (G §47b). The Ua Dubda kings of Uí Fiachrach Muaide called themselves kings of Uí Amalgada and Cera, their distant cousins. One of the branches of Ua Dubda, Clann Néill, attempted to rule over the land of their cousins Clann Chaemáin, who put themselves under the protection of Mac Diarmata.¹⁵⁴ The family of Mac Gilla Cellaig deprived their distant kinsmen Ua Magna of the lordship of Uí Fiachrach Aidni and the unrelated Caenraige.¹⁵⁵

The lordship over the conquered Fir Maige Ítha, south of Raphoe, was first held by Clann Chonchobair Maige Ítha, a discarded branch of Cenél nEógain, at least until 907. A century later the kingship of the territory was in the hands of Clann

¹⁵¹ G §19. For Gormgal, *rí Cnoghba* +789 (AU), son of Éládach son of Áed Obda (+701) of Gailenga, see Lec. 224 b25 = BB 196 a19.

¹⁵² G §18. For other examples, see Ó Corráin, 'Nationality', 10 and *Ibid.*, *Ireland Before the Normans*, 30-1 (G§§ 16a, 21).

¹⁵³ G §42, also given in Ó Corráin, *ibid.* See also the article 'Raigne, Roigne, Mag Raigni', *Éigse* 13 (1969-70) 81-4, by the same author on the branches of Uí Fidgeinte (G §53), where a similar development seems to have taken place. For the 'classic example' in the Anglo-Norman period, see Nicholls, *Land, law and society*, 7-8, on Clann Mathgamna of Uí Raigillig (G §71).

¹⁵⁴ G §61, see §3.5. above, at note 125.

¹⁵⁵ *Hy Fiachrach* 63.

Domnaill, and it became the powerbase of the early Mac Lochlainn kings (G §13). When they moved over to Telach Óc, into the Ua Néill heartlands, their rivals, the lordship of Mag nÍtha passed on to Ua Gairmlegaig of Cenél Moain, whose king Niall is in 1177 named as ruler over both Fir Maige and Cenél Énna (G §10). The latter is a branch which had previously belonged to the overlordship of Cenél Conaill (G §7).

Within Síl Muiredaig the descendants of Conchobar mac Muiredaig, Clann Chonchobair, lost the lordship over their lands to the descendants of his brother Cathal (+735), and henceforth the heads of the Ua Maílbrénainn family were named as lords of Clann Chonchobair. The family of Mac Airechtaig, also known under their former name Ua Raduib, became lords of Clann Tomaltaig, another related branch which had fallen into decline (G §63).

It has to be remembered that the above examples from the pre-Norman period deal with complete lordships which are taken over, and thus form the more extreme cases. It is safe to assume that the smaller territories and lordships, which formed even an easier prey to those in power, often suffered the same fate, but they are not abundantly recorded in the annals or genealogies.

As a general rule it can be said that the most successful dynasties were the expanding dynasties. Once the expansion came to a stand-still or unity broke down, the overlordship could dissolve into smaller lordships, and internal rivalry could result in fragmentation and collapse, as the following examples show:

The early fall of Cenél Conaill and particularly of Síl nÁedo Sláine can be ascribed to internal rivalry between the major sub-kingships and sub-lordships after their initial rapid expansion. The remarkable decline of the once paramount Clann Cholmáin of Mide in the tenth and eleventh centuries has been connected with the large number of monasteries in Mide, which were large landowners with extensive immunities, and thus disabled the kings of Mide from expanding, surrounded as they were by rival dynasties which had risen to power while the descendants of the sons of Flann Sinna battled for the succession.¹⁵⁶

¹⁵⁶ *IKHK* 269; Jaski, 'Decline of Uí Néill', 133-41.

The rise of the kingdom of Uí Briúin Bréifne gives a perfect example of a dynasty rapidly expanding and establishing its lordship over surrounding territories. Its most famous member, Tigernán Ua Ruairc (+1172), controlled the whole area from the mouth of the Boyne to Sligo, and the Uí Briúin Bréifne overlordship included the lands of Cenél Chairpri, Dartraige, Conmaicne, Gailenga, Luigne, Delbna, Clann Fer Maigi and a substantial part of Mide - an impressive list.¹⁵⁷ In the wake of the success of Ua Ruairc, who even managed to claim the kingship of Connacht, their vassals, whether they belonged to Uí Briúin Bréifne or not, followed in their wake, and became powerful lords in their own right. When the limits of expansion were reached, and the Anglo-Normans began to push at their borders in the thirteenth century, internal rivalry reduced the extent of their overlordship, and their former vassals, such as Ua Fergail and Ua Raigillig, asserted their independence.

The rise of Uí Briúin Bréifne is only overshadowed by that of the Dál Cais, who likewise profited from the weakness of the kings of Mide and Cashel to bring Thomond and Ormond under their control in the eleventh and twelfth centuries. As with the former example, the vassals of the ruling Ua Briain family, both close relatives (Ua Cennétig) or further removed (Mac Con Mara, Ua Cuinn) flourished under their power, not only as kings and lords over extensive territories, but also as abbots and bishops as part of the Ua Briain ecclesiastical policy (Ua Londgargáin, Ua Conaing).¹⁵⁸

The Ua Briain overkings expelled the Eóganacht Chaisil, headed by Mac Carthaig, from their homelands to Desmond, from which the ruling family of Eóganacht Raithlinn, Ua Donnchada of Uí Echach, subsequently moved over to the west, where they replaced the ruling lords of Eóganacht Locha Léin in the course of the twelfth century. The lordship of Mac Carthaig grew to include the lands of Uí Echach, Uí Chairpri and Músraige, ruled by discarded branches, and by the sixteenth century almost all of Desmond was in the hands of one Mac Carthaig

¹⁵⁷ See Ó Corráin, *Ireland before the Normans*, 170 for a map showing the expansion of Uí Briúin Bréifne from the ninth until the twelfth century. See also G §69.

¹⁵⁸ G §§55-6 and notes. See D. Ó Corráin, 'Dál Cais, church and dynasty', *Ériu* 24 (1973) 52-63.

branch or the other.¹⁵⁹

The same tendencies can be seen among Cenél nEógain and Ua Néill for both the early and later period, and is well documented in the Anglo-Norman period for Mac Mathgamna and the newly emerged Mac Uidhir.¹⁶⁰ Katharine Simms comments on this phenomenon for the Anglo-Norman period:

'The lands and power with which the sons and brothers of a former king were endowed were often taken away from their descendants to enrich the cadets of a succeeding generation of rulers. If the son of a *mac ríogh* was to avoid this decline in fortune, then instead of holding his lands and authority as a dependant of the chief he must lay claim to his father's endowments as a separate lordship, and pass them down as the inheritance of his own branch of the family under the rule of a sectional leader, or *ceann-fine*. This development of a new sub-lordship, with its own chain of inheritance inside the main dynasty, was common enough and could involve quite small estates, but some of the most spectacularly successful examples were the new chieftaincy of Ó Néill of Clann Aodha Buidhe, set up in the mid-fourteenth century and eventually spreading to cover most of Antrim and Down; the lordship of Ó Néill of the Fewes in south Armagh; and the lordship of Clann Philib Mhéig Uidhir in western Fir Manach.'¹⁶¹

Sir Thomas Cusack, in a report written in 1543, gives the background of this: 'the father, being lord of the country, will extort the inferior and so by cavillations pluck

¹⁵⁹ G §§50-2. For the extent of the lands of Mac Carthaig, see the maps in Butler, *Gleanings*, p. viii/ix, 156/7.

¹⁶⁰ G §§7-8 (note the lordship of Muintir Peodacháin (south of Lower Lough Erne) by Mac Gilla Finnéin, a branch of Ua Maíldoraid. The flagstone of Ua Maíldoraid was situated near the mouth of the Erne, see *FM* 1200), §§9-14, §35 and §37. For the later Mac Uidhir lordship of Muintir Peodacháin and other territories around the Erne, see Katherine Simms, 'The medieval kingdom of Lough Erne', *Clogher Record* 9 (1976-8) 126-41.

¹⁶¹ Simms, *From kings*, 58-9 (without her annotation). For the three examples, see G §§14, 15, 36. Another clear example is formed by the expansion of the lordship of Mac Diarmata, of which Mac Diarmata Ruad (Coillte Conchobair), Mac Diarmata Gall (Airtech) and Mac Donnchada (Tír nAilella) ruled lordships in their own right (G §§ 66-8). Other examples can be found in the genealogical tables of the main ruling families of the Anglo-Norman period. An exception to this rule is Ua Domnaill of Tír Conaill, from which no branches are recorded which developed into separate lordships.

from him his lands, to the intent that every of his children shall have lands and possessions.¹⁶² Dubhaltach Mac Fhir Bhisigh, writing in 1650, takes this to represent a rule common in every society:

'It is a usual thing in the case of great princes, when their children and their families multiply, that their clients and followers are squeezed out, wither away, and are wasted. Take Ireland, and even the whole world if you desire, and there is no limit to all instances you will find of that.'¹⁶³

As neighbouring territories of a certain noble or royal dynasty were usually settled by kinsmen, it is not surprising that they were the first to be 'squeezed out'. For the pre-Norman period we lack explicit references to this, the annals provide us only with a global picture, but regarding the expansion of some dynasties and the creation of large territorial overlords in the early period the above comments can be used to illustrate the same process in the early period. With the coming of the Anglo-Normans the centralizing tendencies which can be seen in the eleventh and twelfth centuries were thwarted, and only when Anglo-Norman pressure subsided were the Gaelic lordships able to expand again.

Expansion and preservation of unity did not always run together, and unity was often sacrificed by the wish to care for one's offspring, and to give them each a lordship to rule, if this could be accomplished. The way a son was endowed with the lordship of a territory was by giving him the hostages of his vassals of that territory to guarantee their submission, tribute and obedience. Conchobar son of Toirdelbach Ua Conchobair was thus 'endowed' with the kingship of Mide, and he may even have been inaugurated as such.¹⁶⁴ As we have seen, some sons could acquire such a powerful position through this that they became a threat to their

¹⁶² Nicholls, *Gaelic and gaelicised Ireland*, 38, with no references. See also *ibid.*, *Land, law and society*, 7, and Butler, *Gleanings*, 36. Nicholas Browne reports: 'Theare are diuerse gentlemen that are termed freeholders in the Country of Muskry, but the lords of Muskry haue mightely tyrannised ouer them that this daie their cheife rents are as heauie as any other', Buckley, 'Munster in 1597', 67. No doubt this applied to kinsmen as well.

¹⁶³ Ó Raithbheartaigh, *Gen. Tracts*, 26.

¹⁶⁴ AT/AClon 1143, see §3.3. above.

father. The tract 'Advice to a prince' admonishes a ruler 'that, though it were your son who opposed you, he should not be spared by you.'¹⁶⁵ The same tough language is found in the tract *Cert cech ríig co réil* from *LL*, in which the king is advised to rule with a hard hand to enforce law, order and stability. Not even the king's brothers and sons are to be trusted: 'Even the brother (*bráthair*) of a king, whose hostages has been accepted, provided he possesses a dwelling, exempt no man from giving provision (*ná sóer nech ar biad*); Your brother and sons (*do bratháir sdo maic*), subdue under your own share (or: position) though they be good and honorable, until they submit to you.'¹⁶⁶

The threat kinsmen could pose to the authority of the king was a continuous danger to the unity of the kindred, and it is no wonder that the time of succession caught almost every dynasty at its weakest spot, not only because of rivalry between several major candidates, but also because the loyalty of vassals could be wavering, especially those who had been forced into submission by the former king, and who were not obliged to honour this to his heir. Bonds of clientship were personal bonds between the lord and his vassal, and only a strong dynasty with a peaceful succession could hope to keep such bonds intact over the generations.

In moments of crisis those who had been forced into submission could take the chance to rebel, or not to lend support when the overking was in need of it. Even such a dominant king as Brian Bóruma could only rely on the support of his nearest vassals to tackle the Vikings and Leinstermen in 1013-14, and at the crucial time Máel Sechlainn withdrew his armies from the battlefield of Clontarf.¹⁶⁷ Domination was often temporary, and even the attempt by Cathal Crobderg to

¹⁶⁵ O'Donoghue, 'Advice to a prince', 45/51 (§5).

¹⁶⁶ Tadhg O'Donoghue (ed.), '*Cert cech ríig co réil*', in O. Bergin and Carl Marstrander (eds.), *Miscellany presented to Kuno Meyer* (Halle 1912) 258-77: 293 (§10) and 267 (§32). The tract is ostensibly addressed to Áed Findliath son of Niall (king of Tara 863-79), but the language is of the tenth century or later. The author is said to be Fothad na Canóine, apparently a mistake, as Fothad also appears as an advisor of Áed Oirdnide (king of Tara 797-819) son of Niall, Áed Findliath's grandfather (*AU* 804.4). He died in 818, and his descent is given at *Lec.* 56 ve45, in the genealogies of Cenél Binnig of Cenél nEógain. He should not be confused with Fothúad Canainde, a *rígféinnid* from Connacht, see V. Hull, 'The death of Fothath Cananne', *ZCP* 20 (1936) 400-4.

¹⁶⁷ *Cogadh* 155 (§ 88); John Ryan, 'The battle of Clontarf', *JRSAI* 68 (1938) 1-50: 22-4. The account of Máel Sechlainn's desertion may be propaganda, but Ryan's argument that no Mide dynast is recorded among the slain in the battle remains strong enough to lend it credibility.

ensure a smooth succession by giving his son Áed all the hostages of Connacht produced the opposite effect.

In the case of a succession struggle between two or more candidates, the role of the vassals and their choice of whom to support became even more important, not only for the outcome of the struggle, but also for the position of the vassal himself: supporting the wrong candidate could have unpleasant consequences (see §4.4. above). Major upheavals in the succession of the overkingdoms could result in the rise or fall of the fortunes of kings and lords alike, as is for example illustrated by the struggles for the kingship of Tara in the tenth century, and the subsequent rise of Brian Bóruma, which upset the traditional bonds of clientship and vassalage between the old dynasties and their vassals, and saw the establishment of new bonds and alliances, contributing to a considerable and violent shift in the existing political structures which was taking place at the time.¹⁶⁸

The support of one's vassals was crucial for any candidate to succeed or king to rule. The law-tracts acknowledge the right to have the lord declared to be disqualified, and if vassals cancelled their allegiance a king would find it impossible to rule.¹⁶⁹ A perfect illustration of the power of the major nobility over the king is given in 1123: 'Ua Mathgamna, Ua Súillebáin, Ua Caeim, Ua Muirchertaig and Ua Fáeláin deposed Tadg son of Muiredach Mac Carthaig; and Cormac son of Mac Carthaig, his own brother, took the kingship from them in his presence.' Three years later 'Cormac son of Mac Carthaig was deposed by the nobles of Munster (*AI*: 'by the Munstermen themselves'), and he went to Lismore on a pilgrimage...'¹⁷⁰

In 1158 Ua Ciarda of Cenél Chairpri and Síol Rónáin of Tethba made an unsuccessful attempt to set up Donnchad Ua Máelsechlainn as king of Mide in opposition to the latter's brother Diarmait, who was himself deposed in 1168 'by the people of East Mide' (Brega) because he had been responsible for the levying of

¹⁶⁸ Jaski, 'Decline of Uí Néill', 194-206.

¹⁶⁹ See above, §4.1, note 18.

¹⁷⁰ *MA* 1123.2; 1126.5; *AI* 1127.2 (changed spelling). According to *AI* 1123.6 Tadg was sick, and therefore deposed. This example is also given in Simms, *From kings*, 44, who gives at 44-5 several examples from the annals. A good example for the Anglo-Norman period is given at *AConn* 1343.13. For the important role given to the kings' major vassal at the inauguration ceremony, see Simms, *ibid.*, 29-30. See also §4.1. above.

more than 700 or 800 cows as compensation for his killing of the king of Delbna.¹⁷¹ The annals record in 1186 the deposing of Domnall son of Áed Mac Lochlainn by a section of the Cenél nEógain of Telach Óc, who subsequently installed an outsider, Ruaidrí Ua Flaithbertaig, in the kingship.¹⁷²

Many more examples of this kind could be given, and it gives the impression that every time a king was deposed, whether by his son, cousin, uncle or otherwise, this happened with the support of all or a part of the ruling nobility of the territory, or with external support. Áed Muimnech, the illegitimate son of Feidlimid, son of Cathal Crobderg, provides a perfect example of a king helped to the throne by external aid and through the discontent of the major vassals of Connacht with their previous ruler (see §2.4 above). However, in general it seems that a royal or noble son had to take the opportunities which were offered to him during his father's lifetime, and the best way to do so was from a certain territory he possessed or ruled, and which could even remain in the hands of his descendants if he or they did not succeed in the overkingship.

Expansion was primarily the business of cadet branches, but as is clear from a glance at the genealogical charts, this was not always evenly divided per individual or per generation. As has already been explained, a lord could not hope to get his main income from his share of the kin-lands, unless it was very large: it had to come from his lordship, his control and taxation of those he held under his submission, and from which he could attempt to make territorial acquisitions. Kings such as Muirchertach Ua Briain, Toirdelbach Ua Conchobair and Muirchertach Mac Lochlainn certainly did not rely on the income of their patrimonial or demesne

¹⁷¹ *FM* 1157, *AT/FM* 1168.

¹⁷² *ALC* 1186, wrongly translated in *FM* 1186. See also *ALC* 1178, which records the instalment of Ruaidrí as lord of Cenél Moain, after their ruler had been deposed. See the notes to G §13 for the discussion of his descent. It was not unusual to elect an outsider as king to resolve the competition between various factions. This was usually a remote kinsman, but unrelated kings of famous descent or reputation could also be chosen, such as the two sons of Lorcán son of Donnchad son of Brian Boruma, who were kings of Telach Óc in the end of the eleventh century (G §56a, see notes for references), and Donnchad Ua Cerbaill, 'to whom was offered many times the kingship of Cenél nEógain' (*MA* s.a. 1167.5 = 1168). Perhaps we have to see the kingship of Ireland given to Brian Ua Néill in 1258 and Edward Bruce in 1315 (*AConn*) in a similar light.

lands.¹⁷³ It therefore follows that those who did not get awarded with a lordship were normally out of the competition after a few generations. This is why most of the royal sons do not leave any descendants worthy of notice after one or two generations, and we can assume that they fell into rapid decline afterwards as petty landholders. To this situation the three generation requirement applies, an unappetizing prospect for any ambitious member of a noble or royal kindred.

If the father was successful in acquiring land and lordships for his sons a more complicated situation ensued. It was up to the father to divide his additional acquisitions (which he could grant away himself, unlike the kin-lands) among his sons, but here the principle of an equal division does not seem to have been a rule. Some sons are endowed with large and important lordships or overlords (often the senior, see §§3.3-4), other sons had to be content with less.¹⁷⁴ Those with the smaller lands and lordships never managed to rise to significance, and would eventually be swallowed up by their more powerful kin, although a few disappear to the background, only to re-emerge after several generations during which they had consolidated their rule.¹⁷⁵ Of those sons who had been given a substantial territory to rule not all were successful. A son could be given a temporary rule over a lordship, which he could not pass over to his descendants when he died, or which was taken away from them by the overlord.¹⁷⁶ Finally, there are those who managed to set up their own lordship under its own head, and keep it or extend it to such a degree that it became an important additional lordship under the

¹⁷³ For the crucial control over the wealthy Viking towns by royal sons, see §5.4. at note 188 below.

¹⁷⁴ For an uneven bequest, see Ní Shéaghdha, 'Rights of Mac Diarmata', 159/165: 'And when Mac Diarmata, namely, Tomaltach na Cairrge died, ... he bequeathed his entire patrimony to his two sons, namely, Cormac, from whom the kingship [of Mag Luirg] is descended and Donnchadh, from whom Clann Donnchaidh [lords of Tír nAilella] is descended' (my square brackets; see G §66). For *Timna Chathair Mair*, see §3.2. In 1086 Toirdelbach ua Briain divided Munster in three parts (probably Thomond, Ormond and Desmond) among his three sons, of whom Tadg died within a month, while Muirchertach banished Diarmait (CS), see §5.4. below.

¹⁷⁵ Primary examples are Clann Mailruanaid (Mac Diarmata) (G §66), Mac Mathgamna of Corco Baiscinn (§56), and the descendants of Brian Luigneach son of Toirdelbach Ua Conchobair (§65e). The descent of some of these re-emerging dynasties is suspect, for example that of Mac Mathgamna of Fernmaige (§35) and Mac Uidhir of Fir Manach (§37).

¹⁷⁶ See for example the two sons of Toirdelbach Ua Conchobair, Domnall Mór Midech, discussed at §5.4 below, and Conchobar (see §3.3 above).

nominal headship of the main dynastic line. Its free status could be respected in exchange for loyalty and support, for giving up their claims on account of seniority (see §3.3 above), or for their powerful position. By then, the dynasty as a whole has expanded its rule over neighbouring territories, and the 'native' lords had to acknowledge their reduction in power as one more layer was added between the pyramid between lord and vassal; others were completely deprived of their rule.¹⁷⁷

By his endowments a king could appoint, for example, one son to take a large and important lordship, while others were not so generously endowed, thus more or less regulating the succession beforehand. Such major and minor lordships given to sons could upset the political balance of power, to the detriment of his brothers and cousins. It stands to reason that the increasing power and rights of the overkings as described above affected the position of the royal sons and therefore the whole system by which succession was regulated in the overkingships. In the larger Gaelic lordships the successor is in almost all cases a son of a former king or lord, and exceptions to this rule are often the product of external intervention or appointments by the Anglo-Normans or Gaelic overlords.¹⁷⁸ Polysegmental dynasties and dynastic overkingships in which several branches continue to compete for the succession are rare in this period, and were perhaps the result of particular circumstances, especially from an equal division of the kin-lands and/or external lordships among various brothers.¹⁷⁹

Normally the succession was restricted to the family which held the lord- or kingship, and play of faction and the balance of power determined whether a king could secure the succession for his son, or whether brothers or cousins could successfully assert their claim founded on the traditional rules of succession - a problem already apparent in the early period. In the tension which could result from such a competition the position of the heir-apparent is of importance, and this

¹⁷⁷ For example, *AConn* 1274.10-1 records the death of Cathal Mac Flannchaid, the hereditary lord of Dartraige, and of Máel Sechlainn son of Amlaíb Ua Ruairc, king of Dartraige and Clann Fer Maigi, head of one of the Ua Ruairc branches.

¹⁷⁸ G §§8, 14a-b, 23, 35, 37, 43, 45, 52, 57, 65a-e, 66-7, 68, 69-70, 71, 73, 75, 76.

¹⁷⁹ G §§75, 76.

brings us to the titles of *rígdamna* and *tánaise rí*, and how the traditional rules worked beyond one generation.

5.1. Succession

In the previous chapters the various candidates who determined succession were discussed. The rules of succession were based on a male line of descent and seniority, and the personal qualities, wealth, capabilities, with a strong relationship between the two. A specific right to succession does not seem to have existed beyond the customary procedure for the king to succeed the king. The exception to the rule which normally makes the one who is best qualified the main candidate for the throne - even if he is the king - made competition open to anyone who could count on the support of the nobility or neighbouring kings. In some cases the nobility or overkings could take matters into their own hands and set up a ruler themselves to suit their interests. In that way succession could become political and military affairs subject to external influences, and the annals give the impression that this was especially the case in overkingships and provincial kingships.

However, even if the succession was determined by the traditional rules, complications could arise within a few generations. We have discussed how the three-generation requirement excluded those who had not held the throne for three successive generations, a theory with a practical foundation, as without the background of nobility, one usually missed both the dignity and the wealth to remain qualified for it.

Those who were qualified for succession as regards descent could still form an extensive group, especially when several brothers succeeded one another. A glance at the genealogical tables shows how certain kings could have an enormous amount of property - boosted by polygamy - and this often shows only the tip of the iceberg. The question arises how the traditional rule of succession would work after one generation had died out and a selection had to be made among the numerous candidates of the next one.

In our discussion of seniority we have seen examples which show that seniority between cousins and relatives who were further removed was not simply measured

CHAPTER 5: THE HEIR-APPARENT

5.1. Alternation

In the previous chapters the various components which determined someone's suitability for the lord- or kingship have been established: a man's birthright (descent and seniority) and his personal qualities (wealth, capabilities), with a strong relationship between the two. A specific *right* to succession does not seem to have existed beyond the customary preference for the senior to succeed the junior. The exception to the rule which ultimately makes the one who is best qualified the main candidate for the lordship - even if he is the junior - made competition open to anyone who could enroll to the support of the nobility or neighbouring kings. In some cases the nobility or overkings could take matters into their own hands and set up a ruler themselves to suit their interests. In this way succession could become political and military affairs subject to external influences, and the annals give the impression that this was especially the case in overkingships and provincial kingships.

However, even if the succession was determined by the conventional rules, complications could arise within a few generations. We have discussed how the three generation requirement excluded those who had not held the lordship for three successive generations, a theory with a practical foundation, as without the background of rulership, one usually missed both the dignity and the wealth to remain qualified for it.

Those who were qualified for succession as regards descent could still form an extensive group, especially when several brothers succeeded one another. A glance at the genealogical tables shows how certain kings could leave an enormous amount of progeny - boosted by polygamy - and this often shows only the tip of the iceberg. The question arises how the traditional rule of succession would work after one generation had died out and a selection had to be made among the numerous candidates of the next one.

In our discussion of seniority we have seen examples which show that seniority between cousins and relatives who were further removed was not simply measured

by one's age, but rather by the seniority of one's ancestors and the dignity of one's family (see §3.3 above). This rule of relative seniority and dignity results in the principle of alternation between two or more branches of one dynasty in the succession of a lord- or kingship, and in its theoretical form it is explained in *Córus Béscnai* in its discussion of succession in the abbotship.

The text of *Córus Béscnai* mentions two kindred-groups which have the best claim to the abbotship: the kindred of the patron saint (*fine érluma*) and the kindred to whom the land belongs on which the monastery is situated (*fine griain*). The extensive glosses explain that 'the *fine érluma* shall succeed to the church as long as there shall be 'makings of an abbot' (*damna apad*) of the *fine érluma*; even though there should be but a psalmsinger of them, it is he that will obtain the abbacy.'¹ If there is within the *fine érluma* no *damna abbad*, a person fit to take the abbotship, the *fine griain* is entitled to the abbotship until such time the *fine érluma* produces a person who is *damna abbad*. This candidate first has to wait his turn to take the abbotship, unless he is better (*masa ferr*) than the abbot from the *fine griain*, for example, when the resident abbot has disqualified himself (*anfolta*), or when he is better in the same way that a junior is worthier than the senior and takes precedence.² If a kindred does not claim their right to the abbotship for a period of prescription (*iubaile*) they forfeit it.³ The *fine érluma* and *fine griain* form in this way the top of the hierarchy of eight different groups and persons who are entitled to the abbotship where there is no *damna abbad* among those with a better claim.

For the succession to the abbacy within the kindred the text gives the following rule: 'it (the office) does not make a circuit upon the branches of the kindred unless God should give it to one of them in particular, but he is chosen and appointed according to excellence (*febas*).'(ST §8) Charles-Edwards points out that the

¹ *CIH* 1820.8-10. Translation based on *AL* iii 73.

² *CIH* 1820.10-2 and 1929.6-9 (*AL* iii 74-5 note 3).

³ *CIH* 1929.10-11; 904.28-30 (*AL* iii 74-5 note 3). For *iubaile*, see ST §29, it may refer to the three generation requirement, but further information is lacking.

principle of a "circuit upon the branches" (*cúairt for gabla fine*) is rejected - *febas* is preferred as a selection criterion - and applies only when "God should give it to one of them in particular" by lot-casting, which is only introduced when there are candidates of equal excellence (*comadbar*).⁴ If there is a person of better "material" (*adbar is ferr*) or when there is a no *damna abbad* among the other branches, lot-casting or a "circuit upon the branches" does not take place.

The stress upon *damna abbad* (or *adbar abbad* in one parallel passage)⁵ can be found throughout this section in *Córus Béscnai*, and shows the author's concern that the person to attain the abbacy has to be qualified for the office. His descent is what counts first, the *fine érluma* having the strongest claim as long as they have a member who is *damna abbad*. If there are several candidates within a kindred the one who is best qualified should take the abbacy. If two or more branches within a kindred produce equally worthy candidates they take turns in the abbacy, which results in the "circuit upon the branches".

The text in *Córus Béscnai* does not relate this principle to succession in the kingship, but in the Succession Tract (§8) the last sentence states that 'it is then according to excellence of standing that it goes to the branch to which the kingship belongs; it is he who goes into it i.e. he who is best within the branch.'⁶ The analogy between abbatial and royal succession which is entertained here is not only interesting because the principle of alternation is said to apply in both cases, the terminology used in *Córus Béscnai* also deserves attention. According to *Córus Béscnai* a branch can only claim the abbacy on the grounds that they have someone who is *damna abbad* or *adbar abbad* among their ranks, and if we apply this to the kingship only a person who is *damna rí* (or *rígdamna*) or *adbar rí* can

⁴ Charles-Edwards, *Kinship*, 97, esp. note 29, cf. *CIH* 904.35 for the casting of lots, and 1821.27 = 1289.14-5 (ST §8) for '*coitcennus 7 comadbar*'.

⁵ *CIH* 93.16, cf. 1821.9-13.

⁶ Cf. Charles-Edwards, *Kinship*, 97. He does not consider the possibility that this is a later addition, perhaps even by Domhnall Ó Duibhdábhoirenn, but as the principle of alternation in the kingship is also attested in several early literary sources, the question whether the passage originally belonged to the text in *Córus Béscnai* is not crucial to sustain Charles-Edwards' argument of an analogy between abbatial and royal succession. See also a gloss at *CIH* 50.14-7 (*Heptad* 55, *AL* v 301-3), in which it is said that it is 'lawful' to give battle when two or three families are claiming the kingship, and 'one of them takes the turn of the other (*beiris nech dib seal ar.ii.*)'.

make a claim to the kingship. These titles are well known from the annals and other sources, and justify a further investigation as to how these titles relate to the traditional concept of royal succession and alternation.

The use of *damna* and *adbar* in combination with *abbad* is not restricted to *Córus Béschnai*, and is also found with other ecclesiastical titles, such as *adbar espuic*. The earliest example is in a passage in the Book of Armagh (ca. 700). It relates how Patrick goes to Leinster and meets Dubthach moccu Lugir, and demands from him 'the "material of a bishop" (*damnae n-epsuip*) from among his Leinster disciples, that is, a man of good rank, of good kindred, without blemish or defect, whose wealth was neither too small nor too great. "Choose for me a man of one wife to whom only one son has been born." Dubthach replied: 'From my household I know of only Fíacc Find ...'⁷ The element *adbar* here does not imply a designation to the office, but the qualities which makes a person fit for the office - qualities which in part are similar to those required to attain the kingship. Other examples of *adbar espuic* come from the annals of the Anglo-Norman period.⁸

The annals give a few references to *adbar abbad* or its synonym *adbar comarba*, of which two early examples are the most interesting:

'Áed son of Dub dá Leithe (i.e. *fosairchinnech* of Armagh), *adbar comarba* of Patrick, died.' (AU 1108)

'Flannacán son of Máel Ísu, *adbar abbad* of Armagh, after anointing and excellent repentance, died in peace.' (AU 1113)⁹

Both Áed and Flannacán belong to Clann Sínaig who had monopolized the abbacy of Armagh in this period, and both are sons of previous abbots of Armagh. The

⁷ Bieler, *The Patrician texts*, 176 (*Thes. Pal.* ii, 241), quoted in Charles-Edwards, *Kinship*, 106.

