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Regnal succession in early medieval Ireland

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Abstract

Regnal succession in early medieval Ireland has been the centre of scholarly debate for the past eighty-five years. This paper contributes to the debate with an investigation of the early Irish law texts. It is argued that these law texts, especially the tracts on inheritance, reveal a certain pattern of regnal succession, which can be divided into an early and a later phase. Moreover, they allow us to define necessary criteria for eligibility for Irish kingship. The results of this examination are illustrated in the summary by the historical example of the early *Síl nÁedo Sláine*.

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1. Introduction¹

Many scholars have written about ‘the Irish law of dynastic succession’ since Eoin Mac Neill published an article with that title in 1919.² His was the first work on this

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¹ I am indebted to Neil McLeod and Dáibhí Ó Cróinín for their stimulating comments on the present article.

² Eoin Mac Neill, ‘The Irish law of dynastic succession’, *Studies*, 8 (1919), 367–82, 640–53, reprinted in Eoin Mac Neill, *Celtic Ireland* (Dublin, 1921, repr. with new introduction and additional notes by Donnchadh Ó Corráin, Dublin, 1981), 114–43. For other summaries and criticisms of Mac Neill’s theory see (in chronological order) Donnchadh Ó Corráin, ‘Irish regnal succession: A reappraisal’, *Studia Hibernica*, 11 (1971), 7–39, at 7; Thomas M. Charles-Edwards, *Early Irish and Welsh kinship* (Oxford, 1993), 89–91, Dáibhí Ó Cróinín, *Early Medieval Ireland 400–1200* (London, 1995), 65–6; Bart Jaski, *Early Irish kingship and succession* (Dublin, 2000), 27; Donnchadh Ó Corráin, ‘Hogan and early medieval Ireland’, in: *James Hogan. Revolutionary, historian and political scientist*, ed. Donnchadh Ó Corráin (Dublin, 2001), 89–115, at 97.

subject and it has continued to be very influential. The starting point of his discussion of this topic was the term *rigdomna* (literally ‘material of a king’), which is frequently attested in the annals, and which defined, in his opinion, a person eligible for succession to a kingship.³ Having analysed the historical persons in the annals to whom this title was ascribed, he concluded that none was further removed than the fourth generation from a former king. For this reason he argued that eligibility to kingship was defined by membership of the *derbfhine* of a former king, i.e., a kin-group of four generations.⁴ That is to say, if the father, grand-father, or great-grand-father of a person was a king, he himself was eligible for kingship; otherwise he was not. But which of these eligible candidates – a considerable number of persons – was in the end to succeed was determined purely by the extent of their power.⁵

Thirteen years later, James Hogan developed Mac Neill’s theory even further.⁶ In general he agreed that membership of the *derbfhine* of a former king defined eligibility to kingship.⁷ But whereas Mac Neill argued that among these eligible candidates their respective power decided who was to succeed, Hogan believed, after

³ Mac Neill, *Celtic Ireland*, 114–117. As Mac Neill connected eligibility with the *derbfhine*, in his opinion every person not further removed than the fourth generation from a former king was technically a *rigdomna*. James Hogan, ‘The Irish law of kingship with special reference to Aileach and Cenél Eoghain’, *Proceedings of the Royal Irish Academy C*, 40 (1932), 186–254, at 188, D.A. Binchy, ‘Some Celtic legal terms’, *Celtica*, 3 (1956), 221–231, at 225 (until he changed his view in ‘Irish history and Irish law: II’, *Studia Hibernica*, 16 (1976), 7–45, at 38–44, accepting the validity of Ó Corráin’s argument about Irish regnal succession), Gearóid Mac Niocaill, *Ireland before the Vikings* (Dublin, 1972), 54–5, and Francis J. Byrne, *Irish kings and high-kings* (Dublin, 1973, repr. Dublin, 2001), 35–6 follow Mac Neill’s view, as does Michael Richter, *Irland im Mittelalter. Kultur und Geschichte* (München, 1996), 29–31. But inasmuch as Mac Neill’s theory of regnal succession became the subject of discussion, the term *rigdomna* was also interpreted differently. Gearóid MacNiocaill, ‘The ‘heir designate’ in early medieval Ireland’, *The Irish Jurist*, 3 (1968), 326–9, translates *rigdomna* as ‘heir presumptive’. Ó Corráin, ‘Irish regnal succession’, 35–7, suggests that *rigdomna* applied to the heads of the branches out of power, who are qualified for kingship, though at a later stage it may have happened, according to Ó Corráin, that this term lost this latter connotation and was used for the heads of branches that had no chance of succession, as a kind of ‘consolation prize’. In Charles-Edwards’ opinion (*Kinship*, 101–10), picking up Ó Corráin’s analysis, the term *rigdomna* was generally attributed to a person who had the right qualifications of a king, but whether or not this implied a chance of succession is a question of the individual case: in some cases *rigdomna* could denote an acknowledged contender for kingship or even the ‘heir-apparent’, in others it should rather be regarded as a ‘consolation prize’. This is essentially also what Ó Corráin, ‘Hogan’, 106–9, summarises in 2001, underlining his argument with historical examples. Jaski, *Kingship*, 236–47, associates the term *rigdomna* with two possible meanings: it can mean (1) that a person is generally qualified for succession (and this is the primary use of this term in the annals); or (2) that this person is supposed to succeed according to the ‘customary rule of succession’ (which is the predominant meaning of this term in literary sources).

⁴ Mac Neill, *Celtic Ireland*, 117–8. For the legal notion of the *derbfhine* in Mac Neill’s theory see *Celtic Ireland*, 118–120. Interestingly enough, David N. Dumville, ‘The aetheling: a study in Anglo-Saxon constitutional history’, *Anglo-Saxon England*, 8 (1979), 1–33, at 1–14, connects eligibility for kingship in England in the period from the ninth to the eleventh century (with the Anglo-Saxon term *aetheling* standing for any eligible aristocrat) with a three-generation-group. However, in his opinion (pp. 14–18) eligibility in pre-Viking Anglo-Saxon England depended on descent from the founder of a dynasty.

⁵ Mac Neill, *Celtic Ireland*, 121–3.

⁶ James Hogan, ‘Irish law of kingship’. A detailed discussion of Hogan’s theory is given by Ó Corráin, ‘Hogan’.

⁷ Hogan, ‘Irish law of kingship’, 187–9.

having analysed specific historical cases of succession, that collateral succession was always preferred to succession of immediate descendants. This feature of the ‘law of succession’, in Hogan’s opinion, was further accentuated by a second feature: the preference for the senior over the junior.⁸ With regard to the *derbfhine*, that would imply that, with the death of the king, the kingship would move to the oldest member within the succeeding *derbfhine*, either immediately, or when it was again the turn of that branch in an agreed alternation of succession among different branches.⁹ According to Hogan, these features in combination may have produced a fixed order of succession within a dynasty.¹⁰

A completely different view is presented by Donnchadh Ó Corráin.¹¹ In his opinion, membership of the *derbfhine* of any previous ruler was not a criterion that determined succession to kingship;¹² only the status of being a descendant of an eponymous ancestor (in fact or fiction) and the possession of power were decisive. Within a powerful dynasty, succession was naturally closely bound to the power-base, i.e., the king. This implies that the stronger the dynasty, the closer was the relation between the successors.¹³ Furthermore, he argues if there were two dynasties or branches of approximately equal power, the kingship alternated between them,¹⁴ which he later describes, more accurately for his theory, as ‘succession see-saws, often very violently, between them.’¹⁵ Consequently, Ó Corráin rejects any fixed pattern of succession within a dynasty, as outlined by Hogan; in his view, no explicit concept of succession ever existed.¹⁶

Then, five years later, the anthropologist Ian Whitaker - seemingly unaffected by any previous theory about regnal succession in early medieval Ireland - established rules for the succession of Dál Riata (the Irish kindred that settled on the Western shores of modern-day Scotland) between ca. AD 500 and AD 840 in an interesting article that has not received the attention it deserves.¹⁷ The six rules outlined by him are the following:¹⁸ 1. ‘Only a male, directly descended from Erc [i.e. the founder of

⁸ Hogan, ‘Irish law of kingship’, 190-3. This difference in theory between these two scholars is also highlighted by Charles-Edwards, *Kinship*, 92.

⁹ For this principle see especially Hogan’s figure in ‘Irish law of kingship’, 188. For alternation in Hogan’s theory, which he does not explain further, see ‘Irish law of kingship’, 189, 219.