⁸ See Appendix 2, section 4. See also Lec. 66 d4-6 for *in maigister*, *adbar easpuic*, son of Tomaltach Óc son of Gilla Críst (+1232) son of Donnchad (+1232), cf. *OClery* §§ 1057, 1067 (G §66). *Hy Fiachrach* 114 names an *archideóchain Tuama ... 7 adbar airdespuic*.

⁹ For later examples, see Appendix 3, section 4.

genealogical table at G §29 shows that the principle of seniority and alternation probably determined the succession to the abbacy of Armagh in this period. This appears especially from the succession of Cellach son of Áed son of Máel Ísu in 1105 in preference to both Áed (a cousin of his grandfather) and Flannacán (his uncle). Both were candidates for the abbacy on account of their qualifications, but they were excluded in preference to candidates from senior branches. Mac Niocaill's translation of *adbar comarba* and *adbar abbad* as 'successor designate' and 'abbot designate' thus appears to be inaccurate. *Córus Béscnai* does not imply that successors for the abbacy were designated beforehand, and according to the annals Cellach was appointed 'by the choice of the men of Ireland' (AU 1105). On other occasions we read that an abbot is chosen 'by the counsel of the men of Ireland' (AU 989, 1107) or 'by the wish of laity and church' (AU 1020).

Although *Córus Béscnai* reveals the relevance of the concept of alternation in the legal theory of (abbatial) succession, no fixed rules are set out which explain the theory of "a circuit upon the branches" if all branches are able to produce a person who is *damna abbad* or *adbar abbad*, in other words, suitable for the abbacy on account of his qualifications. The example of the succession to the abbacy of Armagh within Clann Sínaig indicates that among these qualifications descent and seniority could play a role similar to succession to the headship of the family, from which it may even have derived. The main candidate thus produced would normally be elected to the abbacy, but was not designated as such beforehand. It thus appears that in both abbatial and royal succession a person's birth-right and personal qualities are important, and that in both cases the Irish traditional rule of succession is followed.¹⁰

To see whether the rule as set out in *Córus Béscnai* also applies to royal succession we have to turn to other sources than the legal, which are for the rest silent about this matter.

¹⁰ For the succession to the abbacy of Iona from 597 to 704, see *IKHK* 258. All the first eight successors of Colum Cille (+597), with the probable exception of one, belonged to Colum Cille's kindred, Cenél Conaill - an example of the *fine érluma* claiming the abbacy. In this period abbots normally left no progeny, but when clerical marriage became more the rule than the exception, dynastic interests in the abbacies became even more closely confined to a particular branch within the kindred. See also §5.3 below for a discussion of *tánaise abbad*.

In various saga and propaganda texts the concept of alternation appears in its simplest form. For example, in the text *Frithfolad ríge Caisil*, probably from the eighth century, the Corco Loígde possess a privileged position because they have a claim on the kingship of Munster:

'Corco Loígde does not have to pay tribute, as they have a joint taking of the lordship with the Eóganacht (*ar is lethgabail flatha fri hEoganacht*).'¹¹

This reflects the alternation between the Corco Loígde and Eóganacht, as related in the Old-Irish saga *Scéla Mošauluim*:

'There was a sworn agreement between Lugaid Loígde and Ailill Ólumm and between their descendants after them, that is to say, when the descendants of Ólumm held the kingship the judgeship should belong to the descendants of Luigith; when, however, the descendants of Luigith held the kingship the judgeship should belong to the descendants of Ólumm. It was Lugaid and Ailill who had made that [agreement] in the presence of Conn Cétchathach. Over one half of Ireland, that is to say, Leinster and Munster, they held kingship and judgeship.'¹²

This alternation of the king- and judgeship is also mentioned in *Indarba na Déssi*, in the passage which relates how the Dési received help from the Corco Loígde through the intercession of their fosterchild Eithne:

'Then Eithne the Dread advised her mother's kinsfolk to go to the chief counsellor (*cenn adchomairc*) of Munster, the seer-judge of Cashel, Lugaid Loígde Cosc. He by his wisdom and prudence helped them. He was judge to the Corco Loígde. For there had been an interchange between the Corco Loígde and the Eóganacht of Cashel, to wit, whenever there was a king of the Corco Loígde, there was a judge of the Eóganacht. Aengus son of Nad Froích was king at that time, and Lugaid

¹¹ O'Keefe, 'Dál Caladbuig' §13 = H.2.7. 188a 15-7. See §4.5. note 112 above for discussion and references.

¹² O'Daly, *Cath Maige Mucrama*, 75 (§3), and at 81: 'for every second reign belonged to the Dárine (*ar ba di Dár(fh)ine cech la flaith*)', which refers to Lugaid's kindred.

Loígde Cosc was judge.¹³

The version in *Laud* states that this arrangement was made between the descendants of Lugaid Loígde and Ailill Ólumm, but that it originated from the time of Dáirine and Derctine. The genealogies of Corco Loígde in Lec. and BB also mention that the Corco Loígde 'possessed Munster alternately from the time of Dáir[in]e and Derctine to the time of Ailill Ólumm and Mac Niad. And three kings ... assumed the sovereignty of Ireland afterwards Ailill Ólumm had violated [the conditions of] the joint-sovereignty and covenant against Mac Niad, namely Mac Con and the two Fathads.'¹⁴

In the tale about Mór of Munster, the daughter of the king of Eóganacht Locha Léin who becomes the wife of two or three successive kings of Munster, Mór's status as a symbol of sovereignty is enlightened by the statement that 'the kingdom of Munster was from Cashel one spell, from Glendomuin another time, and from Áine the other time; all these are Eóganacht.'¹⁵ Although this is historically inaccurate, the annals and the rather confused lists of kings of Munster confirm that these three Eóganacht branches shared the kingship in the seventh and eighth centuries, albeit in an irregular fashion.

With the emerge of the Dál Cais the concept of alternation was used by the genealogists to explain the exceptional position of the kings of Dál Cais as regards their allegiance to the king of Munster. According to the genealogies in Rawlinson B. 502 the Dál Cais and the descendants of Fiachra Muillethan shared the kingship of Munster equally until Dímma mac Rónáin of Dál Cais contested it with Failbe Fland (+637/9). The nobles of Munster awarded Cashel to Failbe Fland, as he (or

¹³ Meyer, 'Expulsion of the Déssi', *Y Cymmrodor* 14, 116-7 (§17). I have standardized the names.

¹⁴ J. O'Donovan (ed.), 'Geinealach Chorcu Laidhe', in O'Donovan (ed.), *Miscellany of the Celtic Society* (Dublin 1849) 1-144: 7. See also *FA* §4 (583) and *CGH* p. 190 (147 b11-7) (cf. Charles-Edwards, *Kinship*, 101, at note 38). At 61 (= *CGH* p. 266 (155 a1-4)), it is said of Feidlimid, son of Mac Niad and brother of the three Fothads 'that there was no greater *rígdamna*.' For Lugaid Loígde named as *rígdamna* in connection with this alternation, see §5.2. below, note 63.

¹⁵ O'Nolan, 'Mór of Munster', 261-82: 270. For queens being regarded as sovereignty symbols, see §3.2.

his branch) was older (*ar ba sineo*) than Dímma, in exchange for privileges for Dimma. The Dál Cais were given Thomond as their land.¹⁶ After this the Eóganacht had monopolized the kingship of Cashel, but when opportunity offered itself, the Dál Cais 'reclaimed' their equal right to the kingship of Munster. According to the propaganda text *Cogadh Gaedhel re Gallaibh* from the mid-twelfth century, the Dál Cais enjoyed numerous prerogatives and privileges from the kings of Cashel, 'and besides this they had an equal alternate right, i.e. an alternate king in Cashel (*ocus comduchus cirt Casil cach arfecht doibsin iarsin, .i. cach re rí i Casiul*).¹⁷

This right gives an ironical twist to the epilogue of the tale. After the battle of Clontarf the kings of Eóganacht Raithlinn, Cian son of Máel Muad and Domnall son of Dub dá Bairrenn, address Donnchad mac Briain, saying that as they had been subject to Mathgamain and Brian Boruma, it was now Donnchad's turn to be subject to them, for 'the alternate sovereignty was their right (*uair ba comdúthaigh dóibh an ríge*).¹⁸ Donnchad refutes their claim: the Dál Cais had liberated Munster from the Viking oppression, and before that time there had not been an alternate right which the Eóganacht Raithlinn could have claimed.

Although the monopolizing of the kingship of Munster by the descendants of Brian Bóruma effectively eliminated any Eóganacht claims to the kingship of Cashel, these claims are given new life in another great Munster propaganda text, *Caithréim Chellachán Chaisil*, from the mid-twelfth century. Here the alternation between the Eóganacht and Dál Cais gives the author the opportunity to propagate a renewed agreement between Mac Carthaig and Ua Briain, who had put aside their rivalry to

¹⁶ *CGH* 207 (149 b30-8). Note also the agreement between In Déis Tuaiscirt and In Déis Deiscirt to give privileges to the branch which does not hold the kingship at 208 (149 b52-6), translated from BB 174 in Mac Neill, 'The *Vita Tripartita*', 36-7. See G §51 and §54. For the background of the genealogical fabrication of the descent of Dál Cais, see §2.1. above.

¹⁷ *Cogadh* 55 (§41).

¹⁸ *Cogadh* 213 (§120), repeated at 217 (§121): [Donnchad] mac Gilla Pátraic demands hostages from the Dál Cais, which surprises Donnchad, as the Osraige cannot claim the alternation in the kingship of Munster.

counter the ambitions of Toirdelbach Ua Conchobair.¹⁹ The story relates how Cellachán Caisil (+944) is elected to the kingship of Munster in preference to Cennétig (the father of Brian Bóruma) of Dál Cais when he arrives in Cashel after he had gathered a band of followers around him.

'The day on which Cellachán came to Cashel after he had obtained this host, was the day on which there was a great host of the two provinces of Munster at Glendamaín of Cashel electing a king (*ag togha rígh*). And according to their opinion it was Cennétig, son of Lorcán, whom they would make king. For this was the arrangement of the high-kingship that was between Clann Eógain Móir and Clann Chormaic Cais: the man who was the senior of the free clans (*sine dona saerclannaib*), his was the kingship. If the high-king was of the descendants of Eógan, the tanistship (*tánaistecht*) belonged to Clann Chormaic Cais. And if the noble king was of Clann Cormaic, the tanistship went to Clann Eógain Móir. The kingship not to go to any of them, unless he were the best in knowledge, and true learning, and princely honour of the noble heroes (... *fhéarr fis 7 firleigenn 7 flaitheinech dona fialchuradaibh*).'

Cellachán's mother - the wife of the abbot of Emly, who had been violated by Cellachán's father, as the story relates - addresses the nobles of Munster: "Remember the arrangement which Cormac Cass and Fiachra Muillethan made between their descendants! And there is of Clann Eógain a man who is senior by age and knowledge (*fear as sine dh'aeis 7 dh'fis*) to you, o Cennétig, and he is a king in figure and appearance (*ar deilbh 7 ar dénam*)."... Clann Eógain said that the heir (?) (*in t-oigrí*) should be brought to them, that they might make him king.²⁰

After the expulsion of the Danes the Munstermen return to Cashel:

'He who was first there was Cennétig mac Lorcáin, with the nobles of Dál Cais, and

¹⁹ See Ó Corráin, 'Caithréim' for the background of the text and its un-historical content.

²⁰ A. Bugge (ed.), *Caithreim Cellachan Caisil* (Christiana 1905) 3-4/59-60 (§§5-6). I have standardized the translation; Bugge translates *saerclannaib* as 'gentle clans'. See also 16/74 (§26) for the same concept of king- and tanistship.

the tanistship of Munster and its kingship after Cellachán was given to him (*7 tucadh tánaistdeact Muman 7 a ríghi taréis Ceallacháin*).²¹

The alternation between the Eóganacht and Dál Cais as described here has certain similarities between that between the Eóganacht and Corco Loígde discussed above, with the exception that the one outside the kingship has the tanistship, not the judgeship. Remarkable is that, as in the principle of the "circuit upon the branches" in *Córus Béscnai*, the candidate for the office has to be fully qualified for it, and we see here that seniority is an important consideration to accept one candidate above the other. In *Bethu Finnchua* from the *Book of Lismore*, the situation in Munster is referred to in the line '... for there was no over-king in Munster at that time, but chieftains equal in rank (... *uair nírbhe airdrí for Mumain intansin acht comard oirríg*).²² We have seen in *Córus Béscnai* that equality of the branches and their candidates is a precondition for alternation.

So far we have seen that alternation is used in saga-literature and propaganda texts in a Munster setting, but the variety of sources in which it features indicates that the concept was well known and accepted as a theoretical way to regulate succession between competing branches or dynasties. In later sources alternation or the sharing of the sovereignty is mentioned in territories outside Munster. In *Lebor na Cert* - a Munster source dated to the twelfth century - we meet again the principle that a branch has to be qualified for the kingship in order to claim it. Here a fair measure of counter-propaganda seems to be connected with the possible reasons for disqualification from the kingship of Connacht, as it is said:

'sovereignty and kingship pass from one branch to the other unless an impediment of kin-slaughter (*finjal*) or oppression (?) of saints or denial of baptism (apostacy)

²¹ Ibid., 16/74 (§26). At 68 (§20) Donnchad son of Caem (of Eóganacht Glendamnach) is also offered the kingship. see also 83 (§46 [read §45]) and 88 (§49).

²² W. Stokes (ed.), *Lives of the saints from the Book of Lismore*. Anecdota Oxoniensa (Oxford 1890) line 3209. The *Book of Lismore* is a sixteenth century manuscript, but *Bethu Finnchua* is said to have been copied from the earlier *Book of Monasterboice*, now lost.

prevents it, and sovereignty thus passes away from them; and then they are under service of rent and accept a stipend from the household which does not renounce or reject God.¹²³

In a late text related to the *Book of rights* the principle of alternation also features, but here coupled with the principle of the one outside the kingship holding a special position:

'When the king of Uí Briúin is king of Connacht a prince (*flaith*) of the line of Conchobar or the line of Dá Thí shall reign over the Uí Briúin. And he who was lord of Uí Briúin [at the alleged time of composition of the tract] was Áed son of Art Uallach Ua Ruairc.¹²⁴

Finally, in the Middle Irish tale *Fled Dúin na nGéd* the kingship of Tara is pictured to have been shared by the ancestors of the Uí Néill and the kings of Leinster, Tuathal Techtmar and Ugaine Mór. According to the introduction Tuathal Techtmar exacted an oath that his descendants should be given the sovereignty of Ireland. In contest or resignation of the sovereignty to an external king, the latter could not go to Tara 'unless he had given lands equally ancient as Tara to the descendants of Ugaine Mór and Tuathal Techtmar.' When he died Tara should revert to the race of Ugaine.²⁵

Although the above sources testify to the concept of alternation being known at least in its theoretical form, the workings of the system are not explained, apart

²³ Dillon, *Lebor na Cert*, 57.

²⁴ Dillon, 'Three related texts', 188/91 (§3). Áed son of Art died in 1087 (G §69). Uí Briúin apparently refers to Uí Briúin Bréifne. The other two branches are Ua Conchobair and Uí Fiachrach. The assumption that the three shared the kingship is anachronistic (see also *ibid.*, 187/190-1 (§2), which names various privileges for those claimants not holding the kingship), and it is unlikely that if the king of Uí Briúin held the kingship, Bréifne would be ruled by others; perhaps the passage is corrupt.

²⁵ O'Donovan, *Magh Rath*, 3-5. Herbert, '*Fled Dúin*', dates the tale on internal evidence to the reign of Domnall Mac Lochlainn (+1121), but one may question the validity of her argument, which is rather speculative.

from the references which state that if one branch takes the kingship, the other branch holds the office of judge or *tánaise*. I will return to the *tánaise* and his relation to succession in §5.3, and first consider two late sources which show that the concept of alternation was still known and applied in practice in the sixteenth century, before I discuss examples of alternation which can be abstracted from annalistic and genealogical material.

The most detailed description of the Irish rule of alternation comes from the so-called Ó Doyne manuscript, which contains all the documents related to the succession in the lordship of Iregan (Uí Riacáin), a sept of Uí Fáilgi. Two sons of Teig Ó Doyne (Tadg Ua Duinn), lord of Iregan from 1558 to 1607, Young Teig (Tadg Óc), the eldest, and the educated Cahir (Cathaír; Charles), contested for the succession, and the documents produced during their pleadings contain unique information on the customary rules of succession in a small Irish lordship around 1600.²⁶ Under pressure of both sons Teig changed his mind and will several times. In April 1593 Teig Ó Doyne first made a settlement which favoured Young Teig, who was to succeed, and his heirs after him, according to the rules of primogeniture.²⁷ But in a later document, dated 20 July 1593, Teig declares this 'contrary to the custom of ... Oregane.' Instead, he wants 'to make assurance that of the said Captainry and the manners, Castles and lands belonging unto it my sonnes Teige, Cormocke, Brian, Cahir and Mortogh successively by course of the eldership and senoirtie to succeed to the said Captainry and the name of O Doine during the life of everie of them, excepting such portion of my landes and rentes which I intende to assure to everie of my said sonnes in severaltie to live by...'

The Captainry and the the lordship over Iregan is given to Teige for the term of his life, and after his death it is to be held by Cormocke for the term of his life, and then by Brian, Cahir and Mortogh in like manner, so, in order of seniority. After this the 'son and heyer' of Teig is to succeed, followed by the 'son and heyer' of Cormock, of Brian, Cahir and Mortogh. 'And so successively by course of their eldership to the issue male of my said five sonnes onne after an other during their

²⁶ Nicholls, *Ó Doyne manuscript*, ix. For Uí Riacáin, see G §44.

²⁷ *Ibid.* 166-7.

lives.²⁸ In other words, the senior sons of the five brothers succeed in the order of seniority of their fathers, then the second sons, the third sons, etc.²⁹ If any of the sons wants to change the conditions set in the document the two towns of Castlebreake and Tinehinsie - the demesne lands of the lordship of Oregane - will be declared forfeit to him and his heirs.

Clearly, it is expected that each candidate will be qualified for the lordship, and relative seniority is here the determining factor in the order of succession, in which the descendants of the five brothers each form a branch, and these branches alternately take the lordship.

A similar settlement is made by Sir Cormac son of Tadg Mac Carthaig, lord of Múscraige from 1571 to 1583. Via the system of surrender and re-grant he had surrendered his lands to the English crown, who had returned them to him with his title. In his testament he first leaves his lordship and lands to his near relatives according to Irish custom, 'for conscience sake', after which they are to revert to his oldest son Cormac Óc and his heirs according to primogeniture. Thus, his younger brother Cellachán is first to succeed, followed by the sons of his older brother Diarmait (lord 1565-71), Cormac and Tadg (probably one or the other). Only then his son Cormac Óc and his male heirs succeed, and if he lacks any heirs his other son, Tadg, succeeds, and if he lacks any heirs the heirs of Cormac's grandfather, Cormac Laidir, are entitled to the lordship (see G §52). During Cellachán's lordship Carrigmuckey and Carrignamuck are to be held by Cormac and Tadg, sons of Diarmait and Cellachán's future successors.³⁰

It may be that Cormac also opts for this solution because his son Cormac Óc is still a minor. His wife and certain officers are to hold Cormac Óc's lands - given out of Cormac's private possessions - until he comes of age. For all his good intentions, Cormac's provisions were not to bear fruit. Cellachán soon abdicated under

²⁸ Ibid. 34-5.

²⁹ Ibid. 47-8.

³⁰ Herbert Webb Gillman, 'Sir Cormac McTeige Mac Carthy and the septlands of Muskerry, co. Cork; with a historical pedigree', *JCHAS* 1 (first series) (1892) 193-200. See also Butler, *Gleanings*, 88. For Cormac's older brother Diarmait (lord 1565-71), see also §4.3. above.

pressure of Cormac mac Diarmata, who reserved the lordship for himself and his descendants. As compensation, Cellachán was given Carrignamuck and other estates he had held as *tánaise* for himself and his heirs, and Castlemore for life. The latter went to Cormac Óc mac Cormaic afterwards, apparently also as a compensation for depriving him of the lordship.³¹

Unfortunately, we do not have such detailed accounts as the above two for the earlier period, but alternation as described by Teig Ó Doyne (by eldership and seniority) is a logical extension of the traditional rule of succession in the early period, and agrees with the information gathered so far. To see if we can find examples of alternation per branch by relative seniority we have to turn to the annals and genealogies. These provide us readily with two classic examples of alternation, the alternation between Cenél nEógain and Clann Cholmáin in the kingship of Tara from the eighth until the tenth century, and the alternation between the three branches of Uí Dúnlainge in the kingship of Leinster in roughly the same period.

The alternation between Cenél nEógain and Clann Cholmáin followed the elimination of Cenél Conaill and Síol nÁedo Sláine as serious competitors for the kingship of Tara, and probably resulted from an agreement reached between the two branches or the main Uí Néill nobility to alternate the kingship between the two, rather than engage in destructive succession struggles which already had taken their toll in the previous centuries. This was maintained by strong marriage ties between the two dynasties, and although there was occasional friction and warfare between them, no serious warfare took place like in the previous centuries, which had cost several kings of Taras their lives.³² The alternation between Cenél nEógain and Clann Cholmáin strongly resembles that between the Eóganacht and

³¹ FM 1583; Butler, *ibid.*, 115. See also J. S. Brewer and William Bullen (eds.), *Calender of the Carew Manuscripts, preserved in the archiepiscopal library at Lambeth. 1515-74* (London 1867) 511-2 (§518, AD 1600): 'A note of Cormock McTeig's [McCartie] living in Muskry when Sir Dermod McTeig held the lordship', which describes the estate of Carrignamuck which Cormac had held 'during the life of his eldest brother [Dermod], which was incident and due time out of mind, as an annuity and living to the second and nearest brother of the lord of Muskry'. See §5.3 below for further discussion.

³² For discussion on the rise and decline of the kingship of Tara, see Jaski, 'The decline of the Uí Néill'. For the marriage alliances, see §3.2. above.

Corco Loígde or Dál Cais, with the exception that the dynasty outside the kingship does not appear to have held a special position as judge or *tánaise*, but it may be that they enjoyed certain privileges.³³ The alternation finally broke down when Muirchertach 'of the Leather Cloaks' was slain in 943 by the Vikings just before he could succeed Donnchad Donn of Clann Cholmáin (+944). With neither dynasty being able to produce a worthy successor, two outsiders, Congalach of Síl nÁedo Sláine and Ruaidrí ua Canannáin of Cenél Conaill, made a bid to the kingship of Tara. Ruaidrí was slain by the Vikings in 950 while already being accepted by most of the Uí Néill (according to *FM*), and Congalach turned out to be quite a formidable king of Tara - an indication that whoever held the title gained considerable power. After his death the forced attempts to restore the old alternation only met resistance, and the Uí Néill kings discovered that they had lost their grip on affairs, not only in Ireland but also in their own territories. After the death of Máel Sechlainn Mór in 1022, who had succumbed to the force of Brian Bóruma after the refusal of the Northern Uí Néill to aid him, Flaithbertach Ua Néill did not bother to claim the kingship of Tara, and left it to the kings of Mide to monopolize the empty title.

It is remarkable that neither the annals nor the genealogies take any notice of the alternation between Cenél nEógain and Clann Cholmáin, but seem to accept it without comment. The only mention it is given comes from the thirteenth century poet Giolla Brighde Mac Con Midhe, who urged for the reintroduction of the alternation between Ua Néill of Cenél nEógain and Ua Domnaill of Cenél Conaill: 'Whoever of us has been chosen, let us both make him our high king, the goodly assembly of nobles will bring about from our number alternation of the kingship again.'³⁴

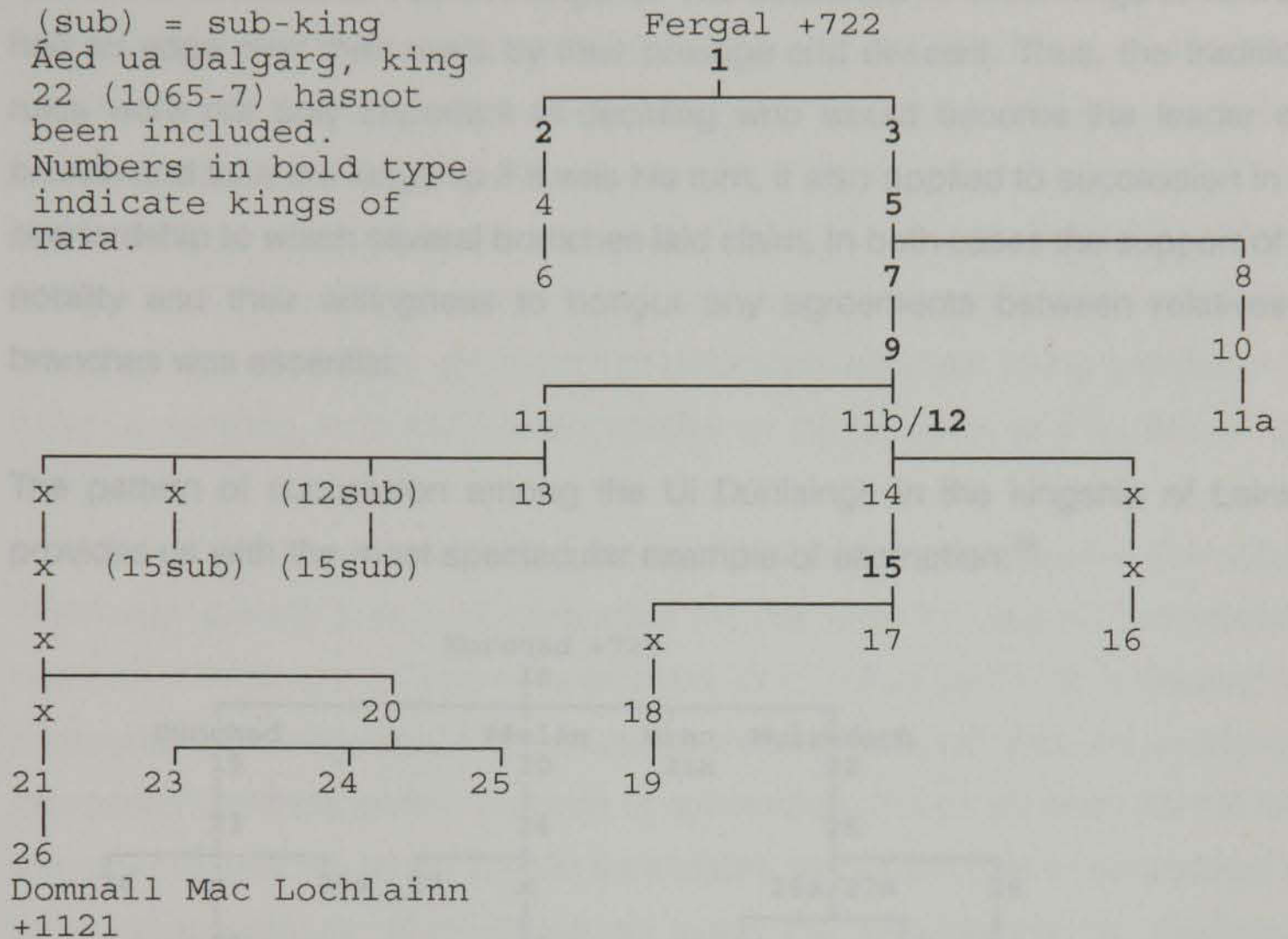
Interesting is the reference to the 'assembly of nobles' who have to establish the balance of power between the two, and it recalls the role given in the genealogies to the nobles of Munster in settling the succession dispute between the kings of Eóganacht and Dál Cais, and the election of Cellachán in *Caithréim Chellachán*

³³ See note 16 above.

³⁴ Williams, *Poems of Mac Con Midhe*, 15 (i, §12).

Chaisil, both discussed above.

It is likely that the alternation between Cenél nEógain and Clann Cholmáin was modelled on alternation within a kindred, for which we have the example of the succession within Cenél nEógain from the eighth until the tenth century, which, simplified, follows the following pattern (cf. G §§12-3):

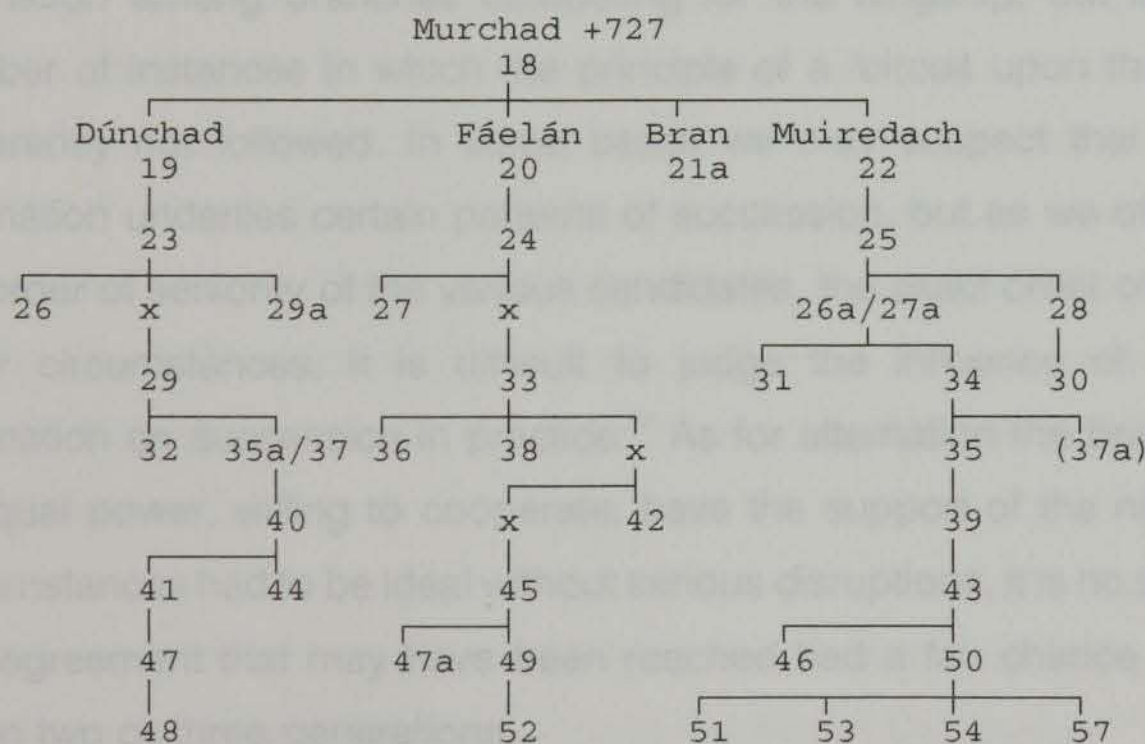


The descendants of 2 and 3, 7 and 8 and 11 and 11b/12 form alternating branches, until such time as the one is overpowered by the other, after which the remaining branch splits up itself. The sub-kings under 12 (Niall Glúndub +919) and 15 (Domnall ua Néill +980) already occupy a special position, and perhaps we can draw a parallel between this attempt to ensure the cooperation of the rival branch and the judge- or tanistship given to the branch outside the kingship in the Munster sources.