¹⁰ Hogan, ‘Irish law of kingship’, 193. See also Bart Jaski, ‘Early medieval Irish kingship and the Old Testament’, *Early Medieval Europe*, 3 (1998), 330-344, at 336.

¹¹ Donnchadh Ó Corráin, ‘Irish regnal succession’. A summary of Ó Corráin’s view is given by Jaski, *Kingship*, 28-9, and discussions of it are provided by Binchy, ‘Irish history II’, 39-44, and Charles-Edwards, *Kinship*, 93-95.

¹² Ó Corráin stresses this again seven years later in Donnchadh Ó Corráin, ‘Nationality and kingship in pre-Norman Ireland’, in: *Nationality and the pursuit of national independence*, ed. T.W. Moody (Belfast, 1978), 1-39, at 10-11, and also gives a summary of his view in ‘Hogan’, 109-10.

¹³ See especially Ó Corráin, ‘Irish regnal succession’, 29-30.

¹⁴ Ó Corráin, ‘Irish regnal succession’, 7-9.

¹⁵ Ó Corráin, ‘Hogan’, 109.

¹⁶ For the difficulties of applying Hogan’s theory to historical examples of succession see Ó Corráin, ‘Irish regnal succession’, 32-4.

¹⁷ Ian Whitaker, ‘Regnal succession among Dalriata’, *Ethnohistory*, 23 (1976), 343-63.

¹⁸ Whitaker, ‘Regnal succession’, 353-5.

the kindred of Dál Riata], was eligible to succeed to the kingship.’ 2. ‘Succession to the kingship was confined to sons of former kings.’ 3. ‘The preferred succession was from a king to a (patrilineal) cousin.’ 4. ‘Conversely, direct succession from brother to brother was preferably avoided.’ 5. ‘Direct succession from father to son was preferably avoided.’ 6. ‘A son of a former king was preferred.’ Of these rules he regarded the first as prescriptive, the other five as preferential.¹⁹

Mac Neill, Hogan, Ó Corráin and Whitaker based their theories on the evidence of the annals and genealogies. The first to analyse legal texts in respect of regnal succession was Thomas Charles-Edwards.²⁰ His analysis is exclusively founded on the *Succession Tract*, which Hogan disregarded by saying that ‘this tract, which is probably a post-Norman production, is of little or no evidential value’.²¹ The two main arguments of Charles-Edwards’ theory are: (1) eligibility is defined by membership of a branch that had a right of succession, and the father and grandfather of the candidate must have held the kingship in their own right;²² (2) *febas* was the decisive criterion which could justify restricting the kingship to just one branch (i.e. *febas* of a branch)²³ and which determined the individual succession (i.e. *febas* of an individual). This *febas* - about which more will be said later - is described by Charles-Edwards as qualification ‘of lineage, of ability, and of wealth’.²⁴ Seniority and alternation are just minor aspects in his model, applying only if two contenders or branches had equal *febas*.²⁵ In Charles-Edwards’ words, ‘these rules fully support Ó Corráin’s claim that unless a branch of the dynasty secured the kingship in each generation, it was in danger of permanent exclusion’.²⁶ But the difference between these two scholars concerning eligibility is worth noting. Whereas Charles-Edwards claims that ‘a man whose father and grandfather have neither of them held the kingship is not eligible’, Ó Corráin states: ‘To have once held the kingship, then, even in alternation with another dynasty, is sufficient claim, and any succeeding member of the dynasty, regardless of how long his family and his segment had been excluded from the kingship, could scarcely be regarded as a usurper or intruder’.²⁷

The most recent contribution to the debate has been by Bart Jaski. In various chapters scattered throughout his book he outlines a ‘customary rule of succession’ as

¹⁹ Whitaker, ‘Regnal succession’, 355.

²⁰ Charles-Edwards, *Kinship*, 95–100. A summary of Charles-Edwards’ theory is given by Jaski, *Kingship*, 29–30.

²¹ Hogan, ‘Irish law of kingship’, 194. The *Succession Tract* (ed. and trans. by Alexander George Richey, *Ancient laws of Ireland*, vol. 4 (Dublin, 1879) – hereafter AL 4-, 372–87) is a late collection of passages from various Old Irish legal texts, with the intention ‘to bring the senior before the junior in every case’, according to its compiler, Domnhall Ó Duibhdábhoirenn. Compare Richey’s introduction to this tract in AL 4, ccxxiii. For the *Succession Tract* and its sources see Jaski, *Kingship*, 289–295.

²² Charles-Edwards changes this view slightly in *Ireland*, 90–1, where he argues that a person was a ‘potential king’, if a former king was not further removed than his grandfather in his direct agnatic lineage, and only then was he and his branch regarded as royal.

²³ For the influence of *febas* on the eligibility of a branch, see Charles-Edwards, *Kinship*, 108.

²⁴ Charles-Edwards, *Kinship*, 97.

²⁵ Charles-Edwards, *Kinship*, 100. See also Charles-Edwards, *Kinship*, 107–8.

²⁶ Charles-Edwards, *Kinship*, 100.

²⁷ Charles-Edwards, *Kinship*, 100. Ó Corráin, ‘Irish regnal succession’, 39.

follows, taking the evidence of the annals, genealogies, law texts and saga-literature into account:²⁸ After the death of a king it was the right of the oldest son to become king, as long as he was fit for the task and as long as no junior son was better qualified either due to kingly qualities, or the status of his mother, powerful (external) allies, or any other aspect which can be placed under the term of *febas*. After the death of this oldest son, the kingship was handed over to his next oldest brother, until finally it was held by the youngest. Once this generation died out, the kingship was to alternate between the heads of the different branches founded by these brothers, starting off with the oldest branch, i.e. the descendants of the oldest of the brothers.²⁹

In principle, I believe that Jaski's interpretation of the evidence is correct. It is the purpose of this paper to test the difficulties presented by that theory and to investigate if it can be developed further, or if the evidence has to be interpreted differently, to see if eligibility to kingship and the mechanisms of regnal succession can be more closely defined.

2. Further thoughts about the 'natural law of succession'

a. *The early phase of succession*

The analysis which follows will be based on the evidence of the law texts only. Many scholars have pointed out that if this question is approached by an analysis of the law texts, the tracts on inheritance should be the point of departure. Hogan, e.g., argues:³⁰

The silence of the Jurists on such an important subject [i.e. regnal succession] is difficult to understand, unless we presume that they regarded the law of succession as a special case of the law of inheritance, a case for which it would be difficult, if not impossible, to work out the rules applicable in all circumstances.

Even though I do not intend to work out every conceivable circumstance, this is nevertheless the avenue I propose to take, differing from the just described approach only insofar as I will not restrict the search to texts dealing only with inheritance.

First of all, it is important to emphasize that regnal succession within an *emerging* kindred (early phase) constituted itself on different lines from regnal succession

²⁸ Jaski, *Kingship*, see especially pages 113–24, 169–70, 229–36, 279–81.

²⁹ Even though Jaski discussed many law tracts concerning succession, none of them explicitly mentions collateral succession. In his theory collateral succession is implied by the evidence of the annals (*Kingship*, 138–9), narrative literature and dynastic propaganda rather than by the law tracts. And a short glance at various pedigrees reveals that collateral succession must have been a component of any 'customary rule of succession', if such a rule was ever in existence. Thus it is necessary to investigate if collateral succession is also deducible from the law texts, and this is done below.

³⁰ Hogan, 'Irish law of kingship', 193–4. Compare Ó Corráin, 'Hogan', 99. For the relationship of Mac Neill's theory with the law of inheritance see Ó Corráin, 'Irish regnal succession', 7. For the importance of the Irish law tracts for the understanding of 'Celtic' kingship see Daniel A. Binchy, *Celtic and Anglo-Saxon Kingship* (Oxford, 1970), 1.

within an *established* kindred (later phase), which already consisted of several branches. The point of departure for any discussion of regnal succession should be the person who, in later times, was commemorated as the eponymous ancestor of the kindred. In his case, it seems that the rules of succession within a basic kin-group can also be applied to succession to his kingship. This eponymous ancestor (A) was, at the point of death, the *flaith*, literally head, of what is now termed as his final *gelfhine*; i.e., he was at the head of a three-generation group, consisting of himself, his sons and his grandsons.³¹ Once A died, it was commonly the turn of his oldest son (B) to succeed him within this basic family.³² Thus this son became the head of the descendants of his father (A). This, in my opinion, is what the law tracts refer to when they describe the succession of a *flaith gelfhine* by his oldest son.³³ (Fig. 1)

³¹ The system of Irish kinship has long been at the centre of various theories. The most recent theory is established by Neil McLeod, 'Kinship', *Ériu*, 51 (2000), 1–22. The final *gelfhine* is there discussed and illustrated on pages 3–4. Whereas Mac Neill deduced from the annals and genealogies that the *derbfhine* was the kin-group that was decisive for regnal succession, the law texts that deal with inheritance refer to the *gelfhine* in most cases, and for that reason this three-generation-group is the basis for this theory.

³² Being the one who was entitled to an extra share and who had the 'choice of shares', according to the well-known maxims – 'the youngest divides, the older choose' (and one text adds 'according to their qualities'), and 'the senior is entitled to free choice' (Rudolf Thurneysen, 'Aus dem irischen Recht III. 4. Die falschen Urteilsprüche Caratnia's', *Zeitschrift für celtische Philologie*, 15 (1925), 302–70, at 317). See the discussion of the relevant sources in Jaski, *Kingship*, 117–19 and especially the passages of the *Succession Tract* in AL 4, 372–3. Note that the *Collectio Canonum Hibernensis* (abbreviated as CCH below – ed. by Hermann Wasserschleben, *Die irische Kanonensammlung* (second edition, Leipzig, 1885, repr. Aalen, 1966)) 32.4 explicitly states that a father should not divide the inheritance as he pleased, and thus should not give the headship to a favoured son. Furthermore, CCH 31.18 seems to deal with the case that the oldest son died before his father and in this case the part of the inheritance that was especially reserved for him (including the *cumal senorba* – to be discussed later –, even though this is not explicitly mentioned there) was divided among his sons, his brothers, and their 'successors' (i.e., the sons of the brothers in the case that the latter were dead). As will become obvious from the following discussion, the headship of the family would go to the next brother in line in that instance. For a discussion and translation of this passage of CCH see Jaski, *Kingship*, 118. Donnchadh Ó Corráin, 'The early Irish churches: some aspects of organisation', in: *Irish Antiquity*, ed. Donnchadh Ó Corráin (Cork, 1981), 327–341, at 333, correctly points out that CCH perfectly agrees with secular law tracts concerning the questions of inheritance. (The letters A & B refer to the figure below, which is merely an example to illustrate the argument.)

³³ For example, *Cóic Conara Fugill* (abbreviated as CCF below – edited and translated into German by Rudolf Thurneysen, 'Cóic conara fugill. Die fünf Wege zum Urteil. Ein altirischer Rechtstext', *Abhandlungen der preußischen Akademie der Wissenschaften, Jahrgang 1925, Philologisch-historische Klasse, Nr. 7*, repr. in: Rudolf Thurneysen: *Gesammelte Schriften, Band III, Keltisches Recht* (Tübingen, 1995), 3–87) §§3 and 71 (and possibly connected with the latter, §72). Moreover, the reference to the *cumal senorba* – which is discussed below – might then apply only to this form of succession, i.e. by the oldest son. But if CCF §72 is regarded as independent, this paragraph could also refer to succession on a larger scale. See below. Another passage in the *Succession Tract* (AL 4, 372–3) states that seniority determined the succession to the headship of the *gelfhine*. Note also that *flaith gelfhine* can have different meanings, depending on how the *gelfhine* is supposed to be structured in that instance.

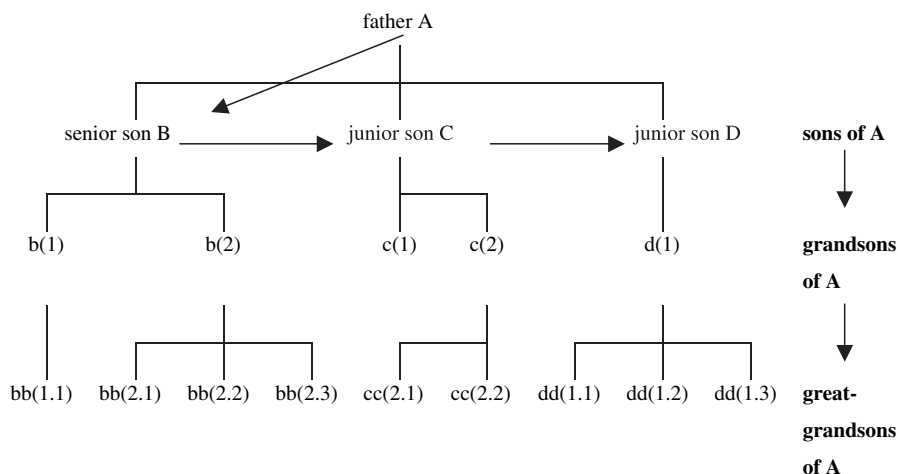


Fig. 1. Succession to the headship of the descendants of A. Note: The arrows indicate the proposed order of succession. Whenever a person (or a generation) died (out) before it was his (its) turn to succeed, he (it) was skipped in the proposed order.

The question now is what happened when the oldest brother (B), being the head of the descendants of A, died. He was in turn presumably also a *flaith gelfhine* (i.e., being the head of the three generations B, b, and bb), but the headship of the descendants of A would not naturally come with this title. These are two distinctly different titles. Whose turn it was to replace B as the head of the descendants of A is not explicitly mentioned in the law tracts.

However, a paragraph in *Cóic Conara Fugill* connects the succession to the headship of a *gelfhine* with a certain portion of land, the *cumal senorba*.³⁴ This *cumal senorba* occurs in various other law tracts as well, and might be a key for interpreting succession on a larger scale. Dillon gives a nice description of this term.³⁵

For the *cumal senorba* this much seems certain: it was a portion of land, originally a *cumal*, later one-seventh of the whole, which at the distribution of

³⁴ CCF §72. The relevant passage of this paragraph is translated by Jaski, *Kingship*, 114: 'For that is what he who should be accepted in the lordship of the family is entitled to, i.e. the *cumal senorba*'. Compare Thurneysen's translation of CCF §72, which deals as a separate paragraph of the original tract with this problem, whereas in CCF §3 this matter only occurs in a gloss.

³⁵ Myles Dillon, 'The relationship of mother and son, of father and daughter, and the law of inheritance with regard to women', in: *Studies in early Irish law*, ed. D.A. Binchy (Dublin, 1936), 129–179, at 142. For the *cumal senorba* see also Thurneysen, '*Cóic conara fugill*', 70; Rudolf Thurneysen, 'Irishes Recht. I. Dire. Ein altirischer Rechtstext. II. Zu den unteren Ständen in Irland', *Abhandlungen der preußischen Akademie der Wissenschaften, Jahrgang 1931, Philologisch-historische Klasse, Nr. 2*, repr. in: Thurneysen, *Gesammelte Schriften III*, 175–261, at 252; Charles Plummer, 'Notes on some passages in the Brehon Laws. IV', *Ériu*, 10 (1926–8), 113–129, at 113–4; Ó Cróinín, *Ireland*, 70; Fergus Kelly, *Early Irish farming* (Dublin, 1997), 415; and Bart Jaski, 'Cú Chulainn, *gormac* and *dalta* of the Ulstermen', *Cambrian Medieval Celtic Studies*, 37 (Summer 1999), 1–31, at 18, who explicitly stresses the indivisibility of the *cumal senorba* 'as demesne of the lordship', as he does in *Kingship*, 120.

an estate was not distributed among the heirs but reserved to some responsible person (*flaith gelfhine*, *primaige fine*, *áige fine*) who undertook certain liabilities on account of it.

Now, arguing from the evidence of the just-mentioned paragraph in *Cóic Conara Fugill*, it seems very plausible that the headship of the *gelfhine* of A was connected with the *cumal senorba*, which accompanied this headship given to B at the point of A's death. But what happened to the *cumal senorba* at the death of B?