This regular succession in the kingship of Ailech prompted Hogan to suggest that the traditional law of succession already recognized a future successor, the leader of the branch outside the kingship (see §1.2 above). However, alternation as a

means of keeping the balance of power between various branches was only maintained if, as in *Córus Béscnai*, they were of equal power or worth. King 6, Murchad, fell from grace when his attempt to challenge the king of Tara (Conchobar of Clann Cholmáin) by enlisting the support of Síl nÁedo Sláine ended in a miserable failure; he was subsequently deposed (AU 822, 823), and his descendants excluded from the kingship. The descendants of the kings of Tara also had an edge over their rivals by their prestige and descent. Thus, the traditional rules were not only important in deciding who would become the leader of a branch and take the kingship if it was his turn, it also applied to succession in the overlordship to which several branches laid claim. In both cases the support of the nobility and their willingness to honour any agreements between relatives or branches was essential.

The pattern of succession among the Uí Dúnlainge in the kingship of Leinster provides us with the most spectacular example of alternation:³⁵



The alternation between the three branches is very regular in its early phase, and shows only a few serious disruptions afterwards (34-37, 40-41, 47-8, 51-7).

³⁵ See G §§39-41. The chart in Mac Neill, *Celtic Ireland*, 126 is not accurate. The list of kings of Leinster at LL 5405-5504 does not always agree with the annals.

Intervention by the kings of Tara also produced some irregularities (26a/27a). Note that two kings of one branch can hold the kingship simultaneously, as they already shared the headship of their own branch (29 and 29a, and probably 30 and 31 as well). A head of a branch became king when it was his turn, and whether he was the son or grandson of a previous king of Leinster or not was irrelevant. For example, the father and grandfather of Murchad (king 45) had not been king of Leinster, but they both had been kings of Uí Fáeláin, and this gave Murchad a sufficient royal background to become king of Uí Fáeláin himself, and king of Leinster afterwards. This is an important point which we have to bear in mind if we want to judge the importance of someone's descent as an important factor in measuring his suitability for the kingship: the branch as a whole makes its claim to the kingship, whether by alternation or otherwise, and how many generations its head is removed from his nearest relative in the kingship is a matter of small concern.³⁶

Apart from the three examples given above, there are few possible examples of alternation among branches competing for the kingship, but an overwhelming number of instances in which the principle of a "circuit upon the branches" was apparently not followed. In some cases we may suspect that the principle of alternation underlies certain patterns of succession, but as we often do not know the order of seniority of the various candidates, the exact order of succession and other circumstances, it is difficult to judge the influence of the principle of alternation on succession in practice.³⁷ As for alternation the branches had to be of equal power, willing to cooperate, have the support of the nobility, and other circumstances had to be ideal without serious disruptions, it is no small wonder that any agreement that may have been reached had a fair chance of being broken within two or three generations.

Hogan's theory that the successor was already known beforehand is derived from

³⁶ See also §1.3. and §2.2. above.

³⁷ See for example the succession in the kingship of Conaille Muirthemne in the 9th-10th c. (G §4), Cenél Conaill 6th-9th c. (§7), Ua Néill 12th-14th c. (§14a), Síol nÁedo Sláine 7th c. (§18), kings of North Brega 8th-10th c. (§19), Mac Carthaig Múscraige 14th-16th c. (§53, see above), Mac Diarmata 14th-15th c. (§67).

the principle of alternation, but, as we have seen, only under certain circumstances a "circuit upon the branches" was an option to settle the future succession. If an arrangement was made, we may presume that it was sanctioned by all parties, and only then may we suspect that the future successor was already appointed in one way or another. However, the annals and genealogies give sufficient examples of dynasties splitting up in independent branches, which went their separate ways, with no overkingship over them all. This was the fate of the kingship of Tara or the kingship of Uí Dúnlainge held by Uí Dúnochada, Uí Fáeláin and Uí Muiredaig, but the early annals do not refer to a specific moment in which, to speak in terms of land-inheritance, a permanent division was made. As illustration, I give here a late example of an agreement to divide the kingship and its land between the major branches. Note the decisive role of the nobility in the affair (cf. §4.6. above). The following event occurred after the death of Ruaidrí son of Toirrdelbach Ua Conchobair in 1384, and the *Annals of Connacht* record:

'Two kings were then made in his stead. Toirdelbach Ruad son of Áed son of Feidlimid [son of Áed] was installed by Mac Diarmata, the Clann Muirchertaig Muimnig and the rest of the Connacht chieftains, that is, the Síil Muiredaig; and Toirdelbach [Donn] Óc son of Áed son of Toirdelbach [son of Áed] was installed by Ua Cellaig, Clann Ricaird, Domnall son of Muirchertach Ua Conchobair [Sligig] and the Clann Donnchada. General war sprang up throughout all Connacht after this and they did much damage and committed slaughterings and plunderings afterwards.'

The next year 'Peace was made among the Connachtmen afterwards, and Síil Muiredaig was divided into two between the two Uí Conchobair.'³⁸

When the unity within the dynasty collapsed, it could not be expected that a system of alternation could prevail, and in this respect the alternation between the kingship and tanistship as related in *Caithréim Cheallachán Chaisil* is probably

³⁸ *AConn* 1384.2; 1385.17 (changed spelling, my square brackets). See also *MA* 1392.7. (G §75) for an interesting reference to the distribution of power between two rival branches of the Uí Fergail.

5.2. *Rígdamna* and *adbar rí*g.

The elements *damna* and *adbar* can both be translated as 'matter', 'cause', 'reason', hence 'makings (of)' and, in a personal sense, 'one fit to be'.³⁹ The titles *rígdamna*, current in the annals from the ninth century onwards, and *adbar rí*g, used a few times in the annals in the twelfth century and especially popular from the fourteenth century onwards, have often been connected with a right of succession of the person in question (see §1.2-3 above), and are mostly translated in that sense. We have seen that in the theoretical concept of succession and alternation a successor who is designated beforehand is not acknowledged, but there is a notion of who is to be regarded as the best candidate on account of descent and seniority who, if he is well qualified for the lordship, should succeed. To establish the meaning of *rígdamna* and *adbar rí*g, it is necessary to consider references to these and similar titles in the literary and legal sources first, as the annals usually do not give additional information to the notion that a person was *rígdamna* X or *adbar rí*g Y at their death. There are no texts which discuss these titles, but an interesting explanation is offered by the seventeenth century historian and antiquarian Rory O'Flaherty, which has been neglected by modern historians:

*'Quisque e reliquis familiae candidatus Rioghdamhna dictus est; quod est regia materies; nimirum materies apta ad recipiendum regiam formam suae familiae. Si vero liberae, aut Mechanicae artis fuerit, adhbhar tantum, quod materium etiam denotat vocatur; quippe materies disposita, ut tali professione informetur.'*⁴⁰

This ties in with what we have seen in the case of *adbar abbad*, who can be regarded as a qualified candidate for succession. This gives the title a rather vague and predominantly political meaning, and it is probably for this reason that we do not meet *rígdamna* very often in a legal context.

³⁹ *DIL* under 'adbar' and 'damnae'. *Rígdamna* and *adbar rí*g are also given the meaning 'royal heir' and 'successor'.

⁴⁰ Rory O'Flaherty, *Ogygia*, p. 58, as quoted in *FM* vol. iii, p. 494, AD 1310.

In 'The Advice to Doidin' we find one of the earliest references to *rígdamna* in the sources: 'Do not accept a king or *rígdamna* as surety for you, for it is not possible for you to fight with him in the event of his unrighteousness.' (*ni urfaomae righ na righdomna hi rathaighus friut, ar ni tualaing imgona friut ima nanfír*).⁴¹

To put this in its proper context we have to turn to the glosses of *Di Chetharslicht Athgabála*, an Old Irish law-tract on distraint. Those who are not permitted to distraint someone on behalf of others are listed as:

'The wanderer and the outlaw (lit. "the proclaimed person") and the bard and the *lethcherd* [a type of poet] and the satirist and the sage, king, *rígdamna*, and the son of a living father who is dutiful.'

(*In faendledach 7 int urfocrach 7 in bard 7 in lethcerd 7 in cainti 7 in sui, ri, rigdamna, 7 in mac beoathar is gor*)⁴²

This involves persons who either have no property or legal rights, or whose status is so high that they cannot be 'over-sworn', as also appears from the following extract: 'Nor the noble one of an assembly i.e. sage, king, *rígdamna* i.e. nor the people against whom it is difficult for one to plead against in court (*Ná uais nairechta .i. sui, rig, rigdamna .i. na in lucht is doilgi do nech im caingin fris isin oirecht*).⁴³

As regards the function of the *rígdamna* this only indicates that he was of high status. The connection between the *rígdamna* and the *aire forgill* ('noble of superior

⁴¹ *CIH* 1381.4-6 = 1122.4-5, translated by Smith, 'Advice to Doidin', 73/75 (§1). Charles-Edwards, *Kinship*, 105, states that it is a text from Munster, probably from the eighth century. For the earliest occurrence of *rígdamna* in the annals, in *AI* 805 concerning a Munster dynast, see below. See also *Heptad* 31 (*CIH* 28.34-5; *AL* v 229) for the same warning not to have a person of high status as paying surety: '*Rath ar uais .i. sai, righ, rigdamna*', see below.

⁴² *CIH* 359.10-11, repeated at 359.19-20 (my translation, cf. *AL* i 89-91) = 1670.1-2, 13-5. For the *mac béo-athar*, see §4.3 above. Perhaps we should read *mac béoathar is ingor*, which would suit the context much better; in any case it does not seem to refer to the *mac sóerlécthe*. Distraint is discussed in *GEIL* 177-86.

⁴³ *CIH* 358.16, 24-5 (my translation, cf. *AL* i 87) = 1898.3, 9; 1955.38-9. The parallel text at 887.1-2 has: '*Na huas nairechta .i. rí 7 sui 7 espoc, ni gaibed aithgabail*.' The high status of the *rígdamna* or the sons of a king in general may be the reason why a king does not have to pay for the crimes of his sons, as is stated in *Heptad* 34 (*CIH* 31.6-8, *AL* v 235-7).

testimony') will be discussed in §5.4.

In literary sources *rígdamna* is more widely represented, most remarkably in the *Vita Tripartita* (ca. 900), in which Patrick uses *rígdamna* to give his curses extra impact. In one passage Patrick meets Lóegaire, who previously had obstructed him, but who now accepts christianity. Patrick says to him: 'Since you have believed in God and submitted to me you will be granted long life in your kingship. However, as the price of your recent pride, no king or candidate for kingship will spring from you except Lugaid mac Lóegairi (*ní bía rí na rígdamna huait co bráth acht Lugaid mac Loigairi*).' Patrick had promised Lugaid's mother not to curse her child until Lugaid would oppose him. When Lugaid later became king and spurned Patrick by asking of Achad Forchai: "'Is that not the church of the cleric who said that Lóegaire would not beget a king or candidate for kingship (*rí na rígdamna*)?" he was struck by a thunderbolt and killed.⁴⁴

This formula is also used by other saints. In the introductory tale of *Cáin Adomnáin*, Éládach, the lord of the Déisi of Femen, obstructs Adomnán, who immediately curses him 'so that there not may be a king nor *rígdamna* who may spring from him after him (*ná rab rí ná rígdamnai gabus úadh dar a éssi*).⁴⁵ In the text of *Cáin Éimíne* the threat of a curse to disobedient rulers is along the same lines: 'There will be neither king nor *rígdamna* from the king nor from the noble nor from the lord... (*Ni bia rí na rígdamna ón rí na ón flaith na ón ócthigernu...*).⁴⁶

In the above examples *rígdamna* seems to refer to a candidate for kingship, or one qualified for kingship, thus underlining that the descendants of the cursed kings will decline in power, status and dignity. The example from *Cáin Éimíne* has

⁴⁴ *VTrip* 61 (Mulchrone, *Bethú Phátraic* II. 620-32) and 465 (abridged version from *Lebar Brecc*), discussed in Gearóid S. Mac Eoin, 'The mysterious death of Loegaire mac Néill', *Studia Hibernica* 8 (1968) 21-59: 37, from which I have taken the translation. For similar curses by Patrick that no king nor *rígdamna* will come from the cursed person, see *VTrip* 205 (*Bethú P.* II. 2397-8) and 221 (*Bethú P.* I. 2600), and Stokes, *Lismore Lives*, II. 295-7.

⁴⁵ Meyer, *Cáin Adomnáin*, 10-1 (§18). I have changed the translation.

⁴⁶ Erich Poppe (ed.), 'A new edition of *Cáin Éimíne Báin*', *Celtica* 18 (1986) 35-52: 47 (§13). See also *Ibid.*, 'The list of sureties in *Cáin Éimíne*', *Celtica* 21 (1990) 588-92, in which Poppe argues that the list of sureties is authentic as regards its content, from the reign of Bran Mut of Leinster (680-93). As with *Cáin Adomnáin*, the introduction may be of a later date.

an interesting parallel in *Fled Bricrend* from *Lebor na hUidre* (ca. 1100). Here *rígdamna* is also included in the hierarchy of kings and noblemen:

'Whereupon they entered the house, each one occupying his position in the royal residence: king, *rígdamna*, noble, lord and young warrior (*Lotár iarom dochom in tige co rragab cách a lepaid and isind ríghig. eter rí 7 rígdamna 7 airig 7 ócthigernd 7 maccáemu*).⁴⁷ In *Togail Bruidne Dá Derga* from the same manuscript it is said of Cormac Condlongas: 'He will boast of victory over a king or *rígdamna* or noble of the reavers (... 7 maífid búaid rí 7 rígdamnae nó airig díbergae ...).⁴⁸

Rígdamna does not seem to have any political connotations in these passages, but means in a general sense 'prince', 'person of royal blood'. In other examples in which *rígdamna* is used in conjunction with *rí* this is also the case.⁴⁹ Similarly, when there is a reference to two or more *rígdamna*, there does not seem any reason to suspect a specific meaning of 'royal heir', which would give an awkward translation in such cases. Two examples will suffice here:

In *Táin Bó Cuailgne* the following passage occurs:

There were with Medb six royal mercenaries (*rígamus*), that is, six *rígdamna* of the Clanna Dechad, three called Dub from Imlech, three called Derg from Sruthair.⁵⁰ In *Togail Bruidne dá Derga* Mál mac Telbaind, Munremar mac Geirrgind and Birrderg mac Rúaid, are called 'three *rígdamna*, three champions of valour, three heroes the best behind weapons in Ireland (*trí rígdamnae, trí láith gaile, trí laích ata*

⁴⁷ LU 8157-8, my own translation, cf. George Henderson (ed.), *Fled Bricrend*. ITS 2 (Dublin 1899) 13 (§12). For *ócthigern*, see *DIL* under 'ócthigern', in which it is defined as 'title of an inferior grade of nobility or landed gentry'. See also O'Keefe, 'Dál Caladbuig', 20 (§14): 'Tri hochthigeirn rí Muman. na Deissi 7 in Deiss Tuaiscirt 7 Corco Laigde'.

⁴⁸ LU 7104-6 = TBDD 702-3 (§77) (Stokes, 177). Note also the following example from Pádraig Ó Riain (ed.), *Cath Almaine*. MMIS xxv (Dublin 1978) line 54-6 (YBL): 'Badar imda trá and-sin meic rí 7 ruirech 7 rodáene 7 tánaisti flatha fodesin 7 sáerclanda socheineóil a n-égmais a n-anma', translated in W. Stokes (ed.), 'The battle of Allen', *RC* 24 (1903) 41-70: 52: 'Many were the sons of kings and princes and magnates and *tánaisti flatha* themselves, and nobles of good race in lack of their life.'

⁴⁹ See *TBC* LL 359; *Cogadh* 43 (§36), 53 (§40); Greene, *Fingal Rónáin*, line 236; M. E. Dobbs (ed.), 'On the graves of Leinster Men', *ZCP* 24 (1954) 139-53: 141/8 (§23); Stokes, *Lismore lives*, II. 3212-4 (*Betha Finnchua*); *Fenagh* 93, 271; Pádraig Ó Riain, 'Two legends of the Uí Máille', *Éigse* 14 (1971-2) 1-12: 9/11.

⁵⁰ *TBC* (rec. 1), 1690-1.

dech iar cúl gascid i nHérind).⁵¹ In *Saltair na Rann*, from the late tenth century '*Míchol ... ríghomna mac nlsrahél*' refers to David.⁵²

So far we have seen that *ríghomna* can be used in a general way which indicates that the title can be used in a broad sense, without specific political connotations, but in the following three references it seems to have a more specific application. The first is from *Betha Adamnán*, probably from the middle of the tenth century:

'On another occasion, Adamnán was promulgating his Law at the royal assembly of Cenél Conaill and Cenél Cairpre at Es Ruaid. Flannabra, son of Cumuscach, *ríghomna* of the son of Ainmire (*rí[g]damhna meic Anmirech*), submitted to Adamnán [the case] of a female slave whom he held in captivity for slaying a woman.⁵³

The second is from *Bórama* (from *LL*):

'Since Fínnachta had been *ríghomna* (*ro búí ... ina ríghomna*) and Adomnán a young scholar, they had been friends.⁵⁴

Particularly interesting is the inscription on a reliquary of St. Lachtán's arm, of about 1120, which reads:

'Pray for Cormac, son of the son of Carthach, the *ríghomna* (*do chormac m-c meic c(a)rthaig i do ríghomnu Mumand*), and 'Pray for Tadg son of the son of Carthach,

⁵¹ *LU* 7314-5 = *TBDD* 948-50 (§96) (Stokes, 198). See also *LU* 7617 = *TBDD*, Stokes, 291 (§116); *LU* 8157-8 (Henderson, *Fled Bricrend*, 19 (§19)); *CS* 629; *Cogadh* 187 (§95); *SG* i, 78 = ii, 83 (*Aided Diarmata*); *LL* 31437-9 (*Togail Troí*); E. G. Quin (ed.), *Stair Ercuil ocus a bás*. ITS 38 (Dublin 1936/9) 62/3 (line 1173); A remarkable feature is that, as in the examples from *TBDD*, often three *ríghomna* are mentioned. For plurality of *ríghomna* in the annals, see below.

⁵² W. Stokes (ed.), *Saltair na rann*. Anecdota Oxoniensa (Oxford 1883), line 6008.

⁵³ Máire Herbert and Pádraig Ó Rian (eds.), *Betha Adamnán. The Irish Life of Adamnán*. ITS 54 (Dublin 1988) 48/9 (§3). For Cumuscach son of Áed son of Ainmire, see below, and *G* §7. As he died in 597 his son could hardly have been alive in 697. More likely it is a mistake for Flannabra son of Loingsech (+703) who is mentioned in the genealogies (*OClery* §28).

⁵⁴ *SG* i, 387 = ii, 423 (Stokes, '*Bórama*', 113 (§153)). See also *FA* §177: Fergal (king of Tara +722) was *ríghomna* when Congal Cenmagair (+710) was king of Tara. These references give an anachronistic picture of a chosen successor called *ríghomna* existing in an earlier period, but its usage in itself probably reflects the convention in the time when these passages were written.

for the king ...¹⁵⁵

Tadg died in 1124 after he had been deposed the previous year by his brother Cormac, and *rígdamna* certainly refers to the heir-apparent or future successor: not to a member of the royal family who is a candidate for kingship, but rather to *the* candidate according to the traditional rules of succession and alternation.

A clear and crucial example which testifies that *rígdamna* is connected with the concept of alternation is in *Lebor na hUidre*. The tale *Fotha Catha Cnucha* is introduced as follows:

'When Cathair Mór ... was in the kingship of Tara, and Conn Cétchathach in Kells in the *rígdamna*'s land... (*Dia mboí Cathair Mór ... i rrigi Temrach 7 Cond Cétchathach hi Cenandos hi Ferand Rigdomna*).¹⁵⁶

We have already discussed examples of those who had an alternate right to the kingship and held the position as judge or *tánaise*. Here Conn apparently holds the position of *rígdamna*, with a special piece of land set aside for his function, just like the *tánaise* of Mac Carthaig Músraige held a certain territory in his possession for life (see §5.1 above). This example, from a manuscript dated to ca. 1100, is the earliest of its kind, and is therefore a valuable witness to the function of the *rígdamna*.

Another institution connected with the *rígdamna* in the sense of heir-apparent is the circuit of the *rígdamna*. The following entry is from *FM* 1163:

'A royal heir's feasting visitation (*coinnmhed ríoghdamhna*) was made by Niall, son of Muirchertach Mac Lochlainn, the son of the king of Ireland, through Leth Cuinn. He proceeded to Ulaid, and first to Cill Sléibe; afterwards into Airgialla, Tír Briúin, and Mide; and he committed various acts of violence in territories and churches,

¹⁵⁵ Adolf Mahr, *Christian art in ancient Ireland. Selected objects illustrated and described* (2 vols., New York 1976) 161 (and plate 99). First mentioned on the inscription is Máel Sechlainn Ua Cellacháin (+1121). Tadg became king in 1118, see G §52.

¹⁵⁶ *LU* 3136-8, see also Hennessy, 'The Battle of Cnucha', 87. The connection between Kells and Tara is also apparent in *Esnada Tige Buchet*, see Greene, *Fingal Rónáin*, pp. 27-44, especially II. 555-62, and also *PPast* 253. In *CGH* p. 70 (124 a22-30) reference is made to the kingship of Cathair in Tara and of Conn in Kells 'without battle, without war between them.'

and particularly at Cenannus, Ard Breccáin, Fobar Féchin, Echarad Lóbráin, and Cluain mic Nois. He afterwards proceeded across Áth Luain, into Connacht, with a force of twelve score men; and they feasted upon the Uí Maine, but they were all killed by Conchobar Ua Cellaig, Conchobar Maenmaige [son of Ruaidrí Ua Conchobair], and the Uí Maine, through treachery and guile, except some deserters and fugitives; and Niall, son of Muirchertach Ua Lochlainn, was taken prisoner, and conducted in safety to his house, by advice of their meeting.⁵⁷

Such a circuit is also referred to in saga literature. *Echtra Thaidg mheic Céin* from the *Book of Lismore* begins with the line: 'It was once upon a time Tadg son of Ailill Olumm's son Cian was on his "rígdamna-circuit" (f[or cuairt] rígdhamna) into the west of Munster...'⁵⁸ The Life of Maedóc of Ferns relates how Cumuscach son of Áed son of Ainmire of Cenél Conaill went on his 'circuit of the rígdamna-ship' (*ar cuairt rioghdamnachta*) among the Leinstermen.⁵⁹ *Bórama*, which describes the subsequent fate of Cumuscach in detail, calls it '*saerchuirt maccaemnachta hÉrenn*', the 'noble circuit of boyhood of Ireland', in which Cumuscach demanded that he spend the night with the wife of every king he visited.⁶⁰ In §3.2. we have already discussed the circuit of Ireland Niall and his four half-brothers make in *Echtra mac Echdach Mugmedóin*.⁶¹ All these refer to the same institution of one or several candidates for the kingship going on a circuit through the lands ruled by their father or lord. In *Merugud Cléirech Coluim Chille* ('The adventures of St. Columba's clerics'), from YBL, *rígdamna*, *tánaise* and *saermacám* all refer to the same position. The tale is set in the time of Domnall mac Áeda, king of Tara from Cenél Conaill

⁵⁷ I have standardized the names; my square brackets. See G §13. Muirchertach was after his death in 1166 succeeded by his son Conchobar, who was appointed by Ruaidrí Ua Conchobair. Niall deposed him the following year (AU).

⁵⁸ SG i, 342 = ii, 385; my translation.

⁵⁹ Charles Plummer (ed.), *Bethada Náem nÉrenn. Lives of the Irish saints* (2 vols., Oxford 1922) i, 230 (text) = ii, 223 (translation).

⁶⁰ Stokes, '*Bórama*', 54 (§43) (SG i, 370 = ii, 408). See also Albert Maniet (ed.), '*Cath Belaig Duin Bolc*', *Éigse* 7 (1953-5) 95-111: 98-9 (§1), an extract of *Bórama* from YBL.

⁶¹ Joynt, '*Echtra*' 101 (§29), and Stokes, 'The death of Crimthann', 132-3.

(+642). At the end of his reign Domnall makes his will:

'He bequeathed his realm and his land (*dia rigi 7 da ferann*) between his two sons, Fiacha and Donnchad. He left the overkingship of Ireland to Donnchad, and the tanistry of Ireland (*tánaistecht Érenn*) and its "noble boyhood" (*a saermacámnacht*) to Fiacha, and (also) the land of the *rígdamna*-ship (*ferann rígdamnachta*), to wit, Fer Rois and Mugdorna Maigen, for they had no proper Irish king: for this is what those clans used to do, kill their own proper sovereign. Wherefore Domnall gave them to his son Fiacha, to serve him from Tara even unto Ailech.¹⁶²

Although the above examples are not all from the same period, the impression from the earliest references is sustained and clarified by the later ones. The future successor according to the traditional rules - especially seniority and alternation - called *rígdamna*, has a certain piece of land under his rule as part of his function. His position is referred to as the *rígdamnacht*, *tánaistecht* or *saermacámnacht*. Of the first we have additional examples in *Cóir Anmann* which confirm the above impression. One entry relates that after the death of Dáre the (alternating) kingship of Munster was taken by Eógan Mór, 'and Lugaid Loígde took the *rígdamna*-ship of Munster (*gabhais Lugaid Láighi ríghdhamhnacht Muman*).¹⁶³

Similarly, when Lóegaire Lorc was in the kingship of Ireland his brother Cobthach

¹⁶² W. Stokes (ed.), 'The adventure of St. Columba's clerics', *RC* 26 (1905) 130-70: 132-3 (§1). Fiacha is later killed by two *rígdamnai* of the lands given to him (§3). See also Tomás Ó Máille (ed.), 'Merugud Cléirech Cholúim Chille' in O. Bergin and Carl Marstrander (eds.), *Miscellany presented to Kuno Meyer* (Halle 1912) 307-26: 312 (§1), an edition from another manuscript. A related text gives briefly the same outline, without referring to Fiacha's tanist- or *rígdamna*-ship, see W. Stokes (ed.), 'The Voyage of Snedgus and Mac Riagla', *RC* 9 (1888) 14-25. Neither the annals nor the genealogies mention Fiacha and Donnchad among the sons of Domnall mac Áeda, and it is certain that the story has mixed him up with Domnall Midi (king of Tara +763), who had a son Donnchad (king of Tara +797). Neither Stokes nor Ó Máille has noted the following reference in the regnal list of the kings of Mide in *LL* (5932-3): '*Diarmait 7 Ailill dá ríge Fer Ross ro marbsat Fiachu mac Domnaill meic Murchada i mBregaib for cuairt maccaem*', which proves that this part of the story was already well-known in the twelfth century.

¹⁶³ Stokes, *Cóir Anmann*, 322-3 (§70), my translation. For the alternation between the descendants of Dáre and Eógan, see §5.1 above. See K. Jackson (ed.), *Cath Maigh Léna*. MMIS ix (Dublin 1938) lines 1979-82, in which Conaire accepts the *rígdamnacht* of Munster, and 29-31, in which Eógan Mór Mag Nuadat is made '*adhbar ríge gan [fh]resabra*' by the nobles of Munster; see below for discussion of this title.

Coel Breg 'was in the *rígdamna*-ship of Ireland (*a ríghdhamhnacht Erenn*).⁶⁴ Cobthach envied Lóegaire because he was not king, but only *rígdamna*, and killed him with his followers in the fortress of Dind Ríg.⁶⁴ Brega apparently served as the land belonging to the *rígdamna*-ship.

In another passage the name of Echu Doimplén is explained in the following fanciful manner: 'i.e. Dom-lén, for he suffered (*ro-damair*) woe (*lén*) from not attaining any part of Ireland. For of Ireland Fiachu Sraptine left him not a single bit to be taken by him. For that Fiachu was senior to Echu, and Echu was (only) *rígdamna* of Ireland so long as he lived.⁶⁵

To summarize, *rígdamna* as used in the literary sources can have two meanings. In a general sense it refers to someone who is qualified for the kingship according to the customary rules of succession, in the restricted sense it refers to the one who is to succeed according to the rules of seniority and alternation (taken that he is qualified for the office). In the latter sense *rígdamna* bears affinities with *tánaise*, and several sources from at least ca. 1100 onwards give the *rígdamna* a certain territory to rule as part of his position.

Titles which are similar to *rígdamna*, such as *damna rí* and *adbar rí*, are not so widely used in the sources, and appear to be variant titles based on combinations of *damna* or its synonym *adbar* with titles such as *flaith*, *táisech*, *ap*, etc.⁶⁶ *Rígdamna* is the only form in which the title precedes the element *damna* or *adbar*, in all other cases they are followed by the title in the genitive. For example, in *Togail Buidne Dá Derga* from LU, Cuscraid Mend Macha, son of Conchobar is regarded as *damna flatha*:

'Fer Rogain wept so that he shed tears of blood. "Alas for him," he said. "That is the

⁶⁴ Ibid., 328-9 (§93). See also Greene, *Fingal Rónáin*, pp. 16-26.

⁶⁵ Ibid., 348-9 (§141), spelling standardized. The next paragraph in *Cóir Anmann* relates that Echu's sons, the three Collas ("the Sinful Ones"), murdered Fiachu, and for this deed of kin-murder (*fingal*) their descendants were excluded from the kingship.

⁶⁶ See also Charles-Edwards, *Kinship*, 107-8, who considers *rígdamna* to be a later form of *damna rí*.

child who is the boast of the men of Ireland against the men of Britain for generosity and shapeliness and beauty and horsemanship. It is grievous. He is a pig who falls before the mast [i.e. dies before his prime]. That child is the best 'material of a ruler' (*damna flatha*) that has come to the land of Ireland."⁶⁷

In *Cath Maige Mucrama* we meet a peculiar combination of *adbar* with *rí*: "'Well", said Lugaid "Eógan will now challenge me to single combat and his ardent spirit - [he being] son and heir of the king and grandson of another - will overthrow me"(... 7 don-scéra a bruth <mac ind rí 7 a adbar 7 hua araile >).⁶⁸

O'Daly's translation may be correct here, but *adbar* can also refer to Eógan's royal qualities, such as his ardent spirit, which he has inherited from his father. In the following example, from *Scéla Muicce Meic Dathó*, the element *adbar* clearly refers to one's qualities (cf. §4.2 above):

"And [there is] still the contest", said Cet. "You shall have it," said Cúscraid Mend Macha son of Conchobar (king of Ulster). "Who is this?" said Cet. "Cúscraid," they all said; "he is 'material of a king' (*adbar rí*) on account of his beauty." "I care nothing for you," said the lad. "Fine," said Cet.' He explains that at their previous encounter he had wounded Cúscraid in his neck so that he was called Cúscraid the Stammerer (*mend*) forthwith. 'In this way he put the whole province to shame.'⁶⁹

We have seen that in *Echtra mac Echdach Mugmedóin* Niall is called *adbar flatha*

⁶⁷ TBDD §106 (=Stokes, 103 (§105)), translated in Charles-Edwards, *Kinship*, 106. See also *PPast* 122. For examples of *damna rí* in literary sources, see O. Bergin (ed.), 'The death of Conchobar's son', *Ériu* 7 (1914) 242-3; E. Mac Neill, 'Three poems in Middle-Irish, relating to the battle of Mucrama', *PRIA* 3 (1893-6) 529-63: 550-1 (§39 of the poem *A maccáin na cí*); Williams, *Poems of Mac Con Midhe*, 79 (vii, §17). For annalistic references, see below.