As is obvious from early Irish law tracts about inheritance, redistribution of land within a kin-group was part of the legal practice.³⁶ And the *cumal senorba* demanded a reallocation, which was presumably decided on the same lines as redistribution of land. Since this *cumal senorba* was by definition indivisible, it could go to only one person, i.e. the next head of the *gelfhine* of A. On what lines, then, did redistribution, probably as well as reallocation, of land take place? The general rule was that the property of a father (A in this case) was redistributed among his sons. However, whenever one of these sons died, his sons took part in the redistribution. Hence, in our example, the pool of people partaking in the redistribution of the inheritance of A after the death of B were the sons of B, and their uncles C and D, presuming the latter were still alive. Since seniority played an important part in the law of inheritance in general, and in the question of succession in particular, it seems only logical that the indivisible *cumal senorba*, and with it the headship of the *gelfhine* of A, would naturally go to the most senior member of this pool of people, i.e. to C in our example. And, in fact, in the case of redistribution the grandsons of A had a lesser standing than the living sons of A, being only entitled to a proportional part of the share of their deceased father.³⁷ Hence, the reallocation of the *cumal senorba* and the succession to the headship of the *gelfhine* of A would naturally be discussed among this pool of people, and in general it would have been the most senior member of that pool to succeed. All this points to the possibility that the headship of the descendants of A first circulated among A's sons according to seniority, before it moved on to the next generation, i.e. the grandsons of A, the last generation of the *gelfhine* of A, where succession was again determined by individual seniority.³⁸

But note already at this point that seniority is only one decisive factor in the law of inheritance, whereas wealth is another. In fact, in the case of redistribution of land

³⁶ Central passages for general redistribution are *Kinship Poem* §§6 and 7 (The *Kinship Poem* is edited, translated and discussed by Dillon, 'Relationship', 137-8, and also translated - without glosses - by Charles-Edwards, *Kinship*, 510-11 and discussed by him on pp. 65-6, as well as in Charles-Edwards, 'Kinship, status and the origins of the hide', *Past and Present*, 56 (1972), 3-33, at 19-20). CCH 32.15 also deals with this topic. For the aspects of redistribution relevant to this discussion, see Charles-Edwards, *Kinship*, 65-6, 70; Fergus Kelly, *A guide to early Irish law* (Dublin, 1988), 103-4; Kelly, *Early Irish farming*, 413-5.

³⁷ This is deduced from a gloss on §2 of the *Kinship Poem*. The interpretation of this passage, i.e., that sons were entitled to a proportional part of the deceased father's share, is Dillon's ('Relationship', 138), and it is very convincing. See also Kelly, *Guide*, 103.

³⁸ Jaski (*Kingship*, 229) also argues for succession within one generation before it moves on to the next, but he does not prove this on legal grounds, and neither does he explain collateral succession on the basis of the rules for redistribution and reallocation.

the wealthiest participant quite naturally held the biggest claim, since he needed the land for either his cows or for his clients to live on.³⁹ Thus, as headship was connected with a portion of land, the same consideration may have been applied to the succession to the headship, i.e. that the wealthiest person succeeded. A gloss to a paragraph in *Di Astud Cirt ocus Dligid* explicitly states just this:⁴⁰

He to whom the chieftainship in each *fine* is due is he who has best wealth to furnish their food, or to whom are attached the three chief residences.

Hence, already in this generation of the grandsons of A succession to the headship of the descendants of A was possibly determined by considerations of wealth rather than seniority.

The question that remains to be solved now is: what happened when the *gelfhine* of the eponymous ancestor died out? In the theory outlined above this is only a question of terminology, not of practice. If it is accepted that the sons of every member of the *gelfhine* of A took their father's place when the latter died, then it is obvious that the boundaries of the *gelfhine* were usually already crossed before the last member of A's *gelfhine* died (e.g. the grandsons of B may already have taken the place of the sons of B while a son of D was still alive). But it was argued above that at this early stage the succession would tend to remain in one generation before it moved to the next, i.e. that the sons of A would hold the headship before the grandsons of A. It must thus be presumed that normally no great-grandson took the headship of the descendants of A before all grandsons of A had died. With the death of the last of the grandsons of A, however, the *gelfhine* of A becomes extinct. This is exactly the situation commented on in a gloss on §2 of the *Kinship Poem*. It basically points out - in my interpretation - that with the death of the last member of the *gelfhine* of A, the part of the inheritance of this person, which generally belonged to the *gelfhine* of A (including the *cumal senorba* as well as the headship of the descendants of A), would not go to the last member's sons, but would be divided between all members of the next generation.⁴¹ This next generation, i.e., the first generation after the *gelfhine* of A, is the fourth from the eponymous ancestor, and for that reason may have been termed *derbhine*, even though it usually is, in its general meaning, a 'four-generation-group'.⁴² Another gloss

³⁹ Compare Kelly, *Guide*, 104.

⁴⁰ This gloss is edited and translated by Katharine Simms, 'The contents of later commentaries on the Brehon law tracts', *Ériu*, 49 (1998), 23-40, at 35-37 (gloss 8). Compare also gloss 2 to the same passage. The passages of the *Succession Tract* that emphasize the decisiveness of wealth are listed by Richey, AL 4, ccxxiv.

⁴¹ The gloss is the H¹ gloss to note b of Dillon's edition of this passage ('Relationship', 137), which is the H¹ gloss to note 2 in his translation ('Relationship', 137). A different translation is given by Charles-Edwards, *Kinship*, 511. My reading of this gloss basically agrees with Dillon's interpretation ('Relationship', 138) of it.

⁴² Usually the *derbhine* was reckoned from a living man (McLeod, 'Kinship', 4-6). In this case, however, the question is what happened to the land that was attributed to the headship of the descendants of the eponymous ancestor A, and thus the reckoning must have started from this long-deceased person. Hence, I believe that the *gelfhine* of A mentioned in these law texts is the final *gelfhine* of McLeod's theory ('Kinship', 3-4), consisting of A, his sons and grandson, and that the *derbhine* of A consists of this final *gelfhine* of A with an added fourth generation, i.e. the great-grandsons of A. Compare Mac Neill, *Celtic Ireland*, 174.

to the same passage in the *Kinship Poem* suggests that this division within this generation, denoted as the *derbfhine* of A, was equal.⁴³ In terms of the indivisible *cumal senorba* and the headship of the descendants of A this effectively means that all members of this generation were by this law regarded as equal contenders from the outset. Note that this fourth generation was normally a considerable body of people, and theoretically the headship of the descendants of A could have been held by quite a few persons from this generation in succession. Confirmation for this theory may come from a gloss on *cumal senorba* in §5 of the *Kinship Poem*.⁴⁴

The *prímaige fine* ['chief head of a kindred'] who maintains the retinue of king and bishop; and he is the *bunadach* ['related by origin'] for meeting liability. When the *derbfhine* takes the inheritance of the *gelfhine*, the whole group assigns the value of a *cumal* of land to that man and to every *áige fine* ['head of a kindred'], one after the other, who is not next-of-kin.

The last sentence seems to indicate that the group of members of the *derbfhine*, i.e., in this case the fourth generation from the deceased eponymous ancestor A, decided who was to become their head, and that successors were not supposed to be 'next-of-kin'. This latter expression needs explanation, and this explanation is best illustrated by reference to the example given above. My interpretation is that two persons were regarded as 'next-of-kin' if they belonged to the same *gelfhine* of one of the sons of A, e.g. B, because if every head of the descendants of A belonged to the *gelfhine* of B, then the headship of the descendants of A practically became synonymous with the headship of the descendants of B. Effectively, this means that all other branches deriving from sons of A, i.e. C and D in our example, were eclipsed, if the headship of the descendants of A remained within the descendants of B. Such an eclipse happened frequently in practice, but had to be avoided in theory. In fact, the same consideration is presumably behind the gloss discussed above that mentions that the last member of the *gelfhine* was not allowed to pass the inheritance of the *gelfhine* over to his son. Possibly it was even more tempting to monopolize headship, once a certain kin-group died out, and maybe even legal cases were made in favour of such monopolizations that had to be dealt with in these passages.

At this stage at the latest, i.e., once the succession entered the fourth generation, it seems and seemed unwise to continue the discussion in the framework of kin-groups, i.e. in generation patterns, since most promising contenders for the headship of the descendants of A - promising because of their seniority and wealth - may have come

⁴³ The gloss is the H¹ gloss to note a of Dillon's edition of this passage ('Relationship', 137), which is the H¹ gloss to note 1 in his translation ('Relationship', 137). A different translation is given by Charles-Edwards, *Kinship*, 510. The above suggested interpretation is given by Dillon, 'Relationship', 138, and Charles-Edwards, *Kinship*, 511. See also Charles-Edwards, *Kinship*, 65-6.

⁴⁴ Edited and translated by Dillon, 'Relationship', 141, from whom this translation is taken.

from two or more different generations. In fact, it seems that a passage of the *Senchas Már* reflects just this:⁴⁵

The two grades of lords of the same age and equally good, lots are cast between them, and whoever of them [is to] be going in[to] the kingship, it is the *cumal senorba* and the choice of shares he takes with him.

Note the explicit connection of the *cumal senorba* with kingship in this passage.⁴⁶ The whole theory above is based on the connection between the *cumal senorba* and the headship of a kindred, royal or not. This passage of the *Senchas Már*, then, proves –if such proof was needed– that this theory can be applied to the headship of a royal kindred, i.e. kingship.

However, nothing is mentioned about any kin-group in this passage, and it may reflect just the situation when contemporaries of approximately the same age were generations apart, reckoned from the eponymous ancestor. It may still have been the case that the person belonging to the older generation had a greater legal standing, but I suspect that in these cases personal seniority was more important. Anyway, succession in a strict generation pattern could not work after a certain period of time, and if the above outlined theory is accepted, any male descendant of A could contend for the headship of A at that stage, as long as he was eligible.

b. The question of eligibility

Having discussed the basic rules that apply to the early phase of succession, it now remains to establish who was eligible for kingship in the first place. As mentioned earlier, Mac Neill and those who followed his view connect eligibility with the *derbfhine* of any deceased king, whereas Charles-Edwards argues that only men whose father and grandfather had been kings were regarded as eligible.⁴⁷ Bart Jaski, in his recent book about Irish kingship and succession, highlights the importance of birthright, i.e. the status of the mother of a contender for kingship, wealth and personal qualities, but he does not strictly define eligibility. In my opinion five

⁴⁵ Translation by Jaski, *Kingship*, 287. I have the bracketed additions for the sake of clarity. Compare the translation of Plummer, 'Notes IV', 113: '(In the case of) two of chieftain grade of the same age, lots must be cast between them, and whichever of them (wins and) enters on the chiefship, the *c. s.* and choice of share must be given to him.' The words *dagradh flatha* which Plummer translates as 'two of chieftain grade' are probably better translated as 'two of lordly', i.e. 'noble (or royal?) grade'.

⁴⁶ Interestingly enough, a passage in *Míadshlechta* (*Míadshlechta* is ed. and trans. in AL 4, 344–69; the passage I am referring to can be found on pages 346–7) mentions that a 'king of kings', defined as a king over seven kings, is entitled to a *cumal* for each of these kings. See also Kelly (*Guide*, 101), who notes that a passage of the unpublished *Laws of Ireland*, which he translates in note 10 on the same page, attaches a portion of land to kingship. For king's land (*mruig rí*) in general see Kelly, *Early Irish farming*, 403–4.

⁴⁷ Jaski, *Kingship*, 188 criticises Charles-Edwards' argument in this respect: 'It [the three-generation-group] distinguishes between lords and commoners, but not between kings and lords, and applies to base clientship for three generations, not to free clientship, which would be the bond established between the king and the main nobility in the *túath*.'

factors were of supreme importance for eligibility to kingship according to the law texts: hereditary right, social status, age, independence from the father, which could only be obtained after the latter's death, and birthright –i.e. the status of the mother. But note that it was only the combination of these that decided who was eligible to kingship and who was not, since a contender for kingship had to fulfil every single factor: every factor was necessary, and only fulfilment of all factors was sufficient for eligibility.

The first of these, i.e. hereditary right, is fairly obvious from the rules of succession outlined above: any male descendant of the eponymous ancestor could claim the kingship,⁴⁸ but possibly with certain generation-restrictions in the early phase of succession.

However, the key to eligibility, and to succession in general, lies in the social status of the contenders, and it is worth analysing this aspect in detail. First of all, in a hierarchical society like the Irish it is obvious that a commoner could not become king.⁴⁹ Thus kingship was a privilege of nobility. As McLeod pointed out after a careful investigation of the main law tracts on status, of which a text called *Críth Gablach* is the most important, nobility was divided in four major grades (leaving aside the kings for a minute, even though they were an integral part of nobility). These four grades are: *aire déso*, *aire túise*, *aire ard* and *aire forgill*.⁵⁰

The task now is to put these grades into context by taking a close look at their functions. The *aire déso* is the lowest rank of nobility, and may be described as an ordinary noble (literally 'aire of a retinue'). The *aire túise* seems to have been the leader of a *cenél* (kindred).⁵¹ His functions consisted of representing his *cenél* and of every necessary action on its behalf, such as negotiating treaties.⁵² Here a distinction should be made between an ordinary noble *cenél* and a royal *cenél*.

⁴⁸ That it was unlawful for an outsider (in kindred terms, i.e. a 'non-kinsman') to seize a kingship is expressed in *Di Astud Chirt ocus Dligid* (*Di Astud Chirt ocus Dligid* is ed. and trans. by Robert Atkinson, *Ancient Laws of Ireland*, vol. 5 (Dublin, 1901) –hereafter abbreviated as AL 5-, 427-93, where the relevant passage can be found on pages 438-9). The relevant passage of that law tract is edited and translated by Simms, 'Commentaries', 35-6.

⁴⁹ In a later gloss to the just mentioned passage in *Di Astud Chirt ocus Dligid*, which is omitted in AL but given by Simms, it is argued that a commoner does not become king. See also Jaski, 'Old Testament', 340.

⁵⁰ Neil McLeod, 'Interpreting Early Irish Law: status and currency (Part 1)', *Zeitschrift für celtische Philologie*, 41 (1986), 46-65, at 60-65; Neil McLeod, 'Interpreting Early Irish Law: status and currency (Part 2)', *Zeitschrift für celtische Philologie*, 42 (1987), 41-115, at 41-56. Compare Charles-Edwards' discussion of the different grades of nobility as given in *Críth Gablach* (Thomas Charles-Edwards, 'Críth Gablach and the law of status', *Peritia*, 5 (1986), 53-73, at 56-63). *Críth Gablach* is edited by Daniel A. Binchy, *Críth Gablach* (Dublin, 1941, reprinted 1970), and translated by Eoin Mac Neill, 'The law of status or franchise', *Proceedings of the Royal Irish Academy C*, 36 (1923), 265-316, at 281-316. Since Binchy's paragraphs differ from Mac Neill's, I give Binchy's paragraph numbers first, with Mac Neill's in brackets.

⁵¹ *Críth Gablach* §27 (112): 'The *aire túise*, 'leading noble', why is he so called? Because he is leader of his kindred'. Translation by Mac Neill, 'Law of status', 298. Mac Neill comments ('Law of status', 298-9): 'If an *aire túise* becomes a vassal client, his lord must be a king.' See also *Miadshlechta* (AL 4, 346-7).

⁵² AL 4, 326-7; McLeod, 'Interpreting 2', 42-3; Binchy, *Críth Gablach*, 73.

The head of an ordinary noble *cenél* was the *aire túise*; there was no rank above this within his kindred.⁵³ It seems thus that the next higher noble grades (*aire ard* and *aire forgill*) belonged to royal families. McLeod argues that the *aire ard* was the older grade and that the *aire forgill* was later introduced to take over the functions of the *aire ard*.⁵⁴ Hence, the grade of an *aire forgill* was presumably introduced to distinguish between an ordinary member of a royal kindred without office (*aire ard*) and a member that held a certain position on behalf of his kindred or *túath* (*aire forgill*). Thus an *aire ard* could become an *aire forgill* by receiving a public office (which was connected with an increase in wealth).

Most probably three sub-divisions of the *aire forgill* existed: *tánaise rí*g, *aire forgill* and *ánruth*. The *ánruth* was a military rank, in fact the highest grade of a warrior. His task was to protect his kingdom. Hence, he was a military leader, presumably with a war-band of thirty warriors under his direct command.⁵⁵ The *aire forgill* was also a sub-division of the lordly grade with the same name, having the same functions as formerly attested to the *aire ard*. His functions are described by McLeod, who sees 'the *aire ard* [and then later the *aire forgill*] acting as an ambassador of the kingdom itself in inter-territorial affairs.'⁵⁶

The third sub-division of the *aire forgill* was the *tánaise rí*g. The meaning of *tánaise rí*g is explained in *Críth Gablach*:⁵⁷

The 'second to a king' [*tánaise rí*g], why is he so called? Because the whole *tuath* looks forward to him for the kingship without dispute. He has five retainers (*senchlethe*) over and above (the number of clients proper to) an *aire forgill*.

⁵³ See also Charles-Edwards, 'Law of status', 62: 'If we grant that the king would be the head of his own *cenél*, namely the royal kindred, the *aire túisea* would be the head of a non-royal kindred.'

⁵⁴ McLeod, 'Interpreting 1', 62-65; 'Interpreting 2', 44. See also Carine Bruy, '*Tánaise rí*g: an alternative interpretation', *Études Irlandaises*, 27-2 (Autumn 2002), 77-105, at 94-5. For the functions of an *aire forgill* see *Míadshlechta* (AL 4, 346-7).