⁶⁸ O'Daly, *Cath Maige Mucrama*, 43 (§11) and the note to line 66 at p. 105; The part between < > is not in LL, and supplied by a later manuscript; *bruth* is elsewhere found as a quality applying to kings, e.g. LU 6799, *AConn* 1256.6. See also Stokes, *Lismore lives*, ll. 3217-8: '... and that he was son of a king and a queen, and that he was *adbar rí*, provided the peoples and families crowned him.' (... 7 fa mac rígh 7 ríghna, 7 fa hadhbur rígh acht gu ríghdais tuatha 7 fine é, ...).

⁶⁹ R. Thurneysen (ed.), *Scéla Muicce Meic Dathó*. MMIS vi (Dublin 1936) ll. 13-4 (§4), from LL, translated by Charles-Edwards, *Kinship*, 106.

Temra by the hag turned into a beautiful woman because he had shown that he had the qualities of a king of Tara above his older brothers (see §3.2 above). In an account in *Cóir Anmann* a similar contest between the junior and the senior we find another example of *adbar rí*g:

'Duach Dallta Degaid, whence is it? Easy to say. Cairpre Losc ('the Lame') had two sons, named Duach and Degad. Between them was a great contest concerning the kingship, for as regarded form and action each of them was fit to be king of Ireland (*ar ba hádhbhur rí[g] Erenn cach mac dib ar dheilb 7 ar gnim*) ... Degad was the younger, and he was outrunning Duach for the kingdom.' Duach blinded Degad, hence his name Duach 'Blinded of Degad'.⁷⁰

It will be clear that *adbar rí*g is used in the same manner as *rí*gdamna in its general meaning, and refers foremostly to a person's qualifications for kingship. I have not found any references to an *adbar rí*g-ship, or examples in which it is used in conjunction with alternation, *tánaise*, or referring to the heir-apparent. Considering this, it is not surprising we find *adbar rí*g being mixed up with *rí*gdamna, as in one of the stories about Mac dá Cherda and Cummaíne Fota from *YBL*:

Mac dá Cherda ... was the son of Máel Ochtraig son of Dínertach, to wit, king of the Déisi of Mag Femin, of Dún Letrach on the Suir. *Adbar rí*g, therefore, was Mac dá Cherda until he committed adultery with the wife of his father's druid. ... He had a brother Bran Find, son of Máel Ochtraig, a *rí*gdamna also. He used to be perpetually engaged in brigandage (*díberg*).⁷¹

⁷⁰ Stokes, *Cóir Anmann*, 296-7 (§29). For other examples, see Caoimhín Mac Giolla Léith (ed.), *Oidheadh Chloinne hUisneach. The violent death of the children of Uisneach*. ITS 56 (London 1992) 88/9 (*adbar rí*g *Erenn* on account of prowess and valour); Carney, *A genealogical history*, 73/115 (§47), on Gilla Ísa Ruad Ua Raigillig (+1330): 'he was a laugh at the makings of a prince (*gáir fo ádhbhar flatha sin*)'; §2.3. above, note 68 (*Cogadh* 193 (§110)).

⁷¹ J. G. O'Keeffe, 'Mac dá Cherda and Cummaíne Foda', *Ériu* 5 (1911) 18-44: 34/5 and 36/7. The descent of Bran Finn given in the story is incorrect, the annals note his death in 680, and that of his father Máel Ochtraig (son of Áed according to the genealogies) in 645. He was a *rí*gbard (*CIH* 1131.25-6, see *UR* 50-1). Bran Finn son of Dínertach lived ca. 800, see *G* §58. For adultery, see §2.4. For a similar usage, see *AConn* 1272.4, see Appendix 3, section 2, discussed below. In *Cogadh Gaedhel re Gallaibh* Murchad mac Briain is named as '*adhbhar airdrigh Erenn*' (105 (§65)), while in

Before I discuss the meaning of *rígdamna*, *adbar rí* etc. in the annals, some attention has to be given to the title of "battle-smiter" (*túaircuid catha*) which seems to be related to the position of the heir-apparent. In the annals it is said that Muiredach Tírech was '(battle-)smiter of the lord' (*tuarcuid flatha*), his father Fiachra. When the latter was killed by the three Collas, it was said: 'That Muiredach is 'material of the king of Ireland' (*Is é adbar rí* *hErenn in Muiredach-sa*).⁷²

In *Aided Crimthainn maic Fidaig* from YBL it is related how Niall Noígíallach becomes king of Ireland in Tara after the death of Crimthann of Munster. His oldest brother 'Brión was "battle-smiter" in his stead, of levying hostages and tribute for him from every direction (*Brian ba tuairgnid catha fri[a] laim side ic tocbail giall 7 cana do as cach aird*).⁷³ After Brión's death the kingship of Connacht was given to his brother Fiachra, who became 'the "battle-smiter" for Niall (*tuairgnid catha fri laim Neill*) in levying hostages for Tara.' Fiachra's son Nath Í and the son of his son Amalgaid were given as pledges to Niall.⁷⁴

It is likely that the function of "battle-smiter" is a twelfth century conception of the position of the heir-apparent in earlier times; the title does not figure outside saga-literature. However, his function as commander, who levied hostages and tribute in name of his lord (who could be his brother or father) is of interest. From the ninth century onwards the annals mention the sons or brothers of kings acting as independent army-leaders, which apparently resulted from their position as their father's successor (see also §3.3). The earliest reference in the annals is that of Máel Ruanaid, son of Flann Sinna, who personally led an army into Osraige in 895

another passage (137 (§78)) it is said of him that 'he was the only *rígdamna* of the men of Ireland who was not in alliance with Máel Sechlainn before that time', referring to Máel Sechlainn's submission to Brian. He is called *rígdamna Érenn* in the annals (*AI*, *CS*).

⁷² *CGH* 148 (*Laud* 317). See *G* §1. Some later manuscripts have *tuarcuid catha nó flatha*. See also Stokes, *Cóir Anmann*, 338-9 (§116): '*is é bá tuairgnidh catha friá laim a athar*'.

⁷³ Stokes, 'The death of Crimthann' 181 (§9). Stokes translates *airt*, corrected from *tír* in YBL, as 'airt', see *DIL* under 'aird'.

⁷⁴ *Ibid.*, 183 (§14). For other examples, see *DIL* under 'túaircuid'.

(CS), but it is likely that this was also the custom in an earlier period.⁷⁵

A well-known proverb which admonishes sons to choose the profession of their fathers refers to 'the son of the king to bind the hostages' (ST §50), while a poem in *Oided mac nUisnig* recites: 'Sons of kings whom valour served; to whom soldiers used to give hostages.'⁷⁶ As sons often acted as representatives of their father in military matters, this is only a small extension of their position, which additionally served to secure their future position. Áed, son of Cathal Crobderg Ua Conchobair, who had ruled Íarthar Connacht under his father and who had been given the hostages of Connacht is a typical case (see §4.5 above). According to the annalists, Áed had been 'king in effect by the side of his father (*ri ar tothacht re lamaib a adur*)', a description which echoes the description of Brión and Fiachra in *Aided Crimthainn maic Fidaig* quoted above. It is more clearly represented in the title *rí (f)ri láim a athar*, which is applied to Donnchad Derc, son of Art Ua Ruairc, *rígdamna* of Bréifne and king of Airthir Connacht *fri láimh a athar* (+1039).⁷⁷ Another example is Murchad son of Diarmait mac Maíl na mBó, who ruled Dublin and Leinster *fri láimh a athar* until his death in 1070.⁷⁸ Other sons of kings undoubtedly enjoyed a similar position, although the annals do not express this by using a specific title.

The annalistic material necessitates an approach different to that used with the literary sources. For the period until the end of the twelfth century *rígdamna* is used without adjoining comment, and we have to judge from the context if it refers to *rígdamna* in a general sense - someone fit for the kingship on account of his qualities - or in a specific sense - the heir-apparent according to the rules of

⁷⁵ In *VTrip* 175 is recorded how Coinnecán (+855) son of Colmán son of Niall Frossach (G §12), who never held the kingship, led an army into Connacht.

⁷⁶ W. Stokes (ed.), 'The death of the sons of Usnech', in E. Windisch and W. Stokes, *Irische Texte* 2.2 (Leipzig 1887), 109-84, lines 601-2. Note also in Dillon, *Lebor na Cert*, 29: 'No-one is the son of a lord of Munster who does not demand the rent (*ní mac flaith ar Mór-Mumain, nech ná coingne cís*)', my translation.

⁷⁷ *FM* 1039, cf. *AT* 1039. Donnchad's father Art seems to have been acknowledged as king of Connacht, and his son ruled by his side over East Connacht; see G §69. See also Ó Corráin, 'Irish regnal succession', 36, note 46.

⁷⁸ *FM* 1070, *LL* 5489.

seniority and alternation. The title is first used in 805 (disregarding the entry in *AT/CS* 629) in *AI*, and the first four references are all from Munster. The title becomes widely used in all the annals from the second half of the ninth century onwards, and with fluctuations (with peaks in the years 910-30 and 1010-70) remains common until the end of the twelfth century.

The various annals are not consistent in awarding the title *rígdamna* to a certain person, or they give variations as regards the territory referred to. In about one tenth of the total number of *rígdamna* mentioned in the annals in the period 800-1200 one or more annals do not use the title.⁷⁹ Although this can in part be explained by failures in textual transmission, later additions, personal interpretation of the use of the title by the different annalists, etc., it is also the result of the uncertainty which exists about the bestowal or claiming of formal or honorific titles. This confusion is also shown by several occasions where one source uses *rígdamna* and another *rí* or *lethrí*.⁸⁰ A typical case is nr. 61: Dubgall mac Áeda, who is called *rígdamna* of Ulaid in *CS*, but king of Ulaid in *AU* and the list of kings of Ulaid in *LL*. Apparently, there is confusion here as to whether Dubgall was accepted as king of Ulaid or if he was merely king of Dál Fiatach, who, through his position, claimed to be king of Ulaid.

A clearer example of this phenomenon is supplied by the use of *rígdamna Temrach* and *rígdamna Érenn*. As has already been argued, the title *rí Érenn* is one of achievement, not one which can be claimed by birthright (§4.5). This makes both *rí Érenn* and *rígdamna Érenn* very susceptible to be used by partisan annalists.⁸¹ In §1.3 I have discussed why *rígdamna Érenn* cannot refer to the heir-designate (Mac Niocaill's theory) or the main candidate outside the kingship (Ó Corráin's argument). In the case of the royal lineages of Cenél nEógain, only the descendants of those who had been recognized as *rí Érenn* are given the title *rígdamna Érenn*, while those who descended from a *rí Temrach* or *rí Ailig* are

⁷⁹ See Appendix 3, section 1, nos. 29, 49, 62, 64, 75, 86, 91, 96, 104, 113, 118, 139, 144, 161, 162, 169, 170, 192, 206, 215, 238, 242, 244, 250, 257, 265, 270, 271, 272, 280, 288, 297, 298, 314, 318. See also nos. 41, 98, 112, 140, 141.

⁸⁰ Nos. 1, 4, 9, 11, 33, 61, 81, 95, 110, 144, 205, 254, 260, 261, 263, 302.

⁸¹ Nos. 29, 44, 47, 50, 51; see also nos. 158, 232, 273, 276.

named as *rígdamna Temrach* or *rígdamna Ailig*.⁸² Here *rígdamna* clearly expresses a person's prominent descent, which, as has been argued in chapter 2, serves as an important consideration in establishing a person's suitability for the kingship. *Rígdamna Érenn* thus indicates that the man in question is qualified for the kingship of Ireland as regards descent and other qualifications, but not that he is regarded as the next successor for that kingship.

The widespread use of *rígdamna* throughout the period 800-1200 also suggests that the title is essentially used in its general sense, rather than referring to the heir-apparent. In certain cases the majority of those members of a particular dynasty mentioned in the annals are given the title *rígdamna*, most notably so in the case of Leinster (G §§39-41) and Ua Conchobair (§64), and it is unlikely that they all figured as the heir-apparent.⁸³ For example, the three sons of Flannacán of Brega (+896) who predeceased their father in rapid succession (893, 895, 896), are all named as *rígdamna*, but it is more likely that this reflects their reputation and qualifications than that each of them happened to be the heir-apparent.⁸⁴ Remarkable is the fact that Cellach (+895) is both named as *rí Breg* and *rígdamna Breg n-uile* - his father died as *rí Breg n-uile* ('king of all of Brega') - which indicates that he was king of (Northern) Brega under his father, who was overlord of both Northern and Southern Brega, a position for which Cellach was also considered to be qualified, as his other title shows.

This use of *rígdamna* by the annalists, which shows a man's qualification for the kingship held by his father, grandfather or branch, and disregards the person's position as lord or king in his own right, is a characteristic which is very widespread, and deserves further attention. A complication is formed by the tendency not to distinguish between a *rígdamna* of an overkingship who was *rí* over a smaller territorial entity, and a candidate who was also suitable for the

⁸² See G §§12-3. The same applies to the descendants of Congalach Cnogba (§19) and Brian Bóruma (§56).

⁸³ See G §§39-41 and 64. In other cases the title is notably absent, such as among the sons of Máel Sechlainn Mór (king of Tara 980-1022), see G §22. Note in this respect that the line of Flann (+1013) provides the main contestors for the kingship.

⁸⁴ See nos. 22, 24, 25 (G §19).

overkingship without being a *rí*, but, for example, one of the sons of the king. This is yet another indication of its loose application by the annalists.⁸⁵

Thus, not only Muirchertach 'of the Leather Cloaks', king of Ailech, is called *rígdamna Érenn* - he would have succeeded Donnchad Donn of Clann Cholmáin (+944) in the kingship of Tara if he had not been killed by the Vikings in 943 - but also his brother Conaing (+937), who had not held the kingship; their father Niall Glúndub had been recognized as *rí Érenn*, and this was apparently sufficient for both to be awarded with the title. Likewise, the titles *rígdamna Temrach* and *rígdamna Érenn* are given to sons of a king of Tara/Ireland, the king of Mide or the head of the branch outside the kingship of Mide.⁸⁶

In several cases we need the assistance of other annals or lists of kings to determine that a *rígdamna* of Uí Cheinnselaig can also refer to the king of Uí Dróna (no. 35), *rígdamna Airgiall* to *rí Fernmaige* (no. 42), *rígdamna Érenn* to *rí Breg* (no. 106), *rígdamna Ailig* to *rí Maige Ítha* (no. 122), *rígdamna Connacht* to the king of Uí Diarmata (no. 188), Síol Muiredaig (nos. 247, 272) or Bréifne (nos. 245, 255), *rígdamna Laigen* to the king of Uí Fáeláin (nos. 190, 291), etc. On a number of occasions we may suspect that *rígdamna* actually refers to a smaller territorial kingship without the sources actually indicating this.⁸⁷

The annalists thus seem to take the existence of large overkingships for granted and cover up the existence of branches or smaller territorial divisions, with *rígdamna* being used to claim that only the near descendants of a king are worthy to succeed him in the kingship. It is difficult to establish whether this is done inadvertently or on purpose, but it is certainly remarkable that all the annalists adhere to this.

⁸⁵ Nos. 24, 35, 42, 47, 48, 51, 77, 83, 84, 86, 87, 89, 106, 122, 128, 129, 145, 167, 182, 188, 190, 207, 211, 239, 245, 247, 248, 255, 259, 272, 289, 291, 292, 293, 300, 307, 308, 309, 313, 315, 316, 317, 319, 320. In some cases, the annalist himself provides both references, such as in no. 128: Áed son of Flaithbertach Ua Néill, *rí Ailig 7 rígdamna Érenn* (+1033).

⁸⁶ Nos. 47, 51, 84, 86, 167, cf. §1.3. above. *Rígdamna Midi* is only used on one occasion in this period, no. 103. For the same application of *rígdamna Muman* among the Dál Cais, see note 94 below.

⁸⁷ See for example Clann Domnaill (G §13): *rígdamna Ailig* may in some cases refer to the kingship of Mag nítha (an option not considered by Charles-Edwards, *Kinship*, 108-10). The same accounts for *rígdamna Laigen*, which at times seems to refer to the king of Uí Muiredaig, Uí Fáeláin or Uí Dúchada (§§39-41).

According to Mac Neill *rígdamna* constituted an eligible heir belonging to the *derbfine* of a previous king. Although his list of references is not complete, the list given in Appendix 3, combined with the genealogical tables in Appendix 2, confirms his impression that a *rígdamna* - taking the above considerations into account - is in the majority of the cases a son or grandson of a king, and this may be connected with the three generation requirement discussed in chapter 2. The connection between *rígdamna* and someone's qualifications and descent is already discussed above, and the most logical interpretation is that *rígdamna* is essentially analogous to *adbar abbad* or *damna abbad*: it refers to someone's qualification to succeed in an office following the traditional rules of succession.

This does not mean that Mac Neill was right after all, as the loose and particular uses of *rígdamna* do not make it an official title, but one awarded by the annalists, not seldom in an honorific sense. We have seen that descent is but one of the criteria used to select the best candidate for succession, and there are no indications that there ever was a specifically designated group from whom the next king had to be chosen. *Rígdamna X* simply indicates that the person was qualified to take the kingship of X according to his descent, seniority, personal qualifications, because he was head of a powerful branch, or according to other considerations which made the annalist award the title. In this way, *rígdamna* is a product of the traditional rules of succession, and its use in the annals has to be interpreted accordingly.

If this is accepted, the plurality of *rígdamna* is also easily explained.⁸⁸ Those examples of *rígdamna* which fall outside the three generation group still deserve some discussion. Ó Corráin and Charles-Edwards both take Munster as their example, and interpret *rígdamna* as an official title. Ó Corráin writes: 'Indeed their office appears more like an honour or a consolation prize than a functional role in

⁸⁸ Nos. 18, 79, 107, 139, 152, 176, 177, 179, 180, 184, 204, 225, 246, 258, 266, 279, 314. See Charles-Edwards, *Kinship*, 104-5, for discussion. His interpretation that the titles given to Muirchertach son of Domnall ua Néill and Muirchertach son of Congalach Cnogba, who are named as two *rígdamna Érenn* at their deaths in 977 (no. 107) reflects an arrangement that one would succeed the other is unlikely; both of their fathers had been kings of Tara/Ireland, and this is the foremost reason why they are given the title. As they happen to be killed at the same time, both are called *rígdamna*; a coincidence, rather than a political statement.

dynastics.¹⁸⁹ Charles-Edwards takes up this suggestion, and argues that *rígdamna* was used in the reign of Donnchad mac Briain 'to flatter the pretensions of potential rivals or awkward vassals and so bind them to his cause.'¹⁹⁰ As examples serve Domnall mac Sencháin (+1027) and Etrú mac (= ua) Conaing (+1032), both named as *rígdamna Muman*.¹⁹¹ Charles-Edwards is correct to say that they were not 'eligible princes' as Mac Neill claimed, but then argues that 'a branch which could boast a *rígdamnae Muman* was still officially recognized as having the *febas* to provide a king of Munster', and this 'could make the competition for the kingship less acute'.¹⁹² Furthermore, the title *rígdamna Érenn* given to Tadg mac Briain (+1023) 'in part expressed the ambition of a dynasty ... to retain the pre-eminence in Ireland ...'¹⁹³

I think that it is unlikely that *rígdamna* as used in the annals reflects an official title of some sort, with the exception of *rígdamna* used in the sense of the heir-apparent, which will be discussed below. It is foremost a title awarded by the annalists, and its application is therefore subject to inconsistencies, partisan interests and flattery; there is no evidence that it had any currency outside the annals as a political title bestowed on remote dynasts to pacify them or that it served as a mark of ambition. We can easily interpret the title of *rígdamna Muman* given to Domnall mac Sencháin and Etrú ua Conaing by their position as heads of their respective branches, Clann Choscraig and Clann Duinn Chuain.¹⁹⁴ In this the situation in Munster is by no means different to that in the rest of Ireland, where similar titles are given to heads of branches who had no real connection with the succession to the kingship of

¹⁸⁹ Ó Corráin, 'Irish regnal succession', 37.

¹⁹⁰ Charles-Edwards, *Kinship*, 103, with several other statements of this kind, see also his note 45 on the same page.

¹⁹¹ Nos. 169 and 181 (G §64). Charles Edwards' table on p. 104 has misplaced Etrú: he was not a son but a grandson of Conaing.

¹⁹² *Ibid.*, 103.

¹⁹³ *Ibid.*, 104.

¹⁹⁴ For Conaing (+1014), *rígdamna Muman*, and the seniority of Clann Duinn Chuain over Ua Briain, see §5.4. below. The title *rígdamna Dál Cais* is not attested in the annals, and *rígdamna Muman* appears to be used along the same lines as *rígdamna Temrach* for the dynasts of Clann Cholmáin.

which they were called *rígdamna*.⁹⁵

In the literary sources we have seen that *rígdamna* can also be used in a specific sense, referring to the heir-apparent according to the rules of seniority and alternation. There is no doubt that *rígdamna* in the sense of 'heir-apparent' is also used in the annals, but the title in itself does not indicate whether we have to read *rígdamna* as such or as merely 'worthy to be king'; we have to extrapolate it from the context, the person's position within the dynasty and other information. Only sometimes we can translate *rígdamna* as 'heir-apparent' with some confidence, for example in the case of Niall son of Domnall Mac Lochlainn, who is named as *rígdamna Ailig 7 Érenn* (nr. 273), in which the first refers to his position as heir-apparent of Ailech (he was already king of Cenél Conaill), and the latter to his suitability for the kingship of Ireland, a position claimed by his father at the time. It is noteworthy that Niall is actually called *rígdamna Ailig* during his lifetime, in 1108 (nr. 264). Other examples of persons named as *rígdamna* while they are still alive are rare, but may indicate that the title refers to an accepted heir-apparent or claimant to the kingship.⁹⁶

In the eleventh and twelfth centuries *damna tigerna* and *adbar rí* occur a few times in *FM*, where *AT* uses *rígdamna*, which undoubtedly forms the original title; only in 1144 and 1169 is *adbar rí* used independently in *AT*, thus, after its introduction in the literary sources (see above).⁹⁷ After the Norman invasion the annalists, while not short on material, employ *rígdamna* all of a sudden sporadically compared with the earlier period, but generously award notable Irish kings with the title *rígdamna Érenn*, as if they were wishing for the days of the past in which the title of *rí Érenn* could still be won by the most powerful Irish king. The fact that Domnall son of Áed Mac Lochlainn, king of Ailech, was *rígdamna Érenn* 'as regards figure, intelligence, hospitality and wisdom' (*AU/ALC* 1188) shows that *rígdamna*

⁹⁵ For example, nos. 39 (G §31), 72 (§46), 131 and 134 (§3), 248 (§10), 253 (§28).

⁹⁶ Nos. 168, 187, 199, 264, 278. The examples in *FM* which are given at the end of Appendix 2, section 1, are clearly anachronistic and have no independent value.

⁹⁷ Nos. 216, 220, 230, 290; 294 (*AT*), 307 (*AT*).

purely refers to a person's qualifications here. Normally the annalists do not mention why someone is called *rígdamna*, but we may suspect that such reasons as named here often apply.

In the period from 1196 to 1221 neither *rígdamna* nor *adbar rí* makes an appearance in the annals, after which *rígdamna* is used infrequently, often only in one entry per decade; it is several times used in the plural, clearly referring to members of royal families in general.⁹⁸ *Adbar rí* surpasses *rígdamna* in popularity, and often appears in the form *degadbar rí* (*deg* = 'good'), while other qualifications, such as *adbar rí is ferr* ('the best *adbar rí*') or similar constructions are not uncommon either.⁹⁹ In all cases *adbar rí* basically refers to someone who is qualified for kingship on account of his qualifications, similar to *rígdamna* in the pre-Norman period, and in accordance with references to *adbar rí* in other sources. On several occasions the Anglo-Norman annals specify that a person is called *adbar rí* 'on account of his success and generosity and valour up to that day' (1306a); 'by reason of good sense, piety and purity' (1306b); 'for his nobility, valour, generosity, form and feature' (1309), and so on. It is interesting to see that time and again the same qualities are enumerated, those we have already met in our discussion of the traditional rule of succession.

It may be that *adbar rí* was introduced to distinguish between *rígdamna* used in a specific sense as the heir-apparent, which remained *rígdamna*, and *rígdamna* used in a general sense, which was replaced by *adbar rí*. However, as *rígdamna* is so scantily employed (only four examples in the fourteenth century), it is difficult to prove this. An indication is given by the title *degadbar rígdamna*, which suggests that *rígdamna* was not simply a title, but a political position, but this does not

⁹⁸ See Appendix 3, section 2, under the years 1225 (both), 1226; it is also implied in 1226. In 1302 *damna táisig* appears in the annals, and in 1350 *damna rí*.

⁹⁹ For *degadbar rí*, see the years 1230, 1233, 1309, 1310a, 1311, 1316, 1324, 1325, 1328, etc. In 1230 *degadbar airdrí* *Érenn* is also rendered *rígdamna Érenn de iure*, cf. 1392. For *adbar rí is ferr* etc., see 1272, 1291, 1294, etc. In 1329 *tennadbar rí* is introduced, synonymous with *degadbar rí*. Note also in 1526 '*damna 7 degadbar rí 7 rotigerna*'.

necessarily accounts for every instance *rígdamna* is used in the annals.¹⁰⁰ The confusion is increased by giving *adbar rí* a specific application which indicates it refers to the heir-apparent, such as *adbar rí* 'without doubt' or 'without opposition'; the first example of this kind occurs in 1392.¹⁰¹ However, *adbar rí* in a general sense continues to be used as well, and there are no indications that the title refers to the heir-apparent as a rule.

In §1.3. the theory of Mac Niocaill which equates *adbar rí* with *rígdamna* and *tánaise rí* has already been referred to. He names two examples (1393, 1470; add 1399) in which one person is named *rígdamna* in one set of annals, and *adbar rí* in another, and concludes on this and other grounds that the two refer to the same office.¹⁰² However, it can be argued that *rígdamna* refers to the heir-apparent, and *adbar rí* a general title, employed by an annalist who was not aware of the exact political circumstances, or had a personal preference for using one title above the other: in all three cases *rígdamna* is used by the annalist of *AU*, and *adbar rí* by the annalist of *AConn*.

Mac Niocaill also refers to the Ua Domnaill genealogies, which name only a select few of a large number of sons *rígdamna* - of whom several are named as *adbar rí* in the annals.¹⁰³ The same argument as above can be used to suggest that it is not safe to derive a solid conclusion from a person's title as regards his

¹⁰⁰ See 1418b (G §67), see also Simms, *From kings*, 54 for discussion. Another example is at *ALC* 1580 (G §66). For *rígdamna* used for a person who is still alive, but who seems to have been skipped over for succession, see 1398. In J. O'Donovan (ed.), 'The Annals of Ireland, from the year 1443 to 1468, translated from the Irish by Dudley Firbisse, or, as he is more usually called, Duaid Mac Firbis, for Sir James Ware, in the year 1666', in O'Donovan, *Miscellany of the I.A.S.*, 198-302, titles as *adbar rí*, *damna rí* and *rígdamna* are all translated as 'being well worthy of the kingship of', 'who was thought to be duke or chieftain of' or as 'who ought to be king of'.

¹⁰¹ See under the years 1392, 1412, 1431, 1455/70, 1458, 1522b, 1538. See also 1365 and 1393, 1418 for other examples in which *adbar rí* seems to refer to the heir-apparent, and 1419 b,c,d, and 1455/70 for persons still alive being named as *adbar rí*. See also Mac Niocaill, 'À propos', 519. See note 63 above for an example from *Cath Maigh Léna* (from ca. 1300).

¹⁰² Mac Niocaill, *ibid*, 517. See Appendix 3, section 6, under the given years, and also 1538 (Áed Buidhe Ua Domnaill, see §5.4. above, at note 238, for his probable position as *tánaise*).

¹⁰³ *Ibid.*, 518. See *OClery* §§ 62, 94, 95 and G §8. In *OClery* § 104 Magnus is called *rioghdhamna an tiri*, a title also given to him in 1522 when his father still held the kingship, and which evidently refers to his position as heir-apparent. In the genealogies of Mac Diarmata at Lec. 65 vc24-5 and 33-4 Conchobar mac Áeda (king 1398-1404) and Tomaltach mac Fergail (*tánaise*, +1368) are both named as *rígdamna* of Mag Luirg, a position they probably held when the tract was written.

position as heir-apparent. It may well be that in a number of cases *adbar rí* refers to the *rígdamna* in the sense of heir-apparent, but the loose appliance of both titles and their virtual interchangeability does not allow us to assume this in all cases. A change of title, which for example occurs in the case of Pilib Mac Uidhir (1455/70), may therefore be unrelated to a change in political fortunes, as Simms proposes.¹⁰⁴

In all, it is safest to treat the use of titles in the annals with caution and not to regard them as separate or identical political offices without the proper context to support this. Thus, for the Anglo-Norman period the same conclusions as for the period 800-1200 apply: *rígdamna*, *adbar rí* and related titles all are basically expressions of the Irish traditional rule of succession made by the annalists, but with the comment that for the later period they are more confined to the closest relatives of the kings, usually brothers or sons, and not to heads of remote branches - an indication that succession became more confined to a closer circle of royal candidates.

We now have to turn to *tánaise rí* - yet another title which may refer to the heir-apparent - which we have already met in connection with alternation and the *ferann rígdamnachta*, and for which we have legal evidence.

¹⁰⁴ Simms, *From kings*, 54. She also mentions Eigneacán son of Nechtan Ua Domnaill, *tánaise* in 1480, but *rígdamna* of Cenél Conaill at his death in 1497. For another example, see Appendix 3, section 6, 1471 (Donnchad Mac Uidhir named as *tánaise*) cf. section 2, 1476 (*adbar rí* without opposition).

5.3. The legal position of the *tánaise rí*

In the previous paragraphs *tánaise* is already referred to in literary sources in connection with alternation and the *ferann rígdamnachta*. Unlike *rígdamna*, the annalists use *tánaise (rí)* rarely, and before the Anglo-Norman period we have far more examples of *tánaise abbad*. In legal material *tánaise* is found in connection with several lay and ecclesiastical grades, but in all the slim and confusing evidence precludes a clear interpretation of the meaning of *tánaise* in the early period. In the later Middle Ages the *tánaise* features more regularly in the sources, not only in the annals, but also in documents which relate to the English administrative dealings with Ireland in the sixteenth and seventeenth centuries. Both English and Irish describe and comment upon "tanistry" in this period, and are quite uniform in defining the *tánaise* or tanist as the eldest and worthiest relative of the lord or king, who is to succeed according to the customary rules, and who is given a piece of land under his care for his lifetime as part of his position (see §5.4 below).

For the pre-Norman period the most important and tantalizing description of the *tánaise rí* is in *Críth Gablach*:¹⁰⁵

'*Tánaise rí*, why is he so called? Because the whole of the *túath* looks forward to (his) kingship without opposition to him. He has five *senchléithe* over and above (the number of clients proper to) an *aire forgill*. Ten persons are his retinue in the *túath*, eight in private, ten on sick-maintenance, with the same right (of food-provision, relatively, as the aforementioned grades); with a complete set of buildings, with a number of teams of horses, with equipment for every season, with a lawful primary wife. Ten *cumals* are his 'fore-purchase' (fief), six cows his customary food-tribute. Thirty chattels are his honourprice; he makes oath in compurgation, is enforcing surety, paying surety, hostage surety, contracting party, witness to that extent. He pays them (i.e. is able to pay to that extent) without requisition or borrowing, if one sue.'

¹⁰⁵ CG 434-43; my own translation, based on Binchy, CG, pp. 107-8, and Mac Neill, 'Law of status', 300 (§114). The description of the *tánaise rí* here is not as extensive as the other noble grades.

(*Tánaise rí* cid ara n-eperr? Arindí fris[n]aicci túath huile do rígiu cen chosnam fris. Cóic senchléthe forcraid laiss sech airig forgaill. Dech(n)enbur a dám i túaith, ochtar fo leith(i). Dech(n)enbur fo[r] folug co cétnu chórus, co n-innrucus chléithe, co llín e(o)chraide, co comopa[i]r cech ráithi, co cétmunteras dligid. De[i]ch cumala(i) a thaurchrecc, sé baí bés a thige. Trícha sét a ene(ch)clann; immustoin, is naidm, is rá(i)th, is aitire, is féchem, is fiadnaise friu. Ferthos cen air[r]ech cen airlicud cia tacra(i).)

Tánaise rí literally means 'second to a king'; *tánaise* as an ordinal numeral means 'second', and *DIL* gives the additional meanings 'second, next in excellence, number, etc.' and 'second only to, almost, practically', thus 'second in rank or dignity'.¹⁰⁶ The most intriguing part of the description of the *tánaise rí* in *Críth Gablach* is the often quoted etymological explanation of the title, which stands out from all the other grades discussed in *Críth Gablach* because its etymology is not immediately apparent. For example, the *aire forgill* is so called 'because it is he who testifies (*fortgella*) above the grades that we have stated, wherever they may happen to be concerned about a conflict of evidence, for his worth (*febas*) is nobler than the others', in which the element *forgill* is clearly explained by *fortgella*.¹⁰⁷ Binchy discusses this problem, and suggests that the element *fris[n]aicci* in the etymological gloss to *tánaise rí* refers to the original title of the heir-apparent, and noting the Welsh parallel *gwrthrych* he suggests **frescissid* or something similar as the original Irish title which was later replaced by *tánaise rí* under pressure of *tánaise abbad*, the Irish translation of the Latin *secundus abbas*; a later redactor of *Críth Gablach* may have altered the title but still left the etymological explanation.¹⁰⁸

Binchy also comments upon the title *aire forgill frisaicci ríge* which occurs in

¹⁰⁶ *DIL* under 'tánaise, tánaiste'.

¹⁰⁷ *CG* 417-9. Translation based on Binchy's notes to line 418 and Mac Neill, *ibid.*, 299 (§113).

¹⁰⁸ D. A. Binchy, 'Some Celtic legal terms', *Celtica* 3 (1956) 221-31: 221-5. In his note to line 434 in *CG* he suggests the alternative reading *fris-indn-aicci*: 'looks forward to him'.

several commentaries in *Uraicecht Becc* in connection with the *aire forgill*. Unable to fit this in his theory, Binchy explains this title away as misunderstandings or corruptions of *for-acci* ('is of equivalent value/status'), although he also mentions the possibility that the *aire forgill frisaicci ríge* represents an earlier state of affairs in which the heir-apparent (the *tánaise*) still ranked as an *aire forgill*, but carried more prestige.¹⁰⁹

David Greene gives the matter a different interpretation by pointing to Thurneysen's suggestion that *tánaise* is a compound of the preverbs *to-ad* and a participle of the verb **ni-sed*.¹¹⁰ The latter hypothetical verb is found in at least two compounds, *indnaide* and *irnaide*, both which have the meaning of 'await', 'expect'. In the etymological gloss to *tánaise ríge* in *Críth Gablach* the word *fris[n]acci* also contains an element of expectation. This theory would make Binchy's creation of **frescissid* as the Irish title prior to *tánaise ríge* unnecessary, as the gloss in *Críth Gablach* can still be regarded as applying to the *tánaise ríge*.

Thomas Charles-Edwards follows Greene's linguistic approach, but does not agree with Greene's hypothesis that the Welsh took over the Irish construction in which a word meaning 'second' was used for 'heir', via Irish *secnap* (Welsh *segynnab*). He maintains that *segynnab* was not borrowed from Irish, and draws a parallel between the Irish *fris-aicci* ('looks forward') in the etymological gloss to *tánaise ríge* in *Críth Gablach* and the Welsh titles *gwrthrych* ('the looked for one'; 'the expected one') and *gwrthrychiad* ('the one who looks forward to [the kingship]'), and concludes that the Irish and Welsh titles have a common Celtic origin. The Irish title *tánaise* ('the awaited one'), in the meaning of 'second [in command]' corresponds with another Welsh title for heir, *eil* (cf. Irish *aile*: 'other'; 'second').¹¹¹

¹⁰⁹ *Ibid.*, 222. He has not noted all the instances in the law-tracts, see ST §40.

¹¹⁰ David Greene, 'Some linguistic evidence relating to the British church', in M. W. Barley and R. P. C. Hanson (eds.), *Christianity in Britain, 300-700* (Leicester 1968) 75-86: 83-4. Thurneysen, *A grammar of Old Irish*, 249 (§398).

¹¹¹ T. Charles-Edwards, 'The heir-apparent in Irish and Welsh law', *Celtica* 9 (1971) 180-90. For an alternative explanation, see P. L. Henry, 'Interpreting *Críth Gablach*', *ZCP* 36 (1978) 54-62: 56-60, who suggests that *tánaise* derives from **to-ad-naisse*: 'joined to', hence 'that which or he who is connected with, follows (the first, the leader)' (at 58). This would not explain the etymological gloss to *tánaise ríge* in *Críth Gablach*.

Noteworthy is that the word for 'alternation' in the Old Irish glosses, *imthánad* or *imthánud*, probably contains the elements *to-ad* and **ni-sed* as well, and in the Würzburg glosses we find an interesting example: 'he puts this for all the powers which exist in heaven and earth. Otherwise, it is for (the) heavenly ranks only; and it were not impossible (to suppose) that there might be alternation in these, so that one rank should be nobler than another *ut est in gradibus terrenis.*' (... *nibo decming rombed imthanad hi suidib combad úaisliu cach grád alailiu*).¹¹² We have already seen that *tánaise* as a title appears in connection with alternation. Is the *tánaise rí* then the 'expected one' because he is the one to succeed according to the rules of alternation? Before we can answer this, we first have to return to the gloss in *Críth Gablach*.

None of the three historians who have dealt with the linguistic background of *tánaise rí* observes that *aire forgill frisaicci ríge* would fit the etymological gloss to *tánaise rí* very well, and could be proposed as the Irish title (instead of Binchy's **frescissid*) before *tánaise rí* was introduced. Although *tánaise rí* can be seen as a native Irish word appropriate to indicate the king's heir, we have to take other grades containing the element *tánaise* into account, and investigate whether these can be seen as purely Irish grades, or whether they were introduced as equivalents of the ecclesiastical grade *tánaise abbad* (from Latin *secundus abbas*). It has to be noted that *aire forgill frisaicci ríge* is only attested in late sources, but before we consider the connection between the *aire forgill* and *tánaise rí* we have to deal with the influence of *secundus abbas* or *tánaise abbad* on *tánaise rí* and other lay grades containing the element *tánaise*.

In *Críth Gablach* the influence of the ecclesiastical grades on the lay grades is clearly set out:

'Whence come the divisions of grades of a *túath*? From a correspondence with the grades of the Church, for every order that is in the Church, it is just that its

¹¹² Thurneysen, *ibid.* Stokes and Strachan, *Thes. Pal. i*, 632 (Wb 21 a13). The Latin text to which the gloss belongs reads: '*supra omnem principatum et potestatum et uirtutem et dominationem super omne nomen quod nominatur.*'

correspondence should be in the *túath*, for the sake of declaration or denial on oath, or of evidence, or of judgement, from each to the other.

Question: what are the orders of the *túath*? *Fer midboth*, *bóaire*, *aire désa*, *aire ard*, *aire tuíseo*, *aire forgill*, and *rí* - if it be according to Irish law the following seven grades are divided in detail. Which detail? (?) *Aire désa*, *aire echta*, *aire ard*, *aire tuíseo*, *aire forgill*, *tánaise rí* and *rí*.¹¹³

Tánaise rí is thus a subdivision of one of the basic grades - the grades of *fer midboth* and *bóaire* are also subdivided - and we find the element *tánaise* also used in combination with other lay grades which are subdivided, and these deserve our attention to establish in which way *tánaise* is used as a common element to denote a certain grade among the clergy, poets and men of art. In *Uraicecht Becc* the application of *tánaise* is well represented, and the following quotation testifies to the equation of the lay grades:

'A sage of letters, he has the same status as a king of one *túath*; *tánaise* of a sage of letters, equal *díre* to him with an *aire ard*; a young sage, he has the same status as an *aire tuíseo*.' (*sai litri, comsaere do fri rig naentuaite; tanaisi suad litri, comdiri do fri hairig naird; ocsai, comsaire do fri hairig tuisi*)¹¹⁴

Both in the text of *Uraicecht Becc* as in the glosses in *Bretha Déin Chécht*, a law-tract on injuries, the *tánaise suad litri* is also equated with the *ánruth filed* and other grades.¹¹⁵ Here the *tánaise* refers to the second highest grade (like the *tánaise rí*), but what the title means in this context gives the glossators some problems.

¹¹³ CG 6-15, translation based on Binchy's note to line 12 and Mac Neill, *ibid.*, 282 (§§62-3). See also CG 316-9, which names the latter seven grades under the heading '*Córus flatha*'. For the Irish ecclesiastical organisation and its likeness to the political organisation, see T. Charles-Edwards, 'Church and settlement', in Ní Chatháin and Richter, *Irland und Europa*, 167-85. See also §2.2. above.

¹¹⁴ CIH 1615.4-8 (AL v 103). In *Críth Gablach* and *Córus Béscnai* the *aire ard* has a lower honourprice than the *aire tuíseo*, but in *Uraicecht Becc* and other texts this is reversed.

¹¹⁵ CIH 1618.16-36 (AL v 113); 2305.4-39 = D. A. Binchy (ed.), '*Bretha Déin Chécht*', *Ériu* 20 (1966) 1-66: 23 (§2). For the *ánruth*, see below, at note 168ff.

In the first reference in *Uraicecht Becc* the *tánaise suad litri* is held to be a sage of canon law (*sai canóine*), and the honourprice of the *aire ard* is glossed as that of a middle *aire forgill* (*aran airig forgill medónach*).¹¹⁶ In the second reference he is glossed as 'the historian ... when he is instituted by a king of a great *túath* (*in sdaraigi ... ó uirdniter ac rig mórtuathi*).'¹¹⁷ In the same tract the *tánaise bóairech* is equated with the chariotbuilder, carpenter, etc., and is glossed as the best *ócaire* (.i. *int ocaire is ferr*), the grade directly under the *bóaire*.¹¹⁸

The *tánaise bóairech* is also mentioned in *Míadslechta*, another Old Irish law-tract, which also contains a reference to the *tánaise espuic*: 'The virgin priest, moreover, is second to the virgin bishop (*in sacart oighe d[an]o is tanaise espuic oighe*).'¹¹⁹ Here *tánaise* refers to the person second in rank to the bishop, not to the *tánaise espuic* as separate grade which is equal in status to the priest. Similarly, in *Uraicecht Becc* we find a gloss concerning a harpist who has the same honourprice as the *bóaire tuíseo* because he has another profession as well, and the glossator first considers whether this applies to all harpists, but then gives an alternative: 'or, it is to their *ollams* this is allowed, and there is nothing for their 'seconds' (*nó da nollamnaib ata sin, 7 nocon fuil ni da tanaisib*).'¹²⁰

The glosses in *Bretha Déin Chécht* also use *tánaise* to cover all the second grades: '*Rodbo trian .i. 7 [delete ?] asan boin 7 asin dairt .i. a tanaisi, no o gradaib flatha.*' (Either one-third .i. from the cow or the heifer i.e. [from wounds of] their

¹¹⁶ CIH 1615.7. In *Míadslechta* the *aire ard* is also glossed as *aire forgill*, see note 166 below. According to McLeod, 'Interpreting', 62-5, there were originally three noble grades: *aire ard*, *aire tuíseo* and *aire désa* - also attested in the above quote from *Uraicecht Becc* - while the *aire forgill* is probably a division of the *aire ard* which developed into a separate grade.

¹¹⁷ CIH 1618.17-8. In *Bretha Déin Chécht* (see note 125 below) a poet, craftsman etc. receives a higher status if he is instituted by a king of higher status, especially those appointed by the king of Ireland.

¹¹⁸ CIH 1616.17-21 (AL v 107).

¹¹⁹ CIH 584.30 (AL v 353); 588.26 (AL v 365).

¹²⁰ CIH 1616.31-6 (AL v 107).

'seconds', or from the noble grades).¹²¹

Finally, in *Bretha Nemed* we meet another example of *tánaise* among the poetic grades:

'(as for) the next in rank to the *serthonn*, one is to go as eighty (?) and eight people, in addition to a horse entitlement to a hound.' (*tanuise sertuind : saidti co hochd ochtar : fri ech airilliud cuimh*).¹²² In *O'Davorens Glossary* 'serthonn' is glossed '*i. anrudh, ut est tanisi serthonn*.'¹²³

In the above examples *tánaise* does not imply a specific right to succession - an interpretation often given to the *tánaise rí*g - but has a more general application as meaning "second in status to", "next in rank to".¹²⁴ Its usage, particularly in *Uraicecht Becc*, seems to be born out of an artificial equation between the various lay grades. The glossators feel the need to explain the *tánaise*-grades by ordinary grades, and it seems that as separate grades they had gone out of style. Apparently, the introduction of *tánaise* in connection with the lay grades had been an unsuccessful attempt to standardize all the lay grades on the model of the ecclesiastical grades, using *tánaise abbad* as the basic 'second' grade.

¹²¹ *CIH* 2310.5, 21-2, translation based on Binchy, '*Bretha Déin Chécht*', 35 (§18), who translates '... the second class (?)...', but I tentatively take 'a *tanaisi*' to refer to 'o *rigaib cona comgradaib*' in the preceding gloss. See also *CIH* 1928.11-12: '*Robo trian .i. o [MS: i] tanuisi rig nó o gradhuibh flatha .i. asin mboin nó in dairt .i. inindraig .uii. s.*' (Either one-third i.e. from a *tánaise rí*g or from the noble grades, i.e. from the cow or the heifer, i.e. a wound requiring a tent of seven *séts*), cf. 2284.41, 701.6, and Meyer, *Cáin Adamnáin* (29, §44): '*secht seúit cacha inindrigh*.' At *CIH* 2310.13-4 Binchy, *ibid.*, 33-5 (§17) translates '(in)a *tanaisi*' as '[a wound of] the second class (?)', but perhaps it also refers to 'the second (grades)'.

¹²² *CIH* 2214.12-3, text and transl. from *UR* 22 (line 48-50) and 24.

¹²³ *CIH* 1523.35, cf. 2213.38 and 1131.21. For the *ánrudh*, see note 115 above for further references.

¹²⁴ In a fragment from the Passion of George in Robert Atkinson (ed.), *The passions and homilies from Leabhar Breac*. Todd LS 2 (Dublin 1887) line 1172-4 (pp. 74 and 316), the evil king Datianus says: 'if there be any magician who can annul the magic art of the Christians, let him come to me, and I will enrich him and make him second to me in my kingdom (... *7 bid tanaise dam-sa he i-m flaitius*).' Here *tánaise* does not seem to mean 'heir-apparent' either.

In the annals *tánaise abbad* appears in two periods, from 823-931/980 (AU and CS), in almost all cases relating to Clonmacnoise or Armagh, and 1070-1128 (CS), all relating to Clonmacnoise.¹²⁵

760 (AT):

Ailgino mac Gnai, *secundus abbas* of Clonard.

823 (CS, FM) and 843 (CS, probably a double entry):

Congalach mac Írgalaig, *tánaise abbad* of Clonmacnoise.

838 (CS):

Ruaidrí mac Donnchada ([.i.] *secundus abbas* of Clonard), *tánaise abbad* of Clonmacnoise. FM: *prioir* of Clonard.

867 (FM):

Aedacán mac Finnsnechta, *tánaise abbad* of Cluain [= Clonmacnoise], and abbot of many churches.

875 (AU, CS):

Moengal, *tánaise* of Clonmacnoise.

891 (AU, CS):

Cormac, *princeps* of Fore and *tánaise abbad* of Clonmacnoise.

896 (AU, CS):

Máel Achid, *tánaise* of Clonmacnoise and *princeps* of Devenish, suffered a violent death at the hands of the Delbna.

897 (AU):

Cathusach mac Fergusa, *tánaise abbad* of Armagh, *relegiosus iuuenis*.

923 (CS):

Dedimus Ua Foirbthen, *tánaise* of Clonmacnoise. [CS 901: a change of abbots in Clonmacnoise, i.e. Joseph instead of Dedimus]

924 (CS):

Donnchad mac Domnaill, *tánaise* of Clonard, *rígdamna Temrach*.

¹²⁵ I only notice the names and their titles (standardized), in all cases the annals notice the death of the persons mentioned. In CS 903 Cellach son of Saergus, bishop of Armagh, has been interlined '*tánaise*' by O'Flaherty, but this is not sustained by the other annals.

924 (AU):

Muiredach mac Domnaill, *tánaise abbad* of Armagh, and chief steward (*ardmaer*) of the southern Uí Néill, and successor of Buite son of Brónach [of Monasterboice], chief councillor (*cenn adcomairc*) of the men of all Brega, both laymen and clerics, departed his life in the fifth day before the Kalends of December.

931 (AU):

Cenn Fáelad mac Lorcáin, *princeps* of Clones and Clogher, and *tánaise abbad* of Armagh.

980 (CS):

Murchad mac Riatai, abbot of Roscommon and *tánaise* of Clonmacnoise.

1070 (CS):

Donngal mac Gorman, *tánaise abbad* of Clonmacnoise. AU: *fer léiginn* of Kells. AI: *fer léiginn* of Clonmacnoise and Kells. FM: *ardfer léiginn* of Leth Cuinn and *tánaise abbad* of Clonmacnoise.

1082 (CS):

Cináed Ua Ruadáin, *tánaise abbad* of Clonmacnoise. FM:senior and head of counsel (*cenn adcomairc*).

1093 (CS):

Ailill Ua Nialláin, of Uí Fiachrach Aidni, *tánaise abbad* of Clonmacnoise and *comarba* of Crónán of Tuaim Greine. FM: ...and *comarba* of Colmán of Kilmacduagh. AI (cf. AU): *comarba* of Ciarán [of Clonmacnoise] and Cronán, the bishop and the venerable senior.

1103 (FM):

Cormac mac Cuinn na mBocht, *tánaise abbad* of Clonmacnoise, and a prosperous and affluent man. CS: *comarba* of Ciarán of Clonmacnoise.

1128 (CS):

Gilla an Choimded mac Cuinn Delbnaig [na mBocht], *tánaise abbad* of Clonmacnoise. FM: ... for a time...

A remarkable feature of the *tánaise abbad* in the above entries is that he often holds the abbacy of an affiliated monastery. In the case of Armagh the abbacy of Monasterboice (924) and Clones and Clogher (931), whilst the *tánaise abbad* of Clonmacnoise is also named as the abbot of 'many churches' (867), Fore (891), Devenish (896), Roscommon (980), Tuaim Greine and Kilmacduagh (1093), *secundus abbas* of Clonard (838) and *fer léiginn* of Kells (1070). Plurality in ecclesiastical offices is nothing unusual in early Ireland, and ties between, for example, Clonmacnoise and Clonard, are well attested in the annals, in which there are instances of one person holding the abbacy of both monasteries.¹²⁶ Judging the above references the *tánaise abbad* holds a special position in the Irish ecclesiastical organisation, but which one is not directly clear from the annals.

In his discussion of the *tánaise abbad*, Binchy argues that the position gave right to the succession to the abbacy, and he equates it with another title, *secnap*, the Irish rendering of *secundus abbas*. He points to examples which seem to give the *secnap* a right to the succession. The Latin life of St. Buite of Monasterboice relates of the birth of 'Nemanus ... qui secundus sancti Boecii abbas ei successit ibi.'¹²⁷ Cormac's Glossary explains *secnab* as '.i. secund-ab .i. secundus abbati; vel secnap i.e. sequens abbatem.'¹²⁸ In FM *secnap* and *tánaise abbad* are both replaced by *prioir*, and thus we find among those named in the list above 'Maonghal *prioir*'

¹²⁶ AU 926, AU 954, AU/CS 1014. For the relationship between Clonmacnoise and Fobar, see AU/CS 814 and CS 923. For the connection between the *tánaise abbad* of Clonard and the abbotship of Ath Truim, see BB 87 d40-1, 51-2 (G §15), and Ó Corráin, Breatnach and Breen, 'The law of the Irish', 404. Kathleen Hughes, *The church in early Irish society* (London 1966), 210, notices an increase in plural offices from the 830s onwards until the end of the ninth century, with the 860s giving the most examples.

¹²⁷ Binchy, 'Legal terms', 224, quoting Charles Plummer (ed.), *Vita sanctorum Hiberniae*. (2 vols., Oxford 1910) i, 96. See also John Ryan, *Irish monasticism. Origins and early developments* (Dublin 1931) 272-3.

¹²⁸ O'Donovan and Stokes, *Cormac's Glossary*, 149 (Binchy, *Ibid.*, 224). The version in YBL, edited by K. Meyer, 'Sanas Cormaic. An Old-Irish glossary ...', in O. J. Bergin, R. I. Best, K. Meyer and J. G. O'Keefe (eds.), *Anecdota from Irish manuscripts* iv (Halle 1912) 100 (no. 1142) has: '*secnap .i. secund-ap .i. secundus abbas uel abbati*', which may well be the original gloss, and '*sequens abbatem*' a later addition. For the form *secnapaid*, see for example CIH 923.9-10 (see notes 142 and 145 below) and V. Hull (ed.), 'Apgitir Chrábaid. The alphabet of piety', *Celtica* 8 (1968) 44-89: 62 (§10).

(875); 'Maol Achaidh *seacnabb .i. prioir*' (896), etc., while in Welsh texts *segynnab* also seems to mean *prior*. Thus, Binchy concludes, *tánaise abbad* appears to be a native rendering of the Latin borrowed *secnap*, and he takes *tánaise rí* to be based on that title, replacing the earlier Old Irish title for the heir-apparent; both titles are connected with a position of succession to the office they are "second" to.¹²⁹

On the other hand, Plummer does not believe in a right to succession for the *secnap* in all cases, as outside the Irish ecclesiastical organisation a prior did not have such a right either, and he considers *tánaise abbad* to be the Irish adaptation, a *secnap* with a right to succession. Originally the office of *secnap* may have been that of *equonimus* (*oeconomus*; in Irish *maer*), the steward and administrator of the monastery's resources and lands.¹³⁰

Both views postulate that the *tánaise rí* has a right to succession, and apply this by extension to the *tánaise abbad*, resulting in a rather forced argument. If we take Plummer's suggestion that the office of *secnap* and *equonimus* are related, matters may become clearer. Similar to the *tánaise abbad*, there are examples of the *equonimus* of a head monastery being the abbot of an affiliated monastery, such as Robartach son of Máenach, who was *equonimus* of Slane and *abbas* of Cell Foibrig (AU 787). His father had been abbot of both monasteries (AU 773), while his brother Suibne also figures as *equonimus* of Slane (AU 814).¹³¹ Armagh held a steward for the lands south of the Fews, an office which also was hereditary at times.¹³² Some of them held the abbacy of another monastery as well, such that

¹²⁹ Binchy, 'Legal terms', 222-4.

¹³⁰ Plummer, *Vita sanctorum Hiberniae* i, cxvii. His views are followed by T. Ó Fiaich, 'The church of Armagh under lay control', *Seanchas Ard Mhacha* 5 (1969) 75-127: 101-2. However, according to the *Rule of St. Benedict* a prior should not be a *secundus abbas* with a right to succession. Plummer, *ibid.*, cxviii, note 6, renders *ferthigis* the Irish form of the Latin *magister hospitum*, the steward of the household. The title does not figure in contemporary Irish annals, and it is not certain whether *equonimus* refers to his position as well or exclusively. *Secnap* and *ferthigis* are certainly not the same, see below.

¹³¹ See also Hughes, *The church*, 162-3.

¹³² See various annals under the years 784, 796, 810, 814, 817, 842, 855, 869, 888, 894, 924. See also below.

of Cill Moninne (AU 814), Lann Léire (AU 869) and Treóit (AU 894).¹³³ In 847 the death of Cellach son of Máel Pátraic, *secnap* of Fir Rois to the south of the river is recorded (AU), undoubtedly referring to the district south of the Fews.¹³⁴ This suggests that *equonimus* and *secnap* refer to the same office; like the *equonimus* and the *tánaise abbad* a *secnap* could be abbot of another monastery, and we find examples of the plurality in office and the office held from father to son.¹³⁵

In the two following entries *equonimus* and *maer* appear to be interchangeable:¹³⁶

'Flann son of Ferchar, *equonimus* of Armagh and *princeps* of Lann Léire, ended alas! a short life.' (AU 869)

'Cernach son of Flann, *princeps* of Lann Léire and *maer* of the community of Armagh from Belach Dúin to the sea and from the Bóinn to Casán, and chief counsellor and consultant (*cenn comuirle 7 adchomairc*) of the men of all Brega [died].' (AU 922)

Now compare these two with the following entry:

'Muiredach mac Domnaill, *tánaise abbad* of Armagh, and chief steward (*ardmaer*) of the southern Uí Néill, and successor of Buite son of Brónach [of Monasterboice],

¹³³ See also AU 924 quoted below.

¹³⁴ In AU 784 Cernach mac Suibne is called *equonimus* of Armagh, but *priour* in FM (s.a. 779), which may be a translation of *secnap* in this case. See also AU 796, 817 and 842 (ST §30) for his three sons, who all occupied the same office as their father; AU 909 records the death of one of Cernach's descendants, Cumuscach son of Ailill, *equonimus* of Armagh, who is called *secnap* of Armagh in Dobbs, 'Ban-Shenchus', 335, 187, 225. Note also Ultán, *equonimus* of Bangor (AU 782), who is called *secnap* of Bangor (if his identification is correct) in the genealogies, see Dobbs, 'Descendants of Ir', 109.

¹³⁵ E.g. Cormac mac Ciaráin, *secnap* of Clonfert and *princeps* of Tuaim da Guallann (AU 882); Cormac mac Ceithernaig, *secnap* of Terryglass and Clonfert (AU 884); Cormac, king of Déisi, bishop and *secnap* of Lismore, *abb* of Cell Mo-Laise, *cend athchomairc* of Munster (AI 920). Cumuscach son of Aengus, *secnap* of Clonmacnoise (AU 835), and Máel Mide son of Cumuscach, *secnap* of Clonmacnoise (AU 871). See also below.

¹³⁶ See G §31 for the genealogy of this family who held the abbotship of Lann Léire for about two centuries.

chief counsellor (*cenn adcomairc*) of the men of all Brega, both laymen and clerics, departed his life in the fifth day before the Kalends of December.' (AU 924, also quoted in the list above)

It can tentatively be suggested that *equonimus*, *secnap*, *maer*, and *tánaise abbad* basically refer to the same office, the first two the Latin terms, the latter their Irish versions. Still, *secnap* and *tánaise abbad* may refer to the office of steward with a right to succession. The crucial evidence to prove that is not the case comes from the fortunes of the royal dynasty of Uí Bresail Airthir and their involvement with Armagh. The annals record in 810 the death of Máel Dúin son of Donngal (king of Airthir +791), who is styled *oeconomus* of Armagh (AU). His son Muiredach, killed in 863 by Domnall, son of Áed Findliath, receives the title '*secnap Aird Machae 7 ri na nAirthir*' in AU. This not only suggests that the above proposed equation of *equonimus* and *secnap* is correct, the successive history of Uí Bresail Macha makes it improbable that the *secnap* held a right to succession to the abbacy. First of all, a king as abbot of Armagh would have been unprecedented, although it has to be remarked that kings could also hold ecclesiastical offices.¹³⁷ Secondly, a glance at the genealogical table of Uí Bresail Macha shows that the office of *secnap* of Armagh was hereditary in the tenth and eleventh centuries, but as none of the dynasty ever made it into the abbacy of Armagh, it is difficult to maintain that the *secnap* had a right to succession. Finally, in the eleventh century the abbacy was firmly in the hands of Clann Sínaig (G §29), but among their ranks not one *secnap* is recorded. However, in 1049, when Amalgaid, abbot of Armagh died, it is recorded that his brother Dub dá Leithe, previously *fer léiginn*, succeeded to the abbacy (AU).¹³⁸

So, the evidence clearly points to a denial of Binchy's theory that the office of

¹³⁷ AU 819 records the death of Cathal mac Dúnlainge, king of Uí Cheinnselaig and *secnap* of Ferns (G §42). For other examples, see Hughes, *The church*, 211-2; most examples are from Munster (G §§49 and 51).

¹³⁸ See also §5.1. A commentary in the introduction to *Senchas Már* (CIH 1662.7-16; AL i 59) states that a bishop who was guilty of adultery, giving false testimony or other unacceptable behaviour, lost his office to become a hermit or a pilgrim, and the office of bishop was to be taken over by the *fer léiginn*.

secnap or *tánaise abbad* implied a right to succession to the abbacy, and furthermore postulates a connection with the office of steward. Although the Irish ecclesiastical organisation had developed many lay-hereditary aspects, this should not be mistaken for a right to succession invested in an office itself: a candidate for the abbacy still had to be formally elected (see §5.1. above).

Outside Ireland the office of *secundus abbas* does not seem to be related to succession to the abbacy. Ryan points to the comments of St. Basil, who decrees that a vice-abbot only needs to be appointed when the abbot is absent, ill, or otherwise incapable of fulfilling his duties; it is not a permanent office or one confined to the chief steward, whose position seems to have been inflated in Ireland as compared to the rest of Europe.¹³⁹ Considering this, and as the information in the annals does not allow us to make a sharp distinction between *equonimus*, *secnap* and *tánaise abbad*, we have to conclude that the element *tánaise* is not directly connected with a right to succession - as also appears from *tánaise* combined with the lay grades.

As far as *tánaise abbad* is concerned, it appears to be nothing else than the Irish form of *secundus abbas* or *secnap*, and the annalistic evidence points in the direction of the office being related to the function of steward, administrator or representative of the head monastery (Armagh, Clonmacnoise) for a certain territory, not only in clerical affairs, but also for the lay population. In this function he held the abbacy of one of the affiliated monasteries, and noteworthy is in this respect that we have two examples of the *tánaise abbad*, one of an *equonimus* and one of a *secnap* named in the annals as 'head of counsel' (*cenn adchomairc*).¹⁴⁰ Another remarkable feature of the title is that its usage is restricted to certain periods, and that it is especially favoured by the annalists of Clonmacnoise (CS); in *AU* it only appears independently in connection with Armagh in the years 897, 924 and 931. This also suggests that *tánaise abbad* was not a separate title, but a

¹³⁹ Ryan, *Irish monasticism*, 273-4.