⁵⁵ McLeod, 'Interpreting 2', 43-46. The size of his war-band corresponds to the thirty base clients of an *aire forgill*. Rudolf Thurneysen, 'Die Bürgschaft im irischen Recht', *Abhandlungen der preußischen Akademie der Wissenschaften, Jahrgang 1928, Philologisch-historische Klasse, Nr. 2*, repr. in: Thurneysen, *Gesammelte Schriften III*, 90-174, at 101, supposes that an *ánruth* may have been the highest grade of nobility after the king. For the function of an *ánruth* see also *Míadshlechta* (AL 4, 348-9). Note that *ánruth* was a hereditary position, i.e. that the father and grand-father of a respective *ánruth* (ego) must also have held this office for ego to be totally accepted in that office. See further below.

⁵⁶ McLeod, 'Interpreting 2', 43, and furthermore McLeod, 'Interpreting 2', 54. For the *aire forgill* acting as surety on behalf of his *túath*, see Jaski, *Kingship*, 259-60.

⁵⁷ *Críth Gablach* §29 (114). Quoted from Mac Neill ('Law of status', 300). See also Hogan's ('Irish law of kingship', 245), Binchy's ('Legal terms', 222) and Bruy's ('*Tánaise rí*g', 77) translation and Jaski, *Kingship*, 248. Compare Ó Corráin, 'Irish regnal succession', 36-7, who argues that this definition merely reflects a jurist's ideal. For the symbolism of the term *tánaise rí*g see Thomas Charles-Edwards, 'The heir-apparent in Irish and Welsh Law', *Celtica*, 9 (1971), 180-190, at 187-190.

Scholars differ in opinion as to whether an ‘heir-designate’ or an ‘heir-apparent’ is meant by this term.⁵⁸ In any case, it seems quite obvious that whoever bestowed a person with this title (if he was bestowed at all) wanted to give him the edge over his challengers, i.e., the other *aire forgill*, by increasing his wealth. It will be remembered that status in early Irish society was principally defined by the number of free base-clients. According to *Críth Gablach* the difference between two lordly grades was a margin of five base-clients.⁵⁹ Now, interestingly enough, the difference between the grade of an *aire forgill* and a *tánaise rí* was not five free base-clients, but five *senchléithi*.⁶⁰ A *senchléichte* was a hereditary serf, who was bound to his lord and the portion of land he used as a tenant.⁶¹ If this portion of land changed ownership, a *senchléichte* did so as well. Thus, an *aire forgill* could technically be made - or become - a *tánaise rí* if he was given - or obtained - certain portions of land that comprised five *senchléithi*.⁶² But since a *senchléithe* was not comparable to a free base-client, who had a far higher social status, this addition of five *senchléithi* did not bestow the next higher status to an *aire forgill*, which would be the grade of a king. Hence, the place of the *tánaise rí* was rather between the *aire forgill* and the king, and can be described as an elevated *aire forgill*, with the aim of making this person the obvious choice at the point of succession, or, as has been recently argued, to raise this person to the position of being ‘second in command’ of the king.⁶³ How common such an elevation (self-imposed or not) was in the historical period must remain obscure. The term itself is relatively rare in the annals, and the first mention

⁵⁸ Hogan (‘Irish law of kingship’, 245) believes that *tánaise rí* was originally used for every person eligible for kingship. In 1952, Binchy (‘Legal terms’, 221-4) equates a *tánaise rí* with an ‘heir-apparent’, but in 1941 (*Críth Gablach*, 107-8) and in 1968 (*Kingship*, 26) his definition resembles more an ‘heir-designate’, a *tánaise rí* being, in his opinion, ‘chosen’ and ‘appointed’ respectively, and in fact he argues on the same lines in 1952 (‘Legal terms’, 225), with the *tánaise rí* being ‘elected’. In Richter’s description (*Ireland*, 30) a *tánaise rí* is an ‘heir-designate’, since the king and all eligible candidates agreed on one person. Jaski (*Kingship*, 247-276) argues that the *tánaise rí* was the ‘heir-apparent’ according to the ‘customary rule of succession’, but he adds that he also held an important position, being the representative of his *túath*. He furthermore points out that the *tánaise rí* was not the ‘heir-designate’, and that it was not unusual for the *tánaise rí* not to succeed the king for various possible reasons. Most recently, Bruy (‘*Tánaise rí*’, 96) argues that ‘the *tánaise rí*, as defined in *Críth Gablach*, was introduced by an ecclesiastical writer who wanted to promote a new conception of the settlement of royal succession: one where the successor would be designated beforehand so as to avoid the conflicts linked to the choice of a candidate after the death of a king.’ For a comparison of the terms *tánaise rí* and *rigdomna*, introducing new source material to the discussion, see Ó Cróinín, *Ireland*, 67-9. For tanistry among Dál Riata, see Whitaker, ‘Regnal succession’, 356-7. See also Byrne, *Irish kings*, 37-9.

⁵⁹ This is illustrated by Charles-Edwards, ‘Law of status’, 59.

⁶⁰ See above.

⁶¹ For the *senchláithe* see Kelly, *Guide*, 35-6; Kelly, *Early Irish farming*, 441-2; Binchy, *Críth Gablach*, 105; Thurneysen, ‘*Cóic conara fugill*’, 77; Thurneysen, ‘*Irisches Recht*’, 81-3; Mac Niocaill, *Ireland*, 68.

⁶² Jaski, *Kingship*, 257, connects these *senchléithi* directly with the *cumal senorba*.

⁶³ For the possibility that *tánaise rí* should be interpreted as ‘second in command’ to a king see Bruy, ‘*Tánaise rí*’, 79-93. The literal translation of *tánaise rí* with ‘second to a king’ was already used by Mac Neill. See above. See also Binchy, ‘Legal terms’, 221. Ó Corráin (‘Irish regnal succession’, 37) suggests that the *tánaise rí* originally had the same legal status as the *aire forgill*, and that *Críth Gablach* reflects a later development.

of this title in the *Annals of Ulster* occurs in the mid-ninth century, and is, interestingly enough, not ascribe to an Irishman, but to a Viking.⁶⁴

Charles-Edwards proposes that the *aire forgill* was a member of a royal kindred, and McLeod thinks that this grade belongs to royal or ex-royal families.⁶⁵ I believe that it was a royal grade, but an *aire ard* presumably was a member of a royal kindred as well, albeit one without a public office, as outlined above. Connected with these offices, and thus with an elevation to the *aire forgill* grade, was an increase in wealth.⁶⁶ And it must be presumed that the next king came out of the ranks of the *aire forgill* grade. Thus all members - and only members - of this grade seem to have been eligible for kingship.⁶⁷

Confirmation might come from a legal gloss to a passage in *Di Astud Cirt ocus Dligiud*. This gloss implies that 'person[s] of a particular [noble] grade with his [their] proper retinue along with him [them]' decided who would become king.⁶⁸ In other words, the king was chosen by the nobility of a certain grade. One can possibly deduce, furthermore, that the king himself would come out of their ranks and that he would naturally be a noble of the highest grade.⁶⁹ Moreover, Jaski analysed the term *aire forgill frisaicci ríge*, and regards this term as the original and older title for *tánaise ríge*.⁷⁰

⁶⁴ AU 848.5. This is also pointed out by Ó Cróinín, *Ireland*, 67, 69. For the rare occurrences of this term in the annals as compared to *tánaise abbad* and a discussion of Hogan's opinion on this matter, see Ó Corráin, 'Hogan', 103-6.

⁶⁵ Charles-Edwards, 'Law of status', 62: 'It is a fair guess that the *aire forgaill* is a member of a royal kindred who, though almost equal to the *tánaise ríge* in wealth, has not been chosen as a future king.' McLeod, 'Interpreting 2', 53: 'For I would be willing to suggest that the *aire forgill* grade consisted largely of the members of royal or ex-royal families.' But see Binchy, *Críth Gablach*, 72, who argues that the *aire forgill* was 'the highest of the non-royal grades', probably dividing only between kings (denoted as royals) and nobility.

⁶⁶ This does not necessarily imply that the increase in wealth was the same for everyone who ascended to this rank. A commentary to *Uraicecht Becc* sub-divides the *aire forgill* grade in three sub-grades: the lowest, the middle and the best *aire forgill*. Jaski, *Kingship*, 257-8. These expressions might reflect differences in wealth, but since the lowest two grades are often taken together and the highest grade is comparable to the *tánaise ríge*, this sub-division might also be explained by the different functions pointed out above.

⁶⁷ Compare Charles-Edwards, 'Law of status', 62, who suggests that 'the *aire forgaill* has the *febas* 'social and political standing' to be a king' and that a *rígdomna*, a title he regarded as a consolation prize as outlined by Ó Corráin (see above), came out of their ranks. Even though *rígdomna* could have meant different things at different times, a *rígdomna* seems to have been a person of influence and a representative of his kingdom, thus I would regard him as belonging to the *aire forgill* grade. Since some scholars equate a *rígdomna* with an eligible candidate for kingship, and the *tánaise ríge* is generally taken as the 'heir-apparent', if not the 'heir-designate', and is at the same time a sub-division of the *aire forgill*, this might underline the argument above. Thomas Charles-Edwards, *Early Christian Ireland* (Cambridge, 2000), 91 proposes that if *rígdomnai* did not succeed to kingship, they were at least able to secure royal status for their branches.

⁶⁸ Translation by Simms, 'Commentaries', 37. Compare the translation in AL 5, 441: 'every grade with his proper retinue along with it.' There is no doubt that nobles are meant.

⁶⁹ In the *Succession Tract* (AL 4, 374-5) the question 'Who is the highest, i.e. in grade' is asked in respect of succession. This also seems to imply that the contenders for kingship were members of the highest noble grade.

⁷⁰ Jaski, *Kingship*, 256-8.

Aire forgill frisaicci ríge means literally ‘the *aire forgill* who looks forward to the kingship’, and this title could confirm the supposition that the successor to a king was a member of the *aire forgill* grade.⁷¹

It should be remembered that the division of nobility in various grades is primarily based on wealth. Since a person had only a certain portion of land for division among his heirs, royal status could not be maintained for the whole line at all times. A king would naturally try to secure the status of royal nobility for all his heirs, but the example outlined in *Críth Gablach* for a *bóaire* (literally ‘cow-freeman’) could also apply to an *aire forgill* or an *aire ard*.⁷²

What is it which deprives this man of the status of *bóaire* [normal freeman]? Because there may be 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*.

The point is that it was impossible at times even for a *rí túaithe* to maintain the royal noble status of all his sons. Here, a fine but important distinction has to be made: Firstly, a king may not have been in the position to provide all his sons with a certain office. Thus not all of his sons held the grade of an *aire forgill*, and consequently not all his sons were eligible for kingship. Secondly, a king may not even have been wealthy enough to provide all his sons with enough wealth to retain the grade of an *aire ard*. But what happened to such a son? It seems that he lost his royal status, which was connected with the title of an *aire ard*, and that he had to settle for mere nobility with the title of an *aire désó* or *aire túise* - the latter, if he was regarded as the head of an (emerging) noble, but not royal, kindred. However, if he could not even retain the wealth necessary for these grades, he would drop out of the nobility, and would be regarded as a commoner. Furthermore, if his sons and grandsons subsequently only retained his social status, but could not improve on it, a process of social degrading was started by this person (which Breatnach termed the three-generation requirement).⁷³ For the mechanisms of this process the glosses to the first and second paragraph of the law text *Cáin Fhuithirbe* are the most explicit sources.⁷⁴

§ 1 – *The lordship dies; three possessions are bent; diminution is sued for* i.e. a man who is in obedience to another man during the latter’s lifetime and during his own, 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

⁷¹ Compare Binchy, ‘Legal terms’, 222.

⁷² *Críth Gablach* §12 (86). Cited from Charles-Edwards, ‘Status’, 9. See also the translation by Mac Neill, ‘Law of status’, 290.

⁷³ See the discussions in Liam Breatnach, *Uraicecht na riar* (Dublin, 1987), 94–98; Jaski, *Kingship*, 171–180; ‘Old Testament’, 341–2; Charles-Edwards, *Kinship*, 98; *Ireland*, 92–3; Mac Niocaill, *Ireland*, 66–7.

⁷⁴ This text is edited and translated by Jaski, *Kingship*, 178. The translation given is Jaski’s. D.A. Binchy, ‘The date and provenance of *Uraicecht Becc*’, *Ériu*, 18 (1958), 44–54, at 51–4, argues that this text was composed between AD 678 and 683, a view that is accepted by Liam Breatnach, ‘The ecclesiastical element in the Old-Irish legal tract *Cáin Fhuithirbe*’, *Peritia*, 5 (1986), 36–52, at 45–6, who notes that the Old Irish glosses cannot be much later than that. The other two important sources are *Críth Gablach* §24 (107) and *Míadshlechte* (AL 4, 348–9), stating that an *aire désó* is the son and grandson of a noble.

and beyond three lifetimes; otherwise i.e. it is diminution for being without lordship.

§ 2 – *The grandson of a 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 noble lost his wealth, defined by the numbers of base-clients, he lost his noble status. Moreover, if the following two generations, i.e. his sons and grandsons, could not retain the required number of clients, the whole line lost its status of nobility, which could only be regained by three successive generations again retaining sufficient base-clients. Hence, permanent exclusion from nobility was often the final fate of a line that started with a person losing noble status.

Whether this mechanism applied to the loss of royal status as it did to the loss of noble status is not explicitly attested in the law tracts. There is, however, a passage in the *Succession Tract* that implies that this mechanism applied for every grade of a lord (*flaith*), a status that by definition every noble held, royal or not.⁷⁵

For any man of rank, both lord and poet (*iter flaith ocus filid*) if he should depart from his worth for the lifetime of three men ... he does not enter into the casting of lots together with anyone with whom that worth is found for the lifetimes of three men ...

Hence, it seems that the three-generation requirement was not only in operation for the social downgrading from nobility to the grade of a commoner, but also from royalty to nobility, and more specifically from one royal rank to another. This is further confirmed by the fact that this mechanism is explicitly mentioned in respect of the *ánruth*, i.e., one of the subdivisions of the *aire forgill*, in the text *Berrad Airechta*:⁷⁶

The *ánruth* is he who defends him. i.e. his father [was] an *ánruth* and his grandfather and [he is] an *ánruth* himself; for a lone man is not a proper *ánruth* in that [regard].

In effect, this means that if an *aire forgill* lost his status, and if his sons and grandsons could not regain that status, then the whole line did not qualify to contend for kingship for at least the following three generations.⁷⁷

⁷⁵ The relevant passage can be found in AL 4, 382-5. The translation given is Charles-Edwards', *Kinship*, 98.

⁷⁶ *Berrad Airechta* §45. *Berrad Airechta* is trans. into English by Robin Stacey: 'Berrad Airechta: An Old Irish tract on suretyship', in: T. M. Charles Edwards et. al. (eds): *Lawyers and laymen* (Cardiff, 1986), 210-233, and previously ed. and trans. into German by Thurneysen, 'Bürgschaft', 88-175. The translation above is taken from McLeod, 'Interpreting 2', 43-4.

⁷⁷ CCF §67 states that the headship of the *gelfhine* should be taken by a person who is the son of a *flaith* and the grandson of another. Basically this means that whoever wanted to take the headship of a family had to have an agnatic lineage of two generations of lords over base-clients and he himself had to be a lord over base-clients. Thurneysen ('*Cóic conara fugill*', 69) regards *n-gelfhine* as a wrong addition in this passage. Indeed, a very similar statement can be found in a commentary to a passage in *Di Astud Cirt ocus Dligid*, edited and translated by Simms, 'Commentaries', 36-7, without any reference to the *gelfhine*.

Since it was a precondition for becoming king to hold the highest noble grade, as just discussed, a contender for kingship had to be of an age that would allow him full legal status. The law tracts are quite specific that as long as a youth was in fosterage, he could not act as fully responsible for himself.⁷⁸ Hence, only with the termination of fosterage and his subsequent legal independence and responsibility could a person obtain the grade that would allow him to contest kingship. But the legal texts that deal with fosterage disagree about the age at which a person normally left his foster-parents. The Old Irish law tract *Berrad Airechta* glosses the phrase ‘until the termination of fosterage’ with ‘i.e. until the end of fourteen years.’⁷⁹ On the other hand, in a passage of *Cáin Íarraith* the age of seventeen is given for the termination of the fosterage of a boy.⁸⁰ Furthermore, *Bretha Crólige*, in discussing *díre* (i.e. compensation according to one’s honour-price), mentions that a youth obtains a status independent of his father or fosterer at the age of seventeen.⁸¹ Since all three of these law texts, at least in their original form, date from about the eighth century, it seems that in different regions different customs regarding the termination of fosterage were followed.⁸² It may be interesting to note here that the youngest age of a person to become king that is deducible from the evidence of the annals is the age of seventeen.⁸³

However, after the termination of fosterage a person was legally independent only if his father was not still alive. Otherwise he was termed as a *mac béo-athar* by the jurists, i.e. a ‘son of a living father’.⁸⁴ Even a grown up *mac béo-athar*, who already had acquired his inheritance, was never completely independent from his father. This

⁷⁸ See Kelly, *Guide*, 81–3. A son had no contractual capacity until the termination of fosterage. *Cáin Aicillne* §38 (ed. and trans. by Rudolf Thurneysen, ‘Aus dem irischen Recht I. Das Unfrei-Lehen’, *Zeitschrift für celtische Philologie*, 14 (1923), 375). See Neil McLeod, *Early Irish contract law* (Sydney, 1992), 63 (who translates the relevant passage) and Kelly, *Guide*, 88. For the practice of fosterage see especially Kelly, *Guide*, 86–90; Jaski ‘Cú Chulainn’, 21–24; Charles-Edwards, *Ireland*, 115–117; Mac Niocaill, *Ireland*, 59.