¹⁴⁰ See *AU* 924 and *CS* 1082 in the list above, *AU* 921 (abbot of Daire Calgaig and Druim Tuama, *cenn adchomairc* of Cenél Conaill), *AU* 922, also given above, *AI* 920 (see note 135 above; *G* §58) and *AI* 929 (§59). See §5.1. at note 13 above for Lugaid Loígde Cosc, the person outside the alternating kingship of Munster, named as *cenn adchomairc*.

rendering of *secnap* which went out of style after a century, only to be reintroduced in Clonmacnoise for about half a century.

In the legal sources *tánaise abbad* is hardly represented, in the eighth century when the bulk of the law-tracts were written down, *secnap* was already the usual title in the annals, and the lawyers were not inclined to use the Latin element *secundus* in standardizing their titles; they used *tánaise* instead. A gloss in *Cáin Lánamna* states that the *comarba* of Brigit is entitled to half of her honourprice as wergeld when the *tánaise comarbai Brigiti* is killed.¹⁴¹ The context of the gloss is not quite clear, but it ties in with the late Old Irish glosses in the *Díre*-tract, that half the dignity of the *airchinnech* ('erenagh') is given to his *secnap*.¹⁴² In the first half of the tenth century the Irish title *airchinnech* begins to replace *abbas* and *princeps* in *AU*, and this is also reflected in a commentary in *Senchas Már* which deals with the proper sort of food each person is due from a cauldron:

'for example, the haunch for a king, bishop and sage; a leg for an *ócthigern*, a steak for a queen, a 'croichet' for an opposed king (?) or a *tánaise airchinnig*, etc.' (*amail rogab laraic rig 7 espoc 7 sui, colpta octigerna, cuinn arad, les rigna, croichet fresabratt rig nó tánaisi aircinnid 7rl-*)¹⁴³

We find the *tánaise airchinnig* also in a poem on the lay and ecclesiastical grades by Máel Suthain Ua Cerbaill, who at his death in 1010 is named in *AU* as '*ardsui Erenn 7 ri Eoganachta Locha Léin*'. The seven ecclesiastical grades are: '*Airchinnech, a thánaise; secnap, coic, cóir cert*

¹⁴¹ *CIH* 519.9-10 = 1812.10-11. See also *CL* p. 72.

¹⁴² *CIH* 923.9-10 (*Díre* §26). See also *Uraicecht Becc*, *CIH* 1607.4-7 (*AL* v 71; Mac Neill, 'Law of status', 276, §28): 'half of the dignity of each man to his wife, or his dutiful son, or to his administrator, or to his prior (*Lethcatu caich dia mnai nó dia gormac no dia rectairi nó dia secnabaid*).'

¹⁴³ *CIH* 350.1-3 (*AL* i 49). According to *DIL* a 'croichet' is the upper part of the hip or rump. The more extensive parallel text at 880.21-4 has: '*crochit fresabrat rig no tanaisi airchinnigh rig, ...*', but the latter *rig* is certainly misplaced.

*athc[h]omarcthid, ferdaigis; frithshecnap for fecht.*¹⁴⁴

It is remarkable that the *tánaise airchinnig* and *secnap* are held to be separate, but Ua Cerbaill's scheme is rather unconventional, and it is difficult to judge its value.¹⁴⁵

From the above discussion we can extrapolate that the element *tánaise* in *tánaise rí* as described in *Críth Gablach* does not specifically refer to a right to succession, as neither *tánaise* among the lay grades, nor *tánaise abbad* - derived from Latin *secundus abbas* or *secnap* - implies such a right. In general, *tánaise* refers to 'second in status', while in the case of *tánaise abbad* a function as steward or representative can be proposed. Regarding the equation of lay and ecclesiastical grades, the introduction of *tánaise rí* can be explained by the grade of *secundus abbas* being imposed on the noble hierarchy, thus giving *secundus regis*, in Irish *tánaise rí*. We have already established above that the *tánaise rí* is a subdivision of the standard noble grades. We now have to discuss the position of the *tánaise rí* as subdivision of the grade of *aire foirgill*, and why he is connected with succession.

In purely material matters, what gives the *tánaise rí* a higher status than the *aire foirgill* are not five normal base-clients (*ócairig*, *bóairig*, etc.) but five *senchléithe*, (lit. "old house"; hereditary serf or villain). According to *Críth Gablach* a lord's vassalry (*déis*) could be enhanced by the number of his *senchléithe*,¹⁴⁶ and the text explains concerning the half-free base clients, the *bothaig* (cottiers): 'if it be service of them to the lords to the ninth person, the *bothaig* are *fuidri*; they are

¹⁴⁴ K. Meyer, 'Mitteilungen aus irischen Handschriften: Siebenteilung aller geistlichen und weltlichen Rangstufen', *ZCP* 5 (1905) 498-9 (§3). Ua Cerbaill already distinguishes three grades of *ócairig* and three grades of *bóairig* (§6).

¹⁴⁵ Meyer, *Cáin Adamnáin*, 33 (§53), names as the three guarantors of a chief-church (*prímegalsa*) for the *cáin*: '*secnap 7 coic 7 fertiges*' (the *secnap*, the cook or cellarer, and the steward or guest-master). See also J. G. O'Keefe, 'Colman mac Duach and Guaire', *Ériu* 1 (1904) 41-8: 44, in which it is said that a cleric occupied all positions himself: '*ba hairchindech 7 ba secnap 7 ba ferrthigis 7 ba coic*'. Outside this reference, the *athc[h]omarcthid* and *frithshecnap* are not mentioned in other sources as separate ecclesiastical grades. At *CIH* 923.9-10 (see note 142 above) there is a reference to '*do aursecnapaid*' who receives half the honourprice of a *secnap*.

¹⁴⁶ *CG* 319-24. This passage is translated at §2.3. above, at note 50.

senchléithe afterwards (*Ma beith fognum diib do flaithib co nómad n-aó, it botaig [ind] fuidri; it senchléithe íarmithá*).¹⁴⁷ Thus, after three generations (nine persons: the *derbfine*) a *bothach* becomes a *fuidir*, and in the fifth generation a *senchléithe*. This scheme is also given in the gloss in *Fodla Fine*, in which *fuidir* is glossed as 'daerbothach', and in *Cóic Conara Fugill*, which glosses *senchléithe flatha* as 'isin chuicid fir'.¹⁴⁸

Míadslechte confirms that possession of *senchléithe* increases one's status, as it forms the basis for a distinction between the *ógflaithem* (pure lord), the *lethflaithem* (joint-lord) and the *flaithem óenescraí* (lord of one vessel); the first one is glossed as 'fer tri seincleithe cona comorbaib techta (a man of three (generations) of *senchléithe* with their lawful heirs).¹⁴⁹

Charles-Edwards, in discussing *Críth Gablach*, suggests that the social standing of one's base-clients indicate 'subtle shifts in political and social standing', which he applies to this case as well, and this can be one of the reasons why the *tánaise rí* has five *senchléithe* over and above the *aire forgill*, and not five normal base-clients.¹⁵⁰ When we take up his suggestion that the *aire forgill* is a member of the royal kindred the significance of the five *senchléithe* becomes more apparent.¹⁵¹ As the above references show, the possession of *senchléithe* is related to the social and hereditary standing of the lord, they are tied to the lord's (or king's) family, and are as such also associated with the *cumal senorba*, the demesne lands attached to the lordship (see §3.1). Although it is not said that *senchléithe* were exclusively settled on the *cumal senorba*, I would interpret their significance here in the light of their attachment to the lordship or headship of the family. Normally hereditary

¹⁴⁷ CG 324-5; my translation. I have amended the second *it* to *ind*, following the suggestion of Liam Breatnach in his class on *Críth Gablach*. For the expression *co nómad n-aó*, see Binchy, 'Co nómad n-aó'. See also GEIL 33-6.

¹⁴⁸ CIH 429.20-4 (AL iv 283); 2201.27-9 (CCF 21 (§14)) = 1038.15-6 = 2259.21-4.

¹⁴⁹ CIH 584.21-6 (AL iv 351); I follow the suggestion by Charles-Edwards, 'Críth Gablach', 59 note 9, that this refers to a man whose lordship over *senchléithe* has been inherited for three generations, cf. §2.2. above.

¹⁵⁰ Charles-Edwards, 'Críth Gablach', 63.

¹⁵¹ Ibid., 62.

serfs would be in the possession of the hereditary lord, and hence serve as a mark of his position. For an *aire forgill* who is considered to be a *tánaise rí* the possession of a number of *senchléithe* indicates that he is either a member of the royal kindred who is a lord in his own right (such as the head of a branch outside the kingship), or a royal son who has already taken possession of (a part of) the family lands as the successor of the king.

This may be mere conjecture, but it ties in with the position of *tánaise* or *rígdamna* who was considered to be the heir-apparent according to the traditional rules of seniority and alternation, and who was given a piece of land as part of his position.¹⁵² The demesne lands attached to the position of *tánaise*, already referred to in the case of Cormac Mac Carthaig, lord of Múscraige in the sixteenth century, will be considered in greater detail in §5.4, but it can be suggested that the five *senchléithe* ultimately indicate this position.

The five *senchléithe* which a *tánaise rí* has in excess over the *aire forgill* have primarily a symbolic value, as they serve as an indication of the position of the heir-apparent. We may thus appreciate the subtlety of the Irish concept of succession as expressed in *Críth Gablach*, and it also enables us to interpret the description of the *tánaise rí* correctly: the line 'because the whole of the *túath* looks forward to (his) kingship without opposition to him' simply signifies that he is already recognized as the main candidate for succession, the heir-apparent, according to the traditional rules of succession, and his additional five *senchléithe* he possesses over and above the other candidates affirm this position, not only in name, but also in status.

From this basis we can pick up the suggestion made earlier that *tánaise rí* is based on the ecclesiastical title *secundus abbas* - second in status to the abbot, but not with a right to succession - and that the original Irish title for the position of the heir-apparent may have been *aire forgill frisaicci ríge*. In the above discussion the connection between *aire forgill* and *tánaise rí* is already obvious enough, and additional references reinforce this.

¹⁵² See §5.1 and §5.2. above.

In the text of *Bretha Crólige*, an Old Irish tract on sick-maintenance, we already find the grade of *aire forgill* divided in three subdivisions:

'Twice seven *cumals* are [the penalty for] the blood-lying of every king and every bishop and their equals in rank; once and a half seven *cumals* for the blood-lying of every *aire ard* and every one of higher rank, [viz.] each of the two lower [classes of] *aire forgill*: the same amount for an *aire ard* down to an *aire tuíseo*'
(*Da secht cumal crolighe cach rig 7 cach epscuip (cona comgradibh). Secht cumala 7 leth crolighe cac airec aird 7 caich bes airdi cechtarde in da airech forgill is taire inunn otha airig nard conig airig tuisi*).¹⁵³

A related text adds:

'Two times seven *cumals* is the sick-maintenance of every king, bishop, sage, erenagh (abbot), the best *aire forgill*, and everyone who is of equal grade with them'
(*Da secht cumal croilighi gac ri 7 gac espuig 7 gac suadh 7 gac airchinnigh 7 in airech forgill is ferr 7 gac aon is comgraidh riu*).¹⁵⁴

Further on in the text the *aire ard*, here still the highest noble grade and not yet divided into *aire ard* and *aire forgill* as in the introduction of *Bretha Crólige*, is glossed as '*da aire forgill 7 tanaise rig 7 aire ard*.' In the next section is the gloss '*na tri hairig forgill 7 int aire ard 7 na righ*.'¹⁵⁵ Here *tánaise rí* is given as the highest of the three sub-divisions of the grade of *aire forgill*, and equals the 'best' *aire forgill*, whose status is considered to be equal with the king.¹⁵⁶

¹⁵³ *Bretha Crólige* §2 (CIH 2286.31-4). The glossed parallel passage at 136.19-21 = 326.7-9 and 819.7-9 defines the two lowest *airig forgill* as '*i. int aire forgill medonach (middle) 7 int aire forgill is taire (lowest)*', see below.

¹⁵⁴ CIH 2284.15-7 (my translation).

¹⁵⁵ CIH 2298.22-3 and 2299.8 = *Bretha Crólige*, 36 (§45 gloss 5; §46 gloss 12).

¹⁵⁶ See also a gloss in *Cáin Íarraith* (CIH 1759.34-6, cf. 83.10-2; AL ii 149), in which the sons of the best *aire forgill* and the sons of the king are basically entitled to the same quality of clothes and ornaments.

In Appendix 1, ST §40, I have assembled references to the *aire forgill frisaicci ríge* in the legal corpus, in which he figures especially in the commentaries in *Uraicecht Becc* to the text on the *aire forgill*. To summarize the various quotations given there, the grade of *aire forgill* is divided in three sub-grades: the lowest (*aire forgill is táire*), the middle (*aire forgill medónach*) and the best *aire forgill* (*aire forgill is ferr*). The rights and privileges of the first two are often taken together. Of the *aire forgill is ferr* is said: 'This is an *aire forgill* by right of his property, and if he were an *aire forgill* by right of a king or abbot or looks forward to the king(ship) or abbot(abbacy), though he have nothing but arms or raiment, he should have equal honourprice with a king or abbot. If there be many *tánaisi [ríg]* or (*tánaisi*) abbots, it is the honourprice of a king or the abbot for every man of them; or it may be to he who is nobler ...'¹⁵⁷

Another mark of the *aire forgill is ferr* is that he possesses the 'three chief-residences' (*tri cunntairisme*), with twenty cows and twenty sheep for each one of them. Of the *aire forgill frisaicci ríge* is said that he is worthy (*fiu*) to be a king of a *túath*.

The allusion to the abbacy in connection with the *aire forgill frisaicci ríge* may be explained by the parallel between *tánaise abbad* and *tánaise ríge*, whose position is obviously similar to the *aire forgill frisaicci ríge*. As the honourprice of a *tánaise abbad* was equal to that of a *tánaise ríge* or *aire forgill frisaicci ríge*, he is included in the discussion here, but this leads to the impossible construction of an *aire forgill* being pictured as a claimant to the abbacy.¹⁵⁸ It is clear that the *aire forgill frisaicci ríge* is worthy to become a king, he shows all the necessary qualifications, a point which is underlined by stating that even if he is impoverished, he can still claim his rightful honourprice.

Apart from the customary property qualifications - in which the best *aire forgill* has five clients more than the middle one - the three chief residences are indicative

¹⁵⁷ *CIH* 704.38-705.2, see ST §40. In this and most other passages, is reference is made to the *aire forgill frisaicci ríge*: 'the *aire forgill* who looks forward to the king', which needs the necessary and attested emendation ... *ríge* to make sense.

¹⁵⁸ Note also *CIH* 1035.17-21 (*CCF* 45, §74), in which *fír*, one of the Five Paths of Judgement, is appropriate when there is contention in the king- or abbotship.

of the position of the best *aire forgill*. In a gloss in *Di Astud Chirt 7 Dligid* (ST §17) the person to whom they are attached is entitled to the lordship, while a commentator in *Uraicecht Becc* states that a king should possess three chief-residences so that he is able to support his equal grade in each one of them; the twenty cows and sheep are also specified.¹⁵⁹ Further information is lacking, and the best one can do is to presume that the three chief residences are related to the land of the heir-apparent, the *ferann rígdamnachta* or *ferann tánaistechta* (see §5.4.), in a similar way as the five *senchléithe*.

There cannot be any doubt that both *tánaise ríge* and *aire forgill frisaicci ríge* refer to the same position as the *aire forgill is ferr*, who is best qualified and worthy to succeed as king, and whose position is recognized as such.¹⁶⁰ The five *senchléithe* or the three chief residences indicate his superiority above his fellow competitors, something which seems to be connected with the piece of land given to the heir-apparent as part of his office.

Although the references to the *aire forgill frisaicci ríge* are later than *Críth Gablach*, I think it constitutes the original Irish title before *tánaise ríge* was introduced to equate the title with *secundus abbad* or *tánaise abbad*. The original title fits the gloss in *Críth Gablach* like a glove: '*aire forgill frisaicci ríge, cid ara n-eperr? Arindí fris[n]aicci túath huile do rígiu cen chosnam fris.*' If the title is not related to *Críth Gablach*, it is difficult to explain where it comes from otherwise, as this description of the *tánaise ríge* is unique to that source. As *tánaise* also contains the element of expectation (see above) and possibly refers to the system of alternation, the gloss did not need any alteration.

Having established the status of the *tánaise ríge* and his position as heir-apparent,

¹⁵⁹ *CIH* 1602.31-5 (*AL* v 53). See also *LL* 24722-4 (188 b15, *Imacallam in dá Thuarad*). A *mruigfer* has twenty cows, twenty sheep and other cattle (*CG* 194-5). In the text of *Cóic Conara Fugill* (*CIH* 1028.1-2, cf. 1040.37 = *CCF* 27 (§4), 59 (§139)) the three *conntairisme* are used in the figurative meaning of 'foundations' or 'pillars' of the Five Paths of Judgements: 'legal maxim, legal precedence (proverb), scripture (*roscad 7 fasach 7 testemain*)' (an approximate translation).

¹⁶⁰ Note the similarity between *aire forgill is ferr* and *adbar ríge is ferr*, in the Anglo-Norman period one of the ways to indicate the heir-apparent (see §5.2.).

his function in society needs to be discussed. In the scheme in *Críth Gablach* two noble grades are mentioned in the sub-division of the grades, the *tánaise rí* and the *aire échta*. The latter, the 'noble of blood-vengeance', owes his higher status to his function as leader of a band of five who have a month to pursue a murderer into a *túath* with which their own has a treaty (*cairde*).¹⁶¹ That the *tánaise rí* had also a specific function within the *túath* appears from the following late Old Irish passage, which has been left out of any discussion of the *tánaise* so far:

The fief (?) of a hostage surety i.e. that is [a fief] of a hostage surety for treaty (*cairde*) who [acts as surety] on behalf of his *túath*, [which fief is given] after he has been acknowledged, and after he has been given his compensation, provided that he is a proper hostage-surety. What are those [fiefs]? Not difficult, that is [the fief] of the *tánaise* of the leader [of the *túath*], where he is acknowledged, moreover, as the *tánaise* by the whole *túath*; anything then that that person pays in respect of each person is a fief upon [the offender] and [cannot] be returned.

(*Rath n-aitire .i. aitire cairdi son bis tar cenn t(h)uaithi iarna aitite 7 iar[na] tabuirt a slain sed bid aitire techtae. Cadead side? ni anse, tanusi tuisig son du a natamar dano tanisi la tuaith uli; ni didiu icas-[s]ide fri cach is rath fair 7 ni athcuirither a frithise*)¹⁶²

Admittedly, this is a difficult passage which needs several emendations, but it raises some interesting points. The *aitire* is someone who stands surety with his own person, and as such surrenders himself to the other party, who can keep him in custody up to the usual time of ten days; his position is quite similar to that of the hostage (*gíall*).¹⁶³

In *Críth Gablach* the function of *tánaise taisig* is among one of the four things

¹⁶¹ CG 358-67, translated and discussed in *PPast* 211-2. Note in this respect the avenger of the Dési Breg active in Connacht, in Hull, 'Later version of Expulsion of the Dési', 23-4/45-6 (§§1-2).

¹⁶² *CIH* 919.40 - 920.2, emended text and translation are from Stacey, *The road to judgment*, 92; see also Thurneysen, 'Aus dem ir. Recht v', 381-2. The passage is part of a tract at 919.25-922.11 (see *GEIL* 271, §25).

¹⁶³ For the *aitire* and the *gíall*, see Stacey, *ibid.*, 82-111.

which gives a nobleman his prerogatives (*déis*): 'his office in the *túath*, including the office of leader or *tánaise táisig*, whichever office of them it be (*a dán i túaith, im dán toísig nó thánaisi thoísig, sechib dán di[i]b*).¹⁶⁴ This office does not refer to the function of *aitire*, but rather that it is appropriate that a *tánaise táisig* - here seemingly in the meaning of 'heir-apparent', 'second-in-command' or 'deputy' - stands surety for the observation of a treaty (*cairde*) on behalf of his *túath*, and for this he has to be a nobleman of high status. The *tánaise* would be wealthy enough to pay any fines demanded of him, and his high status would discourage any debtor of his *túath* not to pay his debts. The original function of the *tánaise táisig* as *aitire* (or another type of surety, we may presume) was certainly one assumed under peaceful circumstances when a treaty was concluded between two *túatha*, but it is tempting to extend this to the sons of kings who often figure as hostages of overkings in the annals.¹⁶⁵

Thurneysen draws attention to a passage in *Míadslechta* in which the *aire forgill* is given a similar function to the *tánaise táisig* above:

'*aire ard* i.e. of testimony (*forgill*) i.e. on behalf of a *túath* (for those) equally noble like him by legal regulation and treaty; but it is not he who binds to joint service, nor to due(s) towards the lord, and the *túatha* invoke him (to be surety), but it is the king who binds them.'

(*aire ard .i. forgill .i. tarr cenn tuaithe comsáera fris a cain 7 cairde; 7 ni he ardonaisc congiallna na dlíged flatha, 7 atguidhet-som na tuatha, 7 is rig ardonaisc*)¹⁶⁶

Again, we see that the *túath* has to acknowledge or appoint the person who stands surety for them. It may be significant that for the *Cáin Adomnáin* not only kings, but

¹⁶⁴ *CG* 322-3, my translation. The second *thoísig* is not given in Binchy's edition, but see *CIH* 566.9 = 782.16.

¹⁶⁵ Stacey, *The road to judgment*, 92, for further discussion. For hostages, see *GEIL* 143, and for example, *AU* 1124.6 and *AT* 1170 (hostages executed); *FM* 1167 (hostages from nobility). *TBDD* (Stokes, 290 (§114)). For the rights of the overkings, see §4.5. above.

¹⁶⁶ *CIH* 583.22-4, translation based on Thurneysen, 'Aus dem ir. Recht v', 382, and *AL* iv 347. See also *ST* §41.

also their sons, brothers or cousins - apparently the heir-apparents - acted as guarantee (*aitire*) for observation of the Law,¹⁶⁷ and it may be that this function was normally held by the *tánaise rí*g.

In *Míadslechta* the etymological gloss to *ánruth* also relates to a high noble: 'i.e. high. He binds, it is not bound upon him, like the king of the Érainn (.i. *ard: naiscidh, ni nascar fair, a mail rogab righ erann*).'¹⁶⁸ According to the same tract the *ánruth* is 'a man who protects his district and its border; the wounding of a person [is common] for him in each of the four seasons of the year.'¹⁶⁹ In *Berrad Airechta* the *ánruth* provides sanctuary for a defaulting debtor from a persecutor - a privilege which he shares with a king, bishop and *ollam*, the highest grades in society (see ST 53). The social rank of the *ánruth* (or *ánrad*, also meaning 'hero', 'champion') is not given, but in *Bretha Nemed* the grade of *ánruth* can become a person with the same honourprice as a king, seven *cumals*.¹⁷⁰ It appears that the *ánruth* has the same status as the *aire forgill is ferr*. The *ánruth fíled* certainly forms the second grade among the poets, who in the glosses of *Bretha Déin Chécht* is equated with the *tánaise suad*.¹⁷¹ In *Uraicecht na Ríar* it is stipulated that he has to be a son and grandson of a poet, while the *ánruth* in *Berrad Airechta* has to be a son and grandson of an *ánruth* as well.¹⁷²

¹⁶⁷ See §5.4. note 180ff below; Meyer, *Cáin Adomnáin*, 33 (§53).

¹⁶⁸ *CIH* 587.4 (*AL* v 359), my translation, cf. D. A. Binchy, 'The date and provenance of *Uraicecht Becc*', *Ériu* 18 (1958) 44-54: 50. It is probably misplaced (see *CIH* 587, Binchy's note d), at 587.6 (*AL* iv 359) is the rest of the etymological gloss: '*sruth cain[-]molta uadh, 7 sruth indbais do* (the noble stream, i.e. a stream of pleasing praise issuing from him, and a stream of wealth to him)'. The Corco Loígde belonged to the Érainn, perhaps a mesne-king is meant here, although it is put in a section dealing with poets.

¹⁶⁹ *CIH* 584.9-10 (*AL* iv 349). I have followed the translation of McLeod, 'Interpreting', 45, who points at the connection between the *ánruth* and the *aire forgill*, and discusses his apparent misplacement in *Míadslechta*, his status being too low.

¹⁷⁰ *Bretha Nemed* §19 (*CIH* 2212.42).

¹⁷¹ *CIH* 2305.4-39 = Binchy, *Bretha Déin Chécht*, 23 (§2), see note 115 above.

¹⁷² See §2.1. above, note 115 above and ST §53. At *CIH* 922.10-1 a *bóaire is ferr* (like the *aire forgill is ferr* for the noble grades) whose father and grandfather have acted as sureties is mentioned, see §3.1. at note 67 above. In Thurneysen, 'Aus dem ir. Recht v', 379-81 and *Bürgschaft* 61-3, the noble *aitire* and other persons whose function is similar or connected with suretyship are

Although the evidence is meagre and by no means conclusive, I would suggest that the heir-apparent usually occupies the same position as the *aire coisring* for a commoner family: the representative of the royal kindred to the king and of the *túath* in interregional affairs. *Críth Gablach* describes the *aire coisring* as a *bóaire* who gives a pledge (*gell*) on behalf of his kindred (*tar cenn a chenéoil*), who accept him as chief and for whom he speaks (*aurlabraid remib*) in the court of the king or a synod.¹⁷³ His important function gives him status and the highest honourprice possible for a commoner: nine *séts*.¹⁷⁴ According to *Cóic Conara Fugill* he acts as *naidm*, *ráth* and *aitire* within his own kindred and on their behalf in external matters. In the latter case he holds the authority (*greimm*) of a *bóaire is ferr*.¹⁷⁵

The similarities between the *tánaise táisig*, *aire forgill (is ferr)* and the *ánruth* discussed above and the *aire coisring*, though not profound, still warrant the possibility that the representative of the royal kindred in matters of suretyship and external affairs was usually the heir-apparent. As it could not be expected that the king himself would occupy these positions, someone else within the royal kindred had to fulfil this position, and who was better suitable than the senior who was dignified and wealthy, the heir-apparent? And just as the *bóaire* receives the status of *aire coisring* due to his office within the *túath*, the *aire forgill* similarly receives the status of a king. Although the Irish laws often take one's property as the foremost determinant of one's status, a higher status did incur certain responsibilities, and vice versa (see §4.1. above). The possible discrepancy in the description of the *tánaise ríge*, *aire forgill is ferr*, *aire forgill frisaicci ríge* and *ánruth* in the sources is also due to this, as they all cover different functions and positions which essentially apply to the same grade, apart from different titles being current in different texts and their glosses.

discussed, such as the *muire(dach)*, *aidbden* and *ánruth* (see also §3.1. above for *aidbden*), see also Stacey, *The road to judgment*, 90-1 and 260 note 28 for the *muiredach*.

¹⁷³ CG 277-82 (and p. 70), see Mac Neill, 'Law of status', 294 (§95) and GEIL 48. Compare with the *aire forgill* in *Míadšlechts* above.

¹⁷⁴ CG 295. A *bóaire febsa* has a honourprice of five *séts* (160-1), a *mruigfer* six (206-7).

¹⁷⁵ CIH 1030.7-13 (CCF 32 (§29)). The passage is not clear as to his status inside and outside his own kindred, see CCF 81 (note 67) for discussion, and note 172 above.

In all, the evidence invites to a certain interpretation and speculation, rather than making solid conclusions, and the function of the heir-apparent (*tánaise rí*; *rígdamna*; *aire forgill frisaicci ríge*; perhaps *ánruth*) remains unclear, but in any case he is not associated with the steward as is the *tánaise abbad*. The legal corpus for a large part ignores the question, and the use of various titles does not make an interpretation any easier. Before we turn to the annalistic evidence, one more possible reference to the *tánaise* has to be dealt with. In his discussion of the legal tract of Gilla na Naem Mac Aedacáin (+1309), Mac Niocaill concludes that the tract distinguishes three major higher grades (I give the lay grades only): 1. *ardrí*. 2. *(ur)rí*, *(ard)taoisech*, *mac cúigeadhaigh*. 2/3 *tánaise*. 3. *mac (ur)righ*, *mac (ard)taoisigh*. The high-king (1) and (sub)king, (high)lord, the son of a provincial king (2), and the son of the (sub)king and of the (high)lord (3) are all mentioned at various places in the tract, but Mac Niocaill admits that the *tánaise* is only mentioned in a reference to sick-maintenance.¹⁷⁶ The relevant sections reads:

*'7 innisidh breatha croslighi da ba 7 .40. do rigaibh cona comgradaibh etar airdrig 7 urrigh, luag (?) a mbidh 7 a leagha a fir congala a ngnima 7 a fir frithalmha amuich 7 amach, 7 aonbo dec co leth ar .20. do tanaisdibh, 7 bo ar .20. don lucht .ii., 7 ...'*¹⁷⁷

The highest grade consists of the kings with their equal grades between high-king and sub-king, and the second grade to the *tánaise* of these grades. This refers either to the *tánaise* of the various grades between high-king and sub-king, or to the following grades mentioned in the introduction of the tract: the sons of the kings and lords. As the introduction does not include the *tánaise*, and the part on sick-maintenance does not include the grade of the sons of the kings and lords, it seems that Gilla na Naem simply refers to the following grade, not to the *tánaise* as a separate grade. A similar construction is used in other legal tracts.¹⁷⁸ If this interpretation is correct, it is in line with what we have seen in the Old Irish law-

¹⁷⁶ Mac Niocaill, 'À propos', 514, 517 and 525.

¹⁷⁷ *CIH* 694.30-3.

¹⁷⁸ For example, *CIH* 2230.32-4 (*do grad tanaisti*) and 1760.14 (*in graid is tanuisi*), and above, at note 121.

tracts and their later glosses: that the grades containing the element *tánaise* went out of style in the later period.

Of all the various ways in which the law was interpreted and which are connected with succession, the one which is the only one which is firmly associated with the position of heir apparent in both historical and legal sources. We have seen that *riádmhá* and *riádmhá* can refer to the heir apparent as well, but also to a distinguished candidate for succession, head of a branch of the ruling dynasty etc. Within the traditional rules of succession, the heir apparent was the one who was qualified for the throne and was in line to succeed according to the order of seniority and affection. The legal material indicates that the whole class has to acknowledge the heir apparent, and we have seen that support of the nobility of the heir or *riádmhá* is important to his claim to the throne. We have evidence dated to ca. 1100 that the position of the heir apparent, sometimes referred to as the *riádmhá*, was recognized by the possession of a piece of land, probably a part of the royal demesne, called *riádmhá* *riádmhá*.¹⁹ In the law texts this theme is expressed by giving the heir an additional fee *riádmhá* of the three chief residences.

Provided that this interpretation is correct, we have to presume that the heir apparent was given a sub-tenancy prior to 1011, and indeed we have material which points in this direction. At the end of the preceding paragraph the position of the *riádmhá* as surety has been discussed, and as a witness to this we have the guarantor list of Donn Advánach. The names on the list are contemporary with the promulgation of the law, which happened in 817, but the titles added to the names on the list are of a later date. There are several instances of a ruling king and his future successor both named in the list.

The list of the lay authorities is headed by Longnech son of Aengus son of Donnach, king of Tara (king of Ireland in the list), and his cousin Congal Connraigh son of Fergus son of Donnach (king of Connaught in the list), who

¹⁹ The term *riádmhá* is not used in the original text, but is a later gloss. It is found in the original text in the original text, but is a later gloss. For the legal background of the term, see Andrew W. Lewis, 'The Gaelic *riádmhá* and the nature of the French kingdom', *Journal of Medieval History* 2 (1976) 119-34.

5.4. *Tánaise rí* in the annals.

Of all the various titles we have met so far and which are connected with succession, *tánaise rí* is the only one which is firmly associated with the position of heir-apparent in both literature and legal sources. We have seen that *rígdamna* and *adbar rí* can refer to the heir-apparent as well, but also to a distinguished candidate for succession, head of a branch of the ruling dynasty etc. Within the traditional rules of succession, the heir-apparent was the one who was qualified for the kingship and next in line to succeed according to the order of seniority and alternation. The legal material indicates that the whole *túath* has to acknowledge the heir-apparent, and we have seen that support of the nobility of the *túath* or (over)kingdom is important to make any arrangement of alternation work. We have evidence dated to ca. 1100 that the position of the heir-apparent (sometimes referred to as the *tánaistecht*) was recognized by the possession of a piece of land, probably a part of the royal demesne, called *ferann rígdamnachta*.¹⁷⁹ In the law-tracts this seems to be expressed by giving the best *aire forgill* an additional five *senchléithe* or the three chief residences.

Provided that this interpretation is correct, we have to presume that the heir-apparent was given a sub-lordship prior to 1100, and indeed we have material which points in this direction. At the end of the preceding paragraph the position of the *tánaise rí* or *tánaise táisig* as surety has been discussed, and as a witness to this we have the guarantor list of *Cáin Adomnáin*. The names on the list are contemporary with the promulgation of the law, which happened in 697, but the titles added to the names on the list are of a later date. There are several instances of a ruling king and his future successor both named in the list.

The list of the lay authorities is headed by Loingsech son of Aengus son of Domnall, king of Tara (king of Ireland in the list), and his cousin Congal Cennmagair son of Fergus son of Domnall (king of Cenél Conaill in the list), who

¹⁷⁹ The *ferann tánaistechta* is not unlike the apanage given to younger sons of the king of France from the thirteenth century onwards. For the feudal background of the apanage, see Andrew W. Lewis, 'The Capetian apanages and the nature of the French kingdom', *Journal of Medieval History* 2 (1976) 119-34.

became king of Tara after Loingsech was slain in 703.¹⁸⁰ Two other kings who succeeded one another and are close kinsmen mentioned in the list are Flann Find son of Máel Tuile son of Crundmael and Aurthaile grandson of Crundmael, both of Cenél Feradaig.¹⁸¹ Of Clann Cholmáin Murchad Midi son of Diarmait and his brother Bodbchad Midi are mentioned, but the latter died before he could succeed.¹⁸² Another example is that of Conall/Congal son of Suibne (king of Déisi +701) and his cousin Eochaid son of Dúnchad son of Suibne.¹⁸³ Finally, the list includes the names of Niall son of Cernach Sotal, from the southern branch of SílnÁedo Sláine, and three of his sons: Maine, Fogartach and Conall Grant. The succession within their family is confused, but all three figure in the annals.¹⁸⁴

In the original list all these kings and their close kinsmen are not given a title, but the appearance of the latter as guarantors to *Cáin Adomnáin* indicates that they were men of some authority, and it may well be that they represented the territory which they ruled as sub-king under the overking. The last example shows that this did not necessarily have to be confined to one son, brother or cousin.

The first reference in the annals to a sub-king who was (presumably) the heir-apparent is to Niall mac Diarmata, who died in 826 (*AU*), when the kingship of Tara was held by his uncle or cousin Conchobar (*G* §21).¹⁸⁵ The next reference to a

¹⁸⁰ Ní Dhonnchadha, 'Guarantor list', §§41-2 (*G*§7). I have standardized the names as given in the list.

¹⁸¹ *Ibid.*, §§43, 72 (*G* §9). The order of succession between the two in the kingship of Cenél nEógain is not clear, see the notes of Ní Dhonnchadha under §43.

¹⁸² *Ibid.*, §§66, 89 (*G* §21). Interestingly, Bodbchad is named as king of Luigne in the list, which perhaps reflects that it was usual for the heir-apparent of Mide to rule that vassal-kingdom. The list also mentions Garban Midi (§83), whose death is recorded in 702 (*AU*); he may have been another son of Diarmait.

¹⁸³ *Ibid.*, §§48, 74 (*G* §58); both are named as king of Déisi by the annotator.

¹⁸⁴ *Ibid.*, §§55, 70, 82, 86 (*G* §20). Niall's successor Fogartach died as king of Tara in 724, Conall Grant (king of South Brega in the list, king of Brega on the regnal lists) died in 718, and Maine in 712.

¹⁸⁵ The regnal lists of Mide give a confused order of succession in this period, and only mention another Niall mac Diarmata, who died according to *FM* in 768 (a date probably based on the regnal lists), which names him as successor of Domnall Midi (+763), see *LL* 5935-6 and Mac Neill, 'Poems by Flann Mainistrech', 84/88 (§22). It is not clear who was the father of Diarmait, he may have been a son of Domnall Midi, or of Donnchad Midi.

sub-king of Mide is particularly interesting. In 901 Máel Ruanaid, the oldest son of Flann Sinna, was killed by (among others) the great-grandson of the above mentioned Conchobar, who is named as king of Mide in *FM*. Máel Ruanaid is the first son of a king whose exploits receive attention from the annalists. In 895 he personally led an army to intervene in a succession dispute in Osraige (*FM*), and in 898 a 'great war' is recorded between him and his father (*CS*). Considering Máel Ruanaid's position and power, it is remarkable to see that a member of a rival branch held the kingship of Mide under Flann Sinna, and not one of his own sons.

Another one of Flann's sons, Donnchad Donn, used Brega as his base from which to harass his father (*AU* 904, 913-4), but when Níall Glúndub, the ambitious king of Ailech, invaded Mide in 914, the Southern Uí Néill were led by Flann's son Aengus, who was wounded in the encounter and died the following year of his wounds 'in ripe old age' (*AU/CS* 914-5). The same year the *Annals of Ulster* record:

'Flann Sinna son of Máel Sechlainn was rebelled against by his sons, that is, by Donnchad and Conchobar, and they harried Mide as far as Loch Rí. Niall [Glúndub] son of Áed, king of Ailech, brought a northern army and exacted a pledge from Donnchad and Conchobar that they would obey their father, and made a truce between Mide and Brega.'

Again, Donnchad was operating from Brega, but it not certain if he was the heir-apparent at this stage. He finally managed to succeed because all his brothers predeceased him: Máel Ruanaid was killed in 901, Conchobar fell as king of Mide in Niall Glúndub's army against the Vikings in 919, Áed was blinded by Donnchad himself in the same year, and Domnall was killed by Donnchad two years later.¹⁸⁶

I have already discussed the appointment of sub-kings of Ailech during the reigns of Niall Glúndub (916-9) and Domnall ua Néill (956-80) in the kingship of Tara.¹⁸⁷

¹⁸⁶ See Jaski, 'Decline of Uí Néill', 72-7; *AU/CS* under the given years, and G §22.

¹⁸⁷ See §5.1. References are in Mac Neill, 'Poems by Flann Mainistrech', 48/52-3 (§§20, 23-4); *AU* 962, 974. See G §§12-3. Perhaps Murchad's epithet, *Glún re Lár* ('Knee to Floor'), derived from his submission to Domnall in the form of a genuflexion.

The reasons for appointing sub-kings seem to be connected with the recognition of the entitlement to succession of the branch in question according to the rule of seniority and alternation, and thus to enlist the support of that branch and to forestall succession disputes. It is easy to fit this into the position of the heir-apparent or *tánaise rí* discussed above, but that this system would lead to a 'kingship without opposition', to paraphrase *Críth Gablach*, is more a legal ideal than political reality.

From the sons of Niall son of Cernach Sotal in the list of *Cáin Adomnáin* and the sons of Flann Sinna we see that more than one son of a king could hold a prominent position under his father. I have already discussed the problems which the traditional rules of succession could create among the various royal sons (§3.3). Even when one son was given a special position under his father's rule, this did not mean that the other sons disappeared to the background of political affairs, they continued to be active and their chances were by no means nullified.

Furthermore, a king could recognize the claims of another branch by appointing their leader as heir-apparent or sub-king, but still continue to support one of his sons and give him all the opportunities to establish his name and become a powerful ruler. This duality creates additional problems in trying to interpret the role of the heir-apparent, as one may be *tánaise rí* or *rígdamna* in name and position, but still stand in the shadow of the king's son who is acting as his father's deputy and military leader.

In the eleventh and twelfth centuries those kings of Leinster, Munster or Connacht who controlled the wealthy Viking town of Dublin show the habit of appointing their son as king over Dublin.¹⁸⁸ In this case a territory became the personal property of the king who had subdued it, and could therefore be granted to (one of) the king's sons without other relatives being able to lay claim upon it. Of course, Dublin was far more valued as a lordship than what may have been the *ferann rígdamnachta* in a given kingship. When Toirdelbach ua Briain held the kingship of Munster, his son Muirchertach was set up as king of Dublin in 1075, while we have

¹⁸⁸ See Seán Duffy, 'Irishmen and Islesmen in the kingdoms of Dublin and Man', *Ériu* 43 (1992) 93-133.

indications that his brother Diarmait controlled Waterford at the time.¹⁸⁹ When Toirdelbach died in 1086 Munster was divided in three parts among his sons (CS),

Muirchertach quickly asserted his authority over the whole province, and ousted Diarmait. When the two were reconciled in 1093, Diarmait took up his former position as governor of Waterford, while Muirchertach's son Domnall later became king of Dublin.¹⁹⁰

This example shows again that, although one son may have been recognized as the heir-apparent, other sons were not rendered powerless; the competition among the sons of Toirdelbach Ua Conchobair tells the same story (see §3.3. above). It has to be remarked here that it is by no means sure that a heir-apparent was recognized or appointed in each case, in some of the above examples it appears that no prior arrangement to regulate the succession was made.

For those kings who were not in a position to control a Viking town and install one of their sons there, a lordship had to be sought somewhere closer at home. We have seen that this was common policy among the expanding dynasties (see §4.6.), and it remains unclear whether these lordships should be regarded as the *ferann rígdamnachta* and were especially associated with the position of the recognized heir-apparent, or that they formed a way for kings to secure the future succession for their sons against claims from rival branches. In any case, if a king had the means and the power, he could favour his own descendants in such a way that the lands and position belonging to the 'official' heir-apparent did not guarantee sufficient power to certify the succession. Needless to say, this is a big flaw in the system - inherent in the traditional rule of succession - and the source of disputes and rivalry as rightful claims and power clashed.

¹⁸⁹ See Anthony Candon, 'Muirchertach Ua Briain, politics and naval activity in the Irish sea, 1075 to 1119', in G. Mac Niocaill and P. F. Wallace (eds.), *Keimelia: studies in medieval archeology and history in memory of Tom Delaney* (Galway 1989) 397-415: 408-9.

¹⁹⁰ See G §57a/b. For the background, see Anthony Candon, 'Barefaced effrontery: secular and ecclesiastical politics in early twelfth century Ireland', *Seanchas Ard Mhacha* 14 (1990-1) 1-25, esp. 9-10. In two documents Diarmait is addressed as *dux frater regis*, see Simms, *From kings*, 55, citing from Charles Richard Erlington (ed.), *The whole works of rev. J. Ussher D. D., lord archbishop of Armagh, and primate of all Ireland, with a life of the author and an account of his writings* (16 vols., London 1847-64), vol. iv, in *Veterum Epistolarum Hibernicarum Sylloge*, 383-572: 518-9.

We now turn to *tánaise rí* as used in the annals, to see whether the title refers to the heir-apparent in all cases. The first reference immediately causes some problems. In 848 Ólchobar, king of Munster, and Lorcán mac Cellaig, who led the Leinstermen, defeated a band of Vikings at Sciath Nechtain in Uí Dúnlainge, and among those who was killed was: '*Tomrair erell, tanise righ Laithlinne.*' (AU 848).¹⁹¹

The Irish annalists saw no problem in conferring royal dignity on Viking leaders; in 853 we read that 'Amlaíb, son of the king of Lochlann' came to Ireland (AU, FA §259, cf. §239), and irrespective whether there was indeed a king of Norway at this stage, this is what was the perception of the Irish annalist. It thus seems strange that a Norse jarl - who through his title is to be distinguished from a king - is described as *tánaise rí*. From examples in 893 and 918 (AU) it appears that a jarl could occupy a powerful position as (military) leader, but the title is nowhere connected with royalty; the Irish, conscious of such differences in status, were careful enough to make this distinction.¹⁹²

I would suggest that *tánaise rí* is here still connected with *tánaise abbad*, and refers to the representative or steward of the king of Lochlann, just as the *tánaise abbad* represented Armagh in other territories; alternatively, it simply means 'second in status to'.

We have to wait for about three centuries before the annalists begin to use the title again, and here we encounter even greater difficulties. In recording the death of Mathgamain Ua Conchobair in 1138, he is given the titles of '*rí Ciarraige 7 Corcu Duibni, tanaisti rí Muman.*' (AT) In AU he is named as 'pillar of dignity of Leth Mogha.'

It is definitely impossible to translate *tánaise rí* as 'heir-apparent' here, but the career of Mathgamain may provide an insight why he is named as *tánaise rí*. In 1124 Cormac Mac Carthaig banished Muirchertach Ua Muirchertaig, king of

¹⁹¹ See also CS, *Cogadh* §21. See the list in Appendix 3, section 6, for the examples of *tánaise (rí)* in the annals, and note the Introduction to Appendix 2 concerning the use of *tánaise* in FM.

¹⁹² See D. Ó Corráin, 'The semantic development of Old Norse Jarl in Old and Middle Irish', in Finn Hödnebö (ed.), *Proceedings of the Tenth Viking Congress, Larkollen, Norway, 1985* (Oslo 1987) 287-93, for detailed discussion.

Eóganacht Locha Léin, Cú Luachra Ua Conchobair, king of Ciarraige, and Murchad Ua Ségda, king of Corco Duibne from their respective territories.¹⁹³ In the following years we see Mathgamain support Cormac after the latter had been deposed and reinstated as king of Desmond in the course of the war with Toirdelbach Ua Conchobair of Connacht, who, through his allies, continuously harassed Ciarraige.¹⁹⁴ Evidently, Mathgamain was installed as the new king over Ciarraige and Corco Duibne in 1124, and therefore became the focus of attention of Cormac's enemies. In the same year that Mathgamain died, his son Diarmait Súgach killed Cormac Mac Carthaig at the instigation of Toirdelbach Ua Briain (*MA*, *AT*, *FM* 1138); Diarmait was later banished by Cormac's son Diarmait and replaced by two brothers.¹⁹⁵

We may assume that Mathgamain's title of *tánaise rí* was connected with his alliance with Cormac, and perhaps we are allowed to interpret it the same way as the previous example, as a representative or deputy, or as 'second in status to', and as such it is yet another example of the various ways the annalists confer titles such as *rígdamna*, *adbar rí* and the like.

The next reference to the *tánaise rí* in the annals, albeit an indirect one, is found in *AI* under the year 1176, and is added by a later hand in the main text:

'Cormac son of Diarmait Ua Carthaig, *ardrí* of Desmumu, was treacherously slain [by the nobles thereof, and by Cathal Odar and Conchobar Ua Donnchada together with the Uí Súillebáin], and his father reigned after him.

[Mac {meic} Carthaig, who is entitled to land : Let him not attack me (?) : Concerning a henchman (?), Cathal Odar : a shaking on Conchobar. Domnall Remar Ua Donnchada composed this on hearing that Eóganacht had been

¹⁹³ *AI* 1124.4. The last references to the ruling dynasties of Corco Duibne, Ua Ségdai and Ua Fáilbi are at *FM* 1158. Afterwards the territory may have been incorporated within the Mac Carthaig overlordship, just as Ua Conchobair Ciarraige disappears into obscurity after 1175.

¹⁹⁴ *AI* 1125.3 (cf. 1126.3), 1127.2-6, 14; 1128.3 (taking Ua Conchobair to be Mathgamain).

¹⁹⁵ *MA* 1151, 1152, 1154. Diarmait Ua Conchobair is also mentioned in a charter which was reconfirmed in 1174, see Martin J. Blake, 'King Dermot MacCarthy's Charter, A.D. 1174, to the church at Cork, afterwards called Gill-Abbey', *JCHAS* 10 (1904) 145-56: 150-1.

given to Cathal Odar, i.e. the tanist's land (*fearann tanaisteachta*)].¹⁹⁶

In literary sources, the *fearann rígdamnachta* refers to the piece of land set aside for the heir-apparent, and in this case it is formed by Eóganacht Locha Léin, the territory ruled by Ua Donnchada after they had overpowered the Uí Muirchertaig. Diarmait Mac Carthaig had previously granted the two Eóganachta to his fosterson Cathal son of Amlaíb Mór Ua Donnchada (+1170): the lands of his brother Domnall (Remar) - who wrote the above poem - and of Muiredach Ua Muirchertaig.¹⁹⁷ These lands, or part of it, now formed the reward for Cathal Odar for his part in the killing of Cormac Liathanach, Diarmait Mac Carthaig's rebellious son. This was to the detriment of the Conchobar mentioned in the poem, brother of Cathal and Domnall Remar Ua Donnchada, who is mentioned with Cathal Odar and the Uí Súillebáin among the slayers of Cormac Liathanach. According to *AT* Cormac was slain by his own household, which makes the above conspirators his personal vassals - an interesting notion, as it suggests that Cormac had ruled their territories as *ferann tanaisteachta* in his position as Diarmait's heir-apparent.

Together with Diarmait, Cathal Odar was the only great-grandson of Carthach still alive at this time, and was thus entitled to the succession according to the traditional rules (G §52). This may have given him the rule over Eóganacht Locha Léin, but when Diarmait was slain in 1185 by the Anglo-Normans, it was Diarmait's son Domnall Mór who succeeded him. The latter killed Cathal Odar in 1193, who is not given any title on that occasion; his possession of the *ferann tanaisteachta* had clearly not given him an entitlement to succeed Diarmait.

If it is correct to see Eóganacht Locha Léin, the territory of Ua Donnchada, as the *fearann tanaisteachta*, the following entry in *AI* 1280 has interesting information to add:

¹⁹⁶ *AI* 1176.7 (standardized spelling), see note I at *AI* p. 308. The additional hand 8 has inserted information from 1163 to 1205, see *AI* xl-xli.

¹⁹⁷ *AI* 1170.3; the information is added by the same hand as the above, on the occasion of Cathal Ua Donnchada's death. See G §50. Cathal's fosterfather is referred to in Mac Airt's edition as '(mc.) mc. Cormaic', but this appears to be a mistake, as Diarmait is mentioned in the original entry, as 'mc. Cormaic'.

'Peace was made by Domnall Óc Mac Carthaig, son of Domnall Cairprech [son of Domnall Mór], and by Feidlimid Mac Carthaig, with Domnall Ruad Mac Carthaig [son of Cormac Finn, son of Domnall Mór], king of Desmumu, and they submitted to him and gave hostages to him. And he gave them their share: Desmumu south of the Laí to Domnall Óc, Eóganacht Uí Donnchada save Longport na Ríg, and much of Músraige and Uí Chonaill to Feidlimid.'

Domnall Ruad acts here as the supreme overking, who grants parts of Desmond to his former opponents to pacify them and to obtain their recognition as their overlord. The descendants of Domnall Óc (Cairprech), later called Mac Carthaig Riabach, consolidated their position as lords of Uí Chairpri and Uí Echach, but we hear nothing of Feidlimid's offspring (G §52). Músraige was later given to Diarmait (+1381), second son of Cormac, grandson of Domnall Ruad, which gives the impression that the lands reverted to the royal line after Feidlimid's death in 1300.

This brings us well into the Anglo-Norman period, but first we have to deal with references to *tánaise rí*g in the genealogies and other other sources. One which does not fit in the rest of the discussion, but which needs to be mentioned for the sake of completeness, is from the twelfth century genealogies in Rawlinson B 502 and LL. In the section on the early dynasties of Leinster, the descendants of the four sons of Cú Corb are recited: Dál Niad Corb, Dál Messin Corb, Dál Cormaic Lusc and Dál Chairpri, the four primary kindreds of Leinster. The first are entitled to compensation in red gold, the second and third in different types of silver. Of the second is said: 'they are nobles i.e. these men are 'seconds of a king' (*airich insin .i. tánaise rí*g ind *fir-sin*).'¹⁹⁸ Here a whole group seems to have the status of *tánaise rí*g, but apparently without ever having a right to the succession.

More relevant and testing information is supplied by the mid-twelfth century propaganda classic *Cogadh Gaedhel re Gallaibh*. Here a relative of Brian Boruma slain at the battle of Clontarf (1014) is named as *tánaise*:

'There fell there Conaing son of Donn Cuan son of Cennétig, the son of Brian's

¹⁹⁸ CGH pp. 24-5 (118 b35-44). LL and BB have: '*errid (.i. tréfir) 7 tánaise rí*g ind *fir-sin*'. See G §38.

brother, the wealthiest *rí tánaise* of Ireland (*Torcair ann Conaing mac Duinncuan, mic Ceinneittigh, mac derbrathar Briain, rígh thanaiste tothachtach na hEreinn*).¹⁹⁹

In all the annals Conaing is given a place immediately after Brian, Murchad and Toirdelbach of those slain on the battlefield of Clontarf. In *AU* he is styled as *rígdamna Muman*, the same title given to his son Mathgamain (+1019) and grandson Edrú (+1032).²⁰⁰ With such notable families as Ua Conaing, Ua Cennétig, lords of Ormond from the twelfth century onwards, and Ua Londgargáin, a noteworthy clerical family, the descendants of Donn Cuan (+944), Brian's older brother, were only second to the Uí Briain within the Dál Cais. Conaing was probably their senior representative, and with an age of 70 or more, most certainly older than Brian's oldest son, Murchad.

His eminent position is also reflected in *Cogadh Gaedhel re Gallaibh*: he plays chess with Murchad in the episode leading to Máel Mórda's revolt, and later he is named as 'one of the three men most valued by Brian, that were in Ireland.' On the battlefield Máel Mórda and Conaing fell mutually by each other, and on this occasion he is even given the title of *rí Desmuman*.²⁰¹

Here we have a perfect example of what I have briefly discussed in abstract terms in the beginning of this section, namely the heir-apparent according to the traditional rules versus the king's son who is acting as such, a situation also apparent in the case of Cathal Odar. There can be no doubt that Brian intended to be succeeded by his famous son Murchad, whose reputation and experience were such that they would have surpassed any claims on account of seniority on Conaing's behalf. Conaing's title of *tánaise* or *rígdamna* apparently reflects his position of nominal heir-apparent, and may have given him the control over the *ferann tánaistechta* during his lifetime, but it did not guarantee that he would succeed after Brian as king.

¹⁹⁹ *Cogadh*, 208-9 (§118).

²⁰⁰ See §5.2. and G §§55, 56a.

²⁰¹ *Cogadh*, 145 (§82), 167 (§95) and 185 (§105). According to *CGH* p. 207 the Dál Cais held land in Desmond, located according to Anthony Candon, 'Belach Conglais and the diocese of Cork, AD 1111', *Peritia* 5 (1980) 16-8, near Glanmire.

The next example is again from a later source, and we now have to shift our attention to Connacht. In the genealogies of Síl Muiredaig in the *Book of Lecan* Domnall Mór (Midech), son of Toirdelbaig Mór Ua Conchobair is given the title '*tanusti na breifne*'.²⁰² At his death in 1176 he is only designated as '*mac rígh Erenn*' in *AT*, but more extensively as 'lord of the north of Connacht, the glory, the moderator, and the good adviser (*cenn comairle*) of the Irish people' in *FM*. Again we have to speculate, and make Domnall *tánaise rígh* of Connacht over Bréifne (normally also referred to as eastern Connacht) and/or northern Connacht. The later lords of Sligo are called lords of Ichtar Connacht (which can refer to Lower Connacht or Northern Connacht) or lords of Cairpre.²⁰³

There are indications that Domnall's lordship was in that region. After Toirdelbach's death in 1156 the kingship of Connacht had been taken over by Domnall's brother Ruaidrí, who at an early stage seems to have made his son Conchobar Maenmaige - named after the lordship he held there? - his future successor.²⁰⁴ In 1181 Flaithbertach Ua Maíldoraid reduced the number of *rígdamnai* of Connacht in battle after an invasion to which he had been invited by Donnchad, the son of Domnall Mór Midech, who wanted 'to defend the territory of Cairpre for himself' (*ALC*). The next year Flaithbertach and Donnchad defeated the armies of Ruaidrí and Conchobar Maenmaige (*ALC*). Donnchad died in 1185, and the next information we have relates that his brother Mathgamain died in the army of Ua Domnaill, king of Cenél Conaill (*ALC* 1207). It thus seems that the area of Cairpre had been held by Domnall Mór Midech while he had been *tánaise* of Connacht - if we can trust the genealogies - but after he failed to succeed it was held by his son(s). Afterwards the area was controlled by Cenél Conaill.²⁰⁵

²⁰² *Lec.* 63 vd14-5. *O'Clery* §894, has '*tanaisde na h-Erenn*', but this is certainly O'Clery's own interpretation or of his source.

²⁰³ *G* §65e, and *DIL* under 'ichtar'.

²⁰⁴ See §3.4. and *FM* 1167, quoted in §5.2. above, in which Conchobar Maenmaige is associated with the Uí Maine.

²⁰⁵ *AConn* 1239.6. For Cathal Crobderg's request in 1224 to the king of England for a grant for his son Áed - king in effect under his father (see §5.2.) - of Bréifne, Conmaicne and Caled (in Muintir Angaile, ruled by Ua Fergail), see H. S. Sweetman (ed.), *Calendar of documents relating to Ireland 1171-1251* (London 1875) 180 (§1184), 212 (§1402), 229 (§1518), and *NHI* ii, 161. This seems to be

Remarkably enough, the next reference to a *tánaise rí* of Connacht is also connected with the Sligo area. The entry in the *Annals of Connacht* in 1307 is notable for its detail:

'Domnall son of Tadhg son of Brian son of Andrias son of Brian Luignech son of Toirdelbaig Mór Ua Conchobair, *taniste Connacht uile 7 in damna rí* who was most wealthy and prosperous, most generous and valorous, most honourable and lordly and possessed of the most land of any in Connacht, his territory extending from the Curliou Hills to Caeluisce, ... was killed ... by Áed Bréifnech.'

For the background of this event we have to go several decades back in time. The Sligo area was in this period in the hands of the FitzGeralds, who supported the claims of Clann Muirchertaig to the kingship of Connacht, in which they were fairly successful after the death of Aed Muimnech in 1278.²⁰⁶ Their antagonists from the Sligo area, Clann Briain Luignig - later known as Ua Conchobair Sligig - make a remarkable entry on the political stage in this period, in which they began to play a prominent part in the succession struggles which were raging at the time.²⁰⁷

When the FitzGeralds fell from grace and had to surrender their lands to Richard de Burgh, the fortunes of Clann Muirchertaig plummeted and Clann Briain Luignig emerged as the new power in the Sligo area, and thus we find Áed Bréifnech with the rest of Clann Muirchertaig now raiding the lands of Domnall's father Tadhg in Mag Cedne, a plain south of Ballyshannon along the coastline.²⁰⁸ Domnall's extensive lands, from the Curliou Hills (a few miles northwest of Boyle) to Caeluisce

a political move - the lands in question were held by Hugo de Lacy, the king's enemy - and not necessarily connected with Bréifne as held by Domnall Mór Midech as *tánaise*.

²⁰⁶ *AConn* 1245.3, 1246.8, 1249.8, 1252.4, 1260.17, 1269.11 for the FitzGeralds in Sligo, and 1288.7, 1293.3-4, 1294.13 for their support to Clann Muirchertaig against the descendants of Cathal Crobderg, see also K. Simms, 'Nomadry in Medieval Ireland: the origins of the creaght or *caoraigheacht*', *Peritia* 5 (1986) 379-91: 382, and *NHI* ii, 165. For Áed Muimnech, see §2.4.

²⁰⁷ *AConn* 1292.4 (cf. 1291.6-7), 1294.2.

²⁰⁸ *AConn* 1301.5, 1302.6, p. 836 (Mag Cétna). Tadhg's rise to importance is underlined by his marriage with Sadb, the daughter of Áed Ua Néill (*AConn* 1298.3). I take all references to Tadhg mac Andrias to refer to Tadhg mac Briain mac Andrias, (Domnall's father), who is only named as such at his retirement and death (*AConn* 1307.18; 1313.9).

(the Lower Erne east of Ballyshannon), roughly comprises the territory of Cairpre (Carbury) or Ichtar Connacht later ruled by his descendants.

Domnall's son Magnus is also named as *tanusti Connacht* when he was slain in the army of Feidlimid mac Áeda in the battle of Athenry in 1316.²⁰⁹ The succession of the title of *tánaise* from father to son - whether direct or after an interval - is certainly remarkable, but it does not seem that it refers to the position of heir-apparent. In the years between 1307 and 1316 the kingship of Connacht had changed hands from Áed mac Eógain (1293-1309) via Áed Bréifnech mac Cathail Ruaid (1309-10) to Feidlimid mac Áeda meic Eógain. None of these kings belonged to the descendants of Brian Luignig, and the latter appear to be supporters rather than contestants in the struggle for the kingship of Connacht.

Still, Domnall's son Cathal managed to grasp the kingship (1318-24) - the only one of his line to do so - and one is easily made to suspect that Domnall and Magnus, both called *tánaise*, had been the heir-apparents. However, Cathal did not attain the kingship in a smooth way, but rather took what fortune offered after the confusion following the battle of Athenry. He had seized the kingship by force from Feidlimid's brother Toirdelbach and then placed himself under the protection of William de Burgh. At his death in battle with Toirdelbach, the annalist notes that he had been king 'in spite of Gael and Gall', another indication that he was an outsider and not accepted by all.²¹⁰ This may be due to his actions, but also to his lineage, which lacked a royal background for five generations.

So, why are Domnall and Magnus called *tánaise* when they were not the (nominal) heir-apparents? I think that both function as the Irish vassal or representative of an Anglo-Norman lord, in this case Walter de Burgh, who may even have conferred the title. A parallel is offered by the case of Mathgamain Ua Briain, which will be discussed below.

Another possibility is that they are called *tánaise rí* because they held the *ferann tánaistechta* - in this case Cairpre, which was probably ruled by the *tánaise* Domnall Mór Midech as well - without the additional right to succession which is invested

²⁰⁹ *AU* 1316; *AConn* 1316.5 and 1327.3.

²¹⁰ *AConn* 1318.3-4, 1324.3.

in holding the territory. This may seem far-fetched, but we actually have an example to which this applies. In 1478 Cormac mac Diarmata was deposed as the lord of Mac Carthaig Riabach, and his descendants, excluded from the succession, continued to rule the lands known as 'Tanaistah', in other words, the *Tánaistecht*; members of their family are sometimes named as *tánaise* of Cairpre.²¹¹

In this respect it is also important to consider that it is unlikely that amidst the continuing succession struggles in which most branches were ignored or opposed the king if he was from a rival branch, an heir-apparent for the whole kingdom could be proposed, to whose kingship without opposition to him the whole of the *túath* was looking forward, to paraphrase *Críth Gablach*. This could at best take place in a forced way or under the supervision of the Anglo-Normans, but one may question the value of such a title if it includes entitlement to the succession. If *tánaise* was indeed an official title in this case, the real reward of the office must have been the extensive territory that went with it.

The vicissitudes of the career of Toirdelbach, the man who eliminated Cathal of Clann Briain Luignig, give rise to another reference of the tanistship. In 1342 'the whole of Síl Muiredaig, willingly or not, renounced their allegiance to the king of Connacht, Toirdelbach son of Áed [son of Eógan].'²¹² The political structure of the day had been upset, and later in the year the annalist reports the new order:

'Áed son of Áed Bréifnech son of Cathal Ruad Ua Conchobair was made king by the men of Connacht and [Edmund] de Burgh in the first Monday of Winter; the tanistship of Connacht (*tanistecht Chonnacht*) was given to Áed son of Feidlimid [son of Áed son of Eógan] Ua Conchobair; Tír nAilella was given to Fergal Mac Diarmata and Tadg son of Tomaltach son of Muirgius Mac Donnchada expelled from his patrimony by Conchobar Mac Diarmata and his kinsmen, united himself

²¹¹ K. W. Nicholls, 'The development of lordship in county Cork', in Patrick O'Flanagan and Cornelius G. Buttimer (eds.), *Cork: history and society. Interdisciplinary essays on the history of an Irish county* (Dublin 1993) 157-212: 192. See G §52 and FM 1504 (Appendix 3, section 6). In *ALC/AConn* 1530.4 there is reference to the *Tánaistecht* of Mag Luirg (given in Appendix 3, section 6).

²¹² *AConn* 1342.11. For the background, see *AConn* 1340.6, 1342.3.

to Toirdelbach Ua Conchobair.²¹³

This coup did not prove to be successful: Toirdelbach made peace with Conchobar Mac Diarmata and was reinstated as king the following year. Áed son of Áed Bréifnech lost his kingship, the last of Clann Muirchertaig to enjoy this honourable but highly uncertain position as king of Connacht, and one can imagine that Áed son of Feidlimid lost his newly won tanistship as well. Afterwards, it was Toirdelbach's son Áed who succeeded his father in 1345, and Áed son of Feidlimid only obtained the kingship five years later through the powerful help of de Burgh. In due course the two branches of Ua Conchobair Ruad and Donn would grow further apart, and the kingship of Connacht became an institution of the past.²¹⁴

It may be that Áed mac Feidlimid's aspirations to succeed Áed mac Áeda Bréifnig is reflected in his tanistship, and perhaps it formed one of the conditions on which he entered the alliance.²¹⁵ Whether this also affected the position of Clann Briain Luignig is unclear, they kept a low profile in this period, but they were certainly on bad terms with Clann Muirchertaig.²¹⁶ Anyway, it appears that the value of a tanistship of Connacht had not much practical value as regards succession, as has already been remarked above.

For our next example we return to Munster. At his death in 1281 Domnall son of Tadg son of Conchobar Ua Briain is named in *AI* as *tánaise* of Thomond. He is first mentioned in 1279 when he and his brother Toirdelbach opposed Thomas de Clare

²¹³ *AConn* 1342.17, standardized and with my square brackets.

²¹⁴ See G §65b, and §5.1, note 38 above.

²¹⁵ Simms, *From kings*, 56, regards Áed's appointment as the new *tánaise* as proof of validity for Spenser's remark that the *tánaise* was always chosen at the same time as the new king (see below). Although it is likely that this was indeed the case, a *tánaise*, just as a king, could be deposed. With the new régime the claims of the previous *tánaise* (whether there was a *tánaise* under Toirdelbach is unclear) were of course nullified, see also *AConn* 1417.7, *AU* 1471, *AU* 1480, *AConn* 1527.19 in Appendix 3, section 6.

²¹⁶ *AConn* 1340.9, 1346.7.

and took the kingship of Thomond.²¹⁷ This earned them the enmity of their cousin, Donnchad son of Brian Ruad son of Conchobar, whose 'natural claim on Tuadmumu and from the fact that his father held it' made him a serious contender, also because he was backed by Thomas de Clare. On the advice of Domnall Mac Carthaig peace was made, and the kingship was split up between Toirdelbach and Donnchad.²¹⁸ Perhaps Domnall was to succeed his brother, following the rules of seniority; if so, this is the first clear example of the *tánaise rí*g as heir-apparent.

Toirdelbach dealt with Donnchad mac Briain in 1284 and became the undisputed king of Thomond. Following his death in 1306 his son Donnchad was made 'king with opposition after him (*do rigad da eis ga rasabra*).'²¹⁹ This opposition came from the son of Donnchad mac Briain, Diarmait Cléirech. During this time we meet Mathgamain mac (Briain meic) Domnaill Connachtaig, *tánaise* of Thomond, on a hosting into Desmond in the company of Ua Deghaid, Ua hAichir, Nicolas FitzMaurice and Maurice FitzRisibard.²²⁰

The position of Clann Domnaill Connachtaig as outsiders may be compared to that of Clann Briain Luignig in Connacht, although Mathgamain was at this stage the last great-grandson of Domnall Mór (+1194) still alive, and they seem to have consolidated their position in north-west Thomond.²²¹ In *Caithréim Thoirdhealbhaigh*, written in the middle of the fourteenth century, Mathgamain plays an important if dubious role as ally of Diarmait Cléirech, which ultimately resulted in the killing of king Donnchad mac Toirdelbaig by Mathgamain's son Murchad in 1311. Two years later Diarmait Cléirech died, and a fresh dispute for the kingship

²¹⁷ *AI* 1279.4, 6. For the background, see Aoife Nic Ghiollamhaith, 'Dynastic warfare and historical writing in North Munster, 1276-1350', *CMCS* 2 (1981) 73-90.

²¹⁸ *AI* 1281.7. *Caithr. T.* ii, 18, states that Toirdelbach received the eastern part of Thomond, and Donnchad the western part.

²¹⁹ *AI* 1306.1. The text is unclear, but I read *ga [f]rasabra* ('with opposition') instead of *ga[n] rasabra* ('without opposition').

²²⁰ *AI* 1308.8. G §57. Ua Deghaid and Ua hAichir of Mag Aidir both came from the region around Inchiquin, in the northwestern part of Thomond. FitzRisibard supported Diarmait Cléirech, see 1311.4.

²²¹ See G §57 for Mathgamain's relatives, and *AI* 1283.11 for their situation in the north-west (see preceding note) and their alliance with Donnchad mac Briain Ruaid.

between Muirchertach mac Toirdelbaig and Donnchad mac Domnaill meic Briain Ruaid broke out. Mathgamain supported the latter, but after much confused fighting Donnchad was killed.²²²

Despite all the upheavals and successions, Mathgamain is still styled as *tánaise* of Thomond at his death in 1320 in *AConn*, *AU* and *FM* (*AI* and *MA* being defective), and even if the title refers to the heir-apparent, his contemporaries were hardly impressed by it. As with Clann Briain Luignig, Mathgamain's position as *tánaise* may have been connected with his lands. According to *Caithréim Thoirdhealbhaigh* Mathgamain's residence was in Inchiquin (*Insi Uí Chuinn*), and one episode relates how Mac Conmara proceeds to Inchiquin 'to recover such portion of his flitting as Mathgamain Ua Briain had under his permanent protection (*do bí ar buancomairce ag Mathghamain*).²²³ Further on we are told that his lands extended 'from Irrus and the Dunes and Uí Brecáin, a slice of western Corco Modruad and half of the upper cantred, Ua Flannchada and western Cenél nÁeda - all of them bulked together without a break, from Cú Chulainn's Leap eastwards to Kilmacduach - subject to Mathgamain as de Clare's representative (*do beith fáil a hucht in Chláraig*).²²⁴

This is quite an extensive territory, and recalls the extensive lands held by Domnall of Clann Briain Luignig as *tánaise*, the more so because Domnall may have been de Burgh's 'representative' to rule the Sligo area. It thus seems that *tánaise* (*ríg*) under certain circumstances can mean 'deputy-king', a vassal and representative of a superior lord. Normally, this position was given to the next one to succeed, whose lands were called the *ferann rígdamnachta* or *ferann tánaistechta*, but the Irish representatives of the Anglo-Norman lords are also called *tánaise* (*ríg*) by the annalists; the similarity with *tánaise abbad*, the representative in a certain territory, is in this respect remarkable. It is not certain whether these lands formed the *ferann tánaistechta* as well, but as in the sixteenth century the

²²² *AI* 1313.5, 1317.5.

²²³ *Caithr. T.* i, 92; ii, 84 (standardized).

²²⁴ *Ibid.*, i, 134; ii, 118, translating 'a hucht' as 'representative' (see also i, 120; ii, 136) instead of 'viceregent'.

main cadet-branch of the earls of Thomond was formed by the barons of Inchiquin, this is by no means impossible.²²⁵

Until the middle of the fourteenth century the title of *tánaise (ríg)* makes a rare appearance in the annals, and the manner in which the title is used is roughly twofold: it refers either to the (nominal) heir-apparent or the representative of the superior lord in a certain territory. In most of the cases, *rígdamna* and *adbar rí* ('without opposition') are used to refer to the heir-apparent - and also other candidates qualified for the kingship - and *tánaise rí* is not necessarily connected with succession, certainly when the Anglo-Normans complicate the situation even further.²²⁶ The above examples show that none of the cases are really straightforward, and this makes it risky to make conclusive statements.

From the middle of the fourteenth century onwards we meet a proportionately large amount of examples of the title *tánaise (ríg)*, and they all seem to refer to the heir-apparent, usually the brother of the (senior) son of the king.²²⁷ This confirms the impression given in the law-tracts and literature, and underlines the fact that the examples of Connacht and Thomond in the thirteenth and fourteenth centuries are exceptional. However, the annalists continue to mix up *tánaise* with other titles, and are not consistent in its usage, nor give much additional information on the lands the *tánaise* held as part of his office. For this information we have to turn to the sixteenth century, when English administrators begin their extensive and minute

²²⁵ See G §57, and below for the *ferann tánaistechta* of Tír Conaill named as barony. In J. S. Brewer and William Bullen (eds.), *Calendar of Carew Manuscripts, preserved in the archiepiscopal library at Lambeth, 1575-88* (London 1869), 490 (§332), the baron of Dungannon is to be made tanist of Tír nEógain, cf. *NHI* ix, 141. See *Ibid.*, 1515-74, 112 (§200), for the barony of Uí Breáin.

²²⁶ For the *tánaise rí* in connection with *rígdamna* and *adbar rí*, see §5.2. above, at note 62. Note also the example in *AClon* 1392 (Appendix 3, section 6), in which Enrí Aimhreidh (G §14a) is described as 'tanist and next successor of the principality of Ulster', which is most likely Mageoghagan's rendering of '*rígdamna Érenn de iure 7 adbar rí Ulad cin amurus*' in *AU*; it has no independent value. Of course, this does not mean that Enrí was *not* the *tánaise*, but his can not be proven by his title as given in these annals. The title *ogri*, usually translated as 'heir', never gains prominence in the Irish annals, see Appendix 3, section 5, and Lec. 63 vd19 and 65 d5-6 (see G §65b). See *DIL* under 'óc II (a)' (*óc-rí*: 'young king'), and 'eigre, oigre, eiger, oigir' ('heir', 'inheritor', etc., first attested in the thirteenth century); the two may have been mixed up at times in various translations.

²²⁷ See Appendix 3, section 6, and the genealogical tables of the Anglo-Norman period.

reports on the Gaelic lordships and their lands.

Of all the English observers who commented upon the Irish, Edmund Spenser, writing in 1592, is the most enlightening. According to Spenser all the Irish held their land by tanistry, being no more than a personal estate for the tanist's lifetime; the tanist was elected by the country.²²⁸

'It is a custom among all the Irish, that presently after the death of any of their chief lords or captains they do presently assemble themselves to a place generally appointed and known unto them to choose another in his stead, where they do nominate and elect for the most part, not the eldest son, nor any of the children of the lord deceased, but the next to him of blood, that is the eldest and the worthiest; as commonly the next brother unto him, if he have any, or the next cousin, or so forth, as any is elder in that kindred or sept: and then next to him do they choose the next of blood to be the tanist, who shall next succeed him in the said captainry, if he live thereunto.'²²⁹

Spenser goes on to say that the captain (chief) has to give an oath that the tanist should succeed him in a peaceful manner. The function originated in the defence and maintenance of the lands, so that no strangers or English could alienate it, but he also has to defend the country if the chief is away or killed. 'For which cause the tanist hath also a share of the cuttings and spendings upon all the inhabitants under his lord.'²³⁰

This description by Spenser finds support in the various writings of Sir John Davies, who, however, sees in the Irish customs of tanistry and gavelkind the cause for all the mischief among the Irish and the desolate state of the island, as they created uncertainty about who would be next in possession of the land:

'By the Irish custom of tanistry, the chieftains of every country and the chief of every sept had no longer estate than life in their chiefferies, the inheritance whereof did

²²⁸ Edmund Spenser, *A view of the State of Ireland*, ed. Henry Morley, in *Ireland under Elizabeth and James the First described by Edmund Spenser, by Sir John Davies and Fynes Morton* (London 1890) 33-212: 41.

²²⁹ *Ibid.*, 42.

²³⁰ *Ibid.*, 43.

rest in no man. And these chieferies, though they had some portions of land allotted unto them, did consist chiefly in cuttings and cosheries, and other Irish exactions, whereby they did spoil and impoverish the people at their pleasure. And when their chieftains were dead, their sons or next heirs did not succeed them, but their tanists, who were elective and purchased their elections by strong hand.²³¹

Most of the comments of Spenser and Davies we find in some form or the other confirmed in the writings of other English officials in Ireland, who all condemn the general custom of tanistry, by which land was only held for the person's lifetime and not held in succession from father to son, and label it as tyrannical and needing to be abolished.²³² Biased as these views may seem, the validity of their observations finds support in other writings and indeed in the Irish sources. Most important is Spenser's comment that usually the eldest and worthiest was chosen as tanist, and that he was usually the brother of the reigning lord. This is perfectly in accordance with the picture the Irish annals provide from about the middle of the fourteenth century onwards, in which the tanistship is given to the next in line to succeed according to the rules of seniority and worth. Sir John Perrot's short note on tanistry, written in 1590, also includes a statement that the next successor according to the Irish is the one who is the eldest and most worthy.²³³

As the tanist was normally deemed to succeed once the reigning king died, a new one had to be appointed at his inauguration, as the post would otherwise remain vacant. However, as the king and the tanist were still elected, one may presume that the tanist did not automatically become the new king, in other words,

²³¹ Sir John Davies, *A discovery of the true causes why Ireland was never entirely subdued [1612]*, ed. James P. Myers (Washington 1988) 164. See also: 'A letter from Sir John Davies, knight, attorney-general of Ireland, to Robert Earl of Salisbury [1607]', in H. Morley, *op. cit.*, 343-80: 347, 350-1, 372, 376. Nicholls, *Land, law*, 10, argues that gavelkind was the result of under-population in Ireland, not the cause, as Davies thinks.

²³² Brewer and Bullen, *Calendar of Carew MSS*, 1515-74: 1553 (237, §200); 1575-88: 1584 (384, §534), 1586 (437, §623); 1589-1600: 1590 (27, §73), 1597 (273, §277). See above, §4.4. note 86 and §5.1. note 30 for examples from Irish sources, and also *FM* 1553 and 1580 concerning Conchobar Ua Briain (+1581) for an example of the reaction among the Irish to the English decrees.

²³³ *Ibid.*, 1590 (28, §73). See also §3.3. note 84 for a Irish description of the tanist as the eldest and worthiest. Note that Anglo-Normans are also named as *tánaise* in the Irish annals, see Appendix 3, section 6, under the years 1463 and 1466.

he was the heir-apparent - one next in line to succeed according to custom and traditions, but still to be formally elected - and not the heir-designate - already officially designated to be the successor, making an election unnecessary. Just as a king could be deposed, a *tánaise* could be by-passed for succession (see below).

If *tánaise* signified the heir-designate, one would expect underaged candidates to be appointed as tanist as well, but this is not attested; Spenser even thinks that this was the reason why the senior is always chosen, to forestall an infant having to take the burden of the lordship, and this seems also the case in the problems surrounding the 'Case de Tanistry' in 1594, in which an outsider claimed the succession as against a boy of twelve who as regards descent enjoyed a better position.²³⁴

The observations of the English commentators are fairly accurate, and their description of the tanist as the eldest and worthiest relative of the king neatly summarizes the traditional rules of succession. The *tánaise* forms undeniably part of these rules, and their inadequacies and loop-holes which so often led to strife and turbulence apply to the office as well. A special position for the heir-apparent is already apparent in the Old Irish law-tracts, but the title of *tánaise rí* is disguised in the annals as *rígdamna*, which, through its broad interpretation, does not reveal who was the heir-apparent at a given time, only the context may give us clues. The tanist as representative of the king and - under certain circumstances - as his substitute is also brought out by Davies.²³⁵ The land held by the heir-apparent would normally have been situated on the demesne lands of the ruling family, but as the power of the overkings increased and expansion became necessary to curb succession struggles, heir-apparents or other sons were given lordships over external territories. They could often wield considerable power, and even if they did not succeed, their descendants were not seldom strong enough to secure the

²³⁴ Spenser, *A view*, 43. Butler, *Gleanings*, 81-91. See also the final comment at *AI* 1311.7: 'Alas for a land whose king is a young man or a boy!'

²³⁵ For the later period this is attested in the case of Nechtan Ua Domnaill, who took over the defence of Tír Conaill in absence of his brother and king, Niall Garbh (+1439), although he is not specifically called *tánaise* in the annals (*FM* 1433, *AU* 1435, 1439, cf. Simms, *From kings*, 56).

possession of the territory for themselves, or were given the lordship as compensation for their lost claims and in return for their allegiance. The whole system could even be circumvented by kings who sponsored their sons to such a degree that those who had a better claim on account of seniority, alternation or being the recognized heir-apparent lost out because they lacked the power, reputation or wealth.

Nevertheless, the tanistship remained a coveted position, if only for the status and lands attached to it, and could be hotly disputed by various branches.²³⁶ This is especially well documented in Tír Conaill, on which occasion there are also interesting details about the situation of the *fearann tánaistechta*.

In 1549 a settlement was made between Magnus Ua Domnaill, king of Tír Conaill (+1563), his son Áed, and Magnus' brother Conn Mór, which contained that 'Conn Ua Domnaill shall have the baronies of Glanele and Tyremakkyryn, which lands used to belong to the tanist there [i.e. in Tír Conaill]; and [Magnus] Ua Domnaill shall dispose his son Áed and the sept of Áed Ua Gallchobair to dwell elsewhere within the country, where they will give no occasion of contention.'²³⁷ Seventeen years later, on the 20th of October 1566, Magnus' son An Calbhach, king of Tír Conaill, made an agreement with his uncle Áed Dubh ('of Ramelton'), in which the latter was granted the mansion of Cathir Anuske, and the lands of Gillanneli and Tier McCuerin. These are the same lands as above; Glen Eile (Glen) is situated west of Mulroy Bay in co. Donegal, and Tyremakkyryn or Tier McCuerin forms the lands around Kilmacrennan south of Glen, the ancient inauguration site of the kings of Tír Conaill.²³⁸ There can be no doubt that these lands covered the *ferann*

²³⁶ See Appendix 3, section 6, under the years 1417 and 1480.

²³⁷ Brewer and Bullen, *Calendar of Carew MSS*, 1549 (222, §7), with normalized spelling, except for the placenames. See G §8.

²³⁸ *AConn*, p. 831. for Glenn Eile. I owe the identification of Tyremakkyryn to Katharine Simms. The contention between An Calbach and Áed Dub is mentioned in *FM* 1564. Note in this respect also *AConn* 1527.13, which describes a raid by Magnus Ua Domnaill and Ua Gallchobair into Glenn Eile against his brother Aed Buidhe, who died in 1538 (*rígdamna Tíre Conaill*, etc., see Appendix 6, section 2) in Killodonell (Cell O dTónair) near Kilmacrennan. In Denis Murphy (ed.), *Beatha Aodha Ruaidh Uí Dhomhnaill. The Life of Hugh Roe O'Donnell, prince of Tirconnell (1586-1602)*, by Lughaidh O'Clery (Dublin 1893) 41, Áed Ruadh mac Áeda is inaugurated at Kilmacrennan (*Cill mic nEnáin*), 'in

tánaistechta of Tír Conaill, and they are within the patrimonial lands of Cenél Conaill. That the inauguration site falls within them is remarkable, but also fitting, regarding the position of the *tánaise* as (nominal) heir-apparent. These lands were Áed's to hold for the duration of his lifetime, to be surrendered when he would succeed: '...if the said Áed Dubh should hereby obtain the inheritance (*haereditatem*) of his nation or country, called the second place (*secundiatum*) or 'tanis-shipp' then the present indenture shall be of no validity.'²³⁹

These documents illustrate that the tanistship could be used to favour sons or to reach an agreement with rival candidates. However, Áed's future was not yet settled. On the 26th of October, six days after his agreement with Áed Dubh, An Calbhach fell from his horse and died. His successor was not Áed Dubh, but An Calbhach's brother Áed, the son of Magnus who had to vacate the tanist's lands in 1549. How Áed Dubh fared now the wheel of fortune had made a wrong turn is not clear, but we may take it that he lost his position as *tánaise* after Áed's inauguration; he died in 1618. In 1567 Áed mac Magnusa was already forced to surrender the tanistship to another rival, this time to Conn, who had just returned from his long imprisonment by Seaán Ua Néill.²⁴⁰ In 1580 Magnus' son Cathbarr is mentioned as *tánaise* of Tír Conaill in *FM* at his death in his mansion of Sarbh Sholas, two miles west of Letterkenny, and not far from or within the *ferann tánaistechta*.

Although the bulk of the material on the *tánaise* is from the later annals or English sources, the position of the *tánaise* within the traditional rules of succession, the *ferann tánaistechta*, his function as deputy, are all born out in early sources.

the middle of the cantred of the Cenél Lugdach' (see G §7). Ruaidrí, the second oldest son of Aed Ruadh's father, is named as *rígdamna* (137, 257, cf. 3), and later succeeded him (see *NHI* ix, 145).

²³⁹ Brewer and Bullen, *Calendar of Carew MSS*, 1566 (375, §252), with normalized spelling. The wording seems to be corrupt, I take it that if Áed acquires the lordship through his position as *tánaise*, the mentioned lands are no longer his. Davies, *A discovery*, 75 (see also 136) states that 'the Irish pretend by their law a tanist may not act that might bind his successor': it was a temporary function, not inheritable.

²⁴⁰ Sweetman, *Calendar of State Papers 1509-73*, 348 (Oct 30, 1567) and 347 (Oct 22, 1567). He is either Conn Mór, or Conn son of An Calbach (+1583).

However, the inconsistencies in using certain titles, the variations in terminology used by the annalists and the lack of detailed accounts and documents for the early period make this late material relevant to explain the place of the *tánaise rí* in the early social and political framework. From the seventh or eighth until the sixteenth century we meet the same concept of succession in various sources, and likewise the same titles and offices. Naturally, changes took place, but in its basic outline the Irish traditional rules remained to be valued and adhered to, revolving around a person's *febas*, an almost undefinable mixture of worth, dignity, stature, seniority, suitability, reputation, wealth and power, having numerous connotations and manners to acquire it, not unlike the Roman *dignitas*. This is what makes Irish succession so difficult to grasp, as the continuous struggle between custom and force does not allow for set rules which the historian can conveniently refer to. Complicated as it may be, it is also a strong expression in favour of strong personal qualities and strife as against potential weakness and extinction. Regarding the subsequent history of the Irish earldoms and baronies, the customs and traditions are in a sense vindicated after all.

CONCLUSION

In *Tecosca Cormaic* Cairpre Liphechair asks his father: "in virtue of what may rulership over peoples, clans and kindreds be obtained?" "Not difficult", said Cormac, "it is obtained in virtue of physical form and kindred and knowledge, his wisdom and honour and generosity and worthiness, his hereditary qualifications and eloquence, his strength [and] waging war and the number of allies".¹ (ST §13)

Cormac thus sums up the traditional rule of succession, one which sometimes appears not to be a rule at all. The absence of a solid rule of succession present in the sources is in itself not so surprising, considering that we are dealing with the early medieval period, in which such rules were not clearly expressed but formed by custom, tradition, convention and particular circumstances. The evidence strongly suggests that in medieval Ireland the theoretical regulation of succession was tightly linked with the general customs, rules and laws of society, and it is remarkable that the various sources are uniform in their description of the qualifications a candidate for succession should possess.

I think that these two aspects have not sufficiently been appreciated by historians so far, and although it can be said that all those who have commented upon succession had a valuable point to make, the traditional rule of succession should be approached as a broad subject, in the context of Irish society and political structure as a whole. I have taken succession in the (royal) family as my starting point, as succession in the overkingship was usually irregular and decided by power and military means, rather than by customary or traditional rules, as has been shown by Ó Corráin.

Charles-Edwards' argument that a person's excellence and standing (*febas*) was the primary consideration why one was selected for the succession has been used as the basis for the present work, and in chapters two to four I have discussed the main components which contribute to a person's *febas*: his birth-right (descent and seniority) and his qualifications (wealth and dignity).

The three generation requirement (combined with the double qualification requirement) expresses the importance given to a person's descent as regards his (hereditary) claims and entitlements. *Uraicecht na Ríar* discusses this principle in

detail for the poets, and there is sufficient evidence to show that it also applied to the noble grades. The requirement that a lord should be the son and a grandson of a previous lord is not an absolute one, but it puts a severe restriction on those who want to climb up in status without having the proper background. The stress on descent has a practical reason - belonging to the ruling family usually certified that one had the resources, background and experience to take the lordship with all its responsibilities - and a theoretical reason - one inherited the dignity and abilities of one's forefathers.

The descent of one's mother could also be taken into consideration. A son who was born from an illegitimate relationship, or whose mother was of low birth or had a bad reputation, was usually excluded from the inheritance and the lordship. A son of a concubine was still acceptable, as long as she was a properly betrothed concubine, but several legal tracts express preference for the son of a primary wife above the son of a betrothed concubine. However, the exception to the rule, in which the latter is entitled to the lordship when he is better qualified, shows the concern of the legal scribes that the best man for the office should be chosen.

In chapter 3 this principle is discussed in greater detail. The legal tracts take it as a basic rule that the senior representative of the family is entitled to the 'choice of shares' when the inheritance is divided, the *cumal senorba* (the demesne lands of the lordship), and other prerogatives which belonged to the office. However, if a junior candidate was better qualified, he was entitled to this whole set of senior privileges. In TSH it appears that the junior had to be clearly over-qualified in this respect. In dynastic propaganda and saga-literature the theme of the senior versus the junior can be directly related to the above legal rule. The customary preference for the senior is also expressed in sources from the later period, and certain examples suggest that those who could claim senior rights but did not succeed were entitled to compensation in the form of certain privileges or entitlements.

According to the legal rule a junior had to have more base clients than the senior to succeed, in other words, he had to be wealthier. In chapter 4 wealth as a qualification for succession is discussed. It is only regarded as such when it is put to its good use: to support one's family and display generosity to one's clients and allies. This is related to the legal principle that a lord or king can only claim his full

honourprice if he acts uprightly in word and deed, and does not degrade himself in any way. Birth-right and qualifications have to complement each other, and those who had the right descent but acted irresponsibly, lacked the wealth or support to function properly, or had physical or mental deficiencies could still be passed over for the succession. In no respect can we consider the traditional rule to be absolute and exclusive, it merely shows what is proper, but there are always ways to circumvent this without illegal implications. In its essence, the traditional rule has a practical basis, but this renders it also impractical to a certain extent, as without a strict rule it was always easy for a powerful candidate to find a reason to assert his claim by force.

In practice one could expect 'the eldest and the worthiest' (to paraphrase the English officials) to be chosen, and this is not only dictated by the traditional rule, but also by the rules of society and politics. The only way for a junior candidate or another 'outsider' to be preferred above senior candidates was to find opportunities to show his abilities and qualifications, and to acquire wealth and support. Within a common family such opportunities were small, hence the saying '*sinser la fini*'. Within a noble or royal family the situation was different, as a powerful lord could attempt to promote the career of his son (usually the senior son) by giving him a military command or an overlordship, thus placing him in a favourable position for the succession. For the pre-Norman period we have some telling examples of this in the eleventh and twelfth centuries, a period which saw the rise of territorial overkingships. The sons of the more powerful overkings could become formidable lords in their own right, and this can probably be related to the succession becoming more confined to one particular family. Those who failed to obtain the kingship were immediately overshadowed by those in power, and their descendants were likely to decline, unless they could secure a territory or overlordship to rule and preserve an amount of independence.

In chapter 5 the position of the heir-apparent is discussed. In saga-literature and propaganda material we find the *tánaise* and *rígdamna* mentioned in connection with alternation, which forms the theoretical way to regulate succession between two or more families, branches or kindreds in both the lord- and abbotship, and is a logical extension of the traditional rule. The patterns of succession of some

dynasties indicate that alternation could work in practice as well, but usually the further removed the candidates for succession in blood-relationship or the more important the (over)kingship, the higher the chance that the traditional rules would be set aside by power-politics.

In theory, the heir-apparent is the one who is to succeed according to the traditional rules. His claim was strengthened by giving him a piece of land for the duration of his lifetime, the *ferann rígdamnachta* or *ferann tánaistechta*. In the annals *tánaise* and *rígdamna* can also refer to the heir-apparent, but not as a rule. In its basic meaning the title *rígdamna* expresses the person's qualification for succession on account of the traditional rules, especially his birth-right, but also according to his form, feature, deeds, dignity, etc. The title is often used for flattery, and only in a few cases we can be sure that it actually refers to the heir-apparent. In many cases it is given to the head of a branch outside the kingship who can be lord or king in his own right. For the annalist a person's qualifications are more worth noticing than his 'official' title, and this loose application makes *rígdamna* (and also *adbar rí*) a title which is difficult to interpret.

In the legal tracts the *tánaise rí* can be equated with the 'best' *aire forgill* or the *aire forgill frisaicci ríge* ('who looks forward to the kingship', perhaps the original Irish title of the *tánaise rí*), the best qualified person among royal candidates for the kingship. The five *senchléithe* he has over and above the normal *aire forgill* probably reflects his possession of a part of the demesne lands, and his position can be connected with his function within the *túath* in matters of suretyship and other ways in which he represents his kindred or the king, and according to some tracts he was entitled to the same honourprice as a king. As a title to signify the heir-apparent *tánaise* only gains currency in the fifteenth century, for the earlier period we have examples which suggest that the title can be related to a representative of the king or an Anglo-Norman lord, or the one who holds the *ferann tánaistechta*, without implying a (nominal) right to succession. In such cases the revenues of the territory which went with the position were probably more valued than the nominal right to succession.

The premise of the traditional rule, succession by successive seniority and alternation within the ruling family with the demand that a candidate is fully qualified

to take the office (lordship, kingship, abbotship), puts the emphasis on both birth-right and suitability - a rule which, as far as I am able to judge, was in its basic outline still valid in the later period. The way this rule is connected with the customs and legal rules in Irish society make the subject too extensive to be discussed here in all its details, and certain topics are still in need of further investigation, such as clientship and land-inheritance, while the legal corpus may yield additional references to succession and related matters which offer new insights and solutions. The last word on the subject is not written yet!