⁷⁹ *Berrad Airechta* §10 (trans. by Robin Stacey, ‘*Berrad Airechta*’, 211).

⁸⁰ *Cáin Íarraith* is ed. and trans. in W. Neilson Hancock and Thaddeus O’Mahoney, *Ancient laws of Ireland*, vol. 2 (Dublin, 1869), 147–93. The relevant passage can be found on pages 186–7.

⁸¹ *Bretha Crólige* §7, edited and translated by Daniel Binchy, *Ériu*, 12 (1934), 1–77, at 8. See also McLeod ‘Interpreting 2’, 58–9; Jaski, ‘Cú Chulainn’, 23.

⁸² For the dating of *Bretha Crólige*, see Binchy, ‘*Bretha Crólige*’, 1–2, of *Berrad Airechta*, Thurneysen, ‘Bürgschaft’, 92. Being part of the first third of the *Senchas Már*, *Cáin Íarraith* was written before the middle of the eighth century. See Kelly, *Guide*, 244–5. For the argument see Kelly, *Guide*, 88–9. But compare also Jaski, ‘Cú Chulainn’, 23, who argues that the age of the termination of fosterage was extended from fourteen to seventeen, without being specific about the time or circumstances at which such a change could have taken place.

⁸³ *The Annals of Connacht*, ed. A. Martin Freeman (Dublin, 1944), note for the year 1310 that Fedlimid Ó Conchobhair was made king. Since Fedlimid died in 1316 at the age of 23 according to the same annals, he was 17 when being made king.

⁸⁴ For the *mac béo-athar* see McLeod, *Contract law*, 62–5; Charles-Edwards, *Kinship*, 36–8; Peter Schrijver, ‘OIr. *gor* ‘pious, dutiful’: meaning and etymology’, *Ériu*, 47 (1996), 193–204 at 194–8; Jaski, *Kingship*, 92–3; Thurneysen, ‘Aus dem irischen Recht III’, 312–4.

is best illustrated by the law tract *Berrad Airechta*, which states in §36 about the most independent *mac béo-athar*:⁸⁵

The fully fostered son, he is that son allowed independence in society 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: i.e. of monastic service or base clientship.

This feature of early Irish contract law is also mentioned in a gloss on a passage in *Gúbretha Caratniad*,⁸⁶ and in a commentary to *Heptad* 50,⁸⁷ with the only difference that not only ‘contracts that burden inheritance’ are mentioned as not being within the competence of a *mac béo-athar*, but contracts that harm the family in general. Furthermore, the *mac béo-athar* is also listed among the three persons ‘incapable of special contracts’ in §151 of *The triads of Ireland*.⁸⁸ Another good example, this time coming from the law on surety rather than contract law, is §3 of a tract called *The advice to Doidin*, where it is argued that a person should not take surety from a *mac béo-athar*, since the latter could not act independent of his father.⁸⁹

Hence, I believe that these examples illustrate that if a father was still in his physical and mental prime, his son was regarded as legally dependent on him. This could, of course, change in case of illness or old age on the part of the father. In terms of succession to kingship this implies that it was the father who contended for kingship as long as he was capable of doing so, and that his sons became eligible only when the father lost his capability or died.

But not all sons had a right to inherit, and this suggests that all sons who were ineligible for a share in the inheritance of a kindred were at the same time ineligible for kingship, since they could not legally inherit that portion of land that would accompany kingship of a kindred. The impact of the marriage-status of the mother on the right of inheritance of her sons was analysed by Fergus Kelly, and more recently and in more detail by Bart Jaski.⁹⁰ Most information can be gathered from the fragmentary law tract *Maccshlechta*. In this text the right of sharing the inheritance is given to the *mac óige* (‘the son of a pure woman’, and the gloss tells us that the son of a *cétmuinter* is meant), the *mac aítiten* (‘the recognised son’) and the

⁸⁵ The translation given above is McLeod’s (*Contract law*, 64); compare Stacey’s (‘*Berrad Airechta*’, 215), Schrijver’s (‘*OIr. gor*’, 194) and Thurneysen’s (‘*Bürgschaft*’, 98) translations. Charles-Edwards, *Kinship*, 37 seems to regard this independent *mac béo-athar* as being still in fosterage, which is not implied here.

⁸⁶ *Gúbretha Caratniad* §7. This text is ed. and trans. into German by Thurneysen, ‘Aus dem irischen Recht III’, where this paragraph occurs on pages 312–4 (which is also ed. and trans. into English by Schrijver, ‘*OIr. gor*’, 196).

⁸⁷ *Heptad* 50 is ed. and trans. by Robert Atkinson, *Ancient Laws of Ireland*, vol. 5 (Dublin, 1901), in AL 5, 284–7.

⁸⁸ This paragraph is ed. and trans. by Kuno Meyer, *The triads of Ireland* (Dublin, 1906), 20–1. For other passages about the legal restrictions of the *mac béo-athar* see also *Cáin Aicillne* §38; *Heptad* 17, 18, 30, 31, 32 (ed. and trans. in AL 5, 182–5, 186–9, 224–7, 228–9 respectively).

⁸⁹ §3 of *The advice to Doidin* is edited and translated by Roland M. Smith, ‘The advice to Doidin’, *Ériu*, 11 (1932), 66–85, at 73, 76.

⁹⁰ Kelly, *Guide*, 102–3; Kelly, *Early Irish farming*, 413; Jaski, *Kingship*, 143–156.

mac adaltraig ('the son of a betrothed concubine').⁹¹ Hence, the sons that shared the inheritance of their father can be classified into three categories: the sons of a *cétmuinter* (a spouse or primary wife), of an *adaltrach airnadma* (a betrothed concubine), and of a *ben aititen* (an acknowledged woman). The first two women were in acknowledged alliances. Both kindreds (those of the woman and of the man) agreed to these marriages. The son of a *ben aititen*, however, was the offspring of an extra-marital relationship, but he was acknowledged by his father and the latter's kin.⁹² As discussed above, the headship of a family was connected with a certain indivisible portion of land, the *cumal senorba* (which was given to a person as part of his share of the inheritance). *Macshlechte* is quite specific that this portion of land had to be given to a son of a *cétmuinter*.⁹³ *Cóic Conara Fugill*, however, does not rule out the possibility that the son of an *adaltrach airnadma* or even the son of a *ben aititen* could claim the *cumal senorba*, and hence the headship of the family.⁹⁴ But they would only get their chance if there was no son of a *cétmuinter*. Sons that were not acknowledged by their father and the latter's kin did not have any right of inheritance and we can thus presume that they were ineligible for kingship.⁹⁵

c. The later phase: succession after the development of various branches

As the kindred of the descendants of A grew over the fourth generation, a process started that is commonly called segmentation. That is to say, this kindred, defined as the descendants of A, developed different segments or branches, defined as the descendants of the sons or grandsons of A or of descendants of later generations. From the discussion of eligibility it is quite obvious that a substantial number of these branches were probably by law not in a position to produce a contender for the kingship of this kindred: Some persons and branches could not retain the status of an *aire forgill* and the three-generation requirement would make it difficult for these branches to enter the pool of candidates eligible for kingship.⁹⁶

Hence, of the numerous branches of a kindred only a few had the requirements necessary to produce a candidate eligible for kingship. The rules outlined above imply that the wealthiest or the most senior member of these eligible branches

⁹¹ The relevant passage is edited and translated by Jaski, *Kingship*, 146, and discussed by Kelly, *Guide*, 102.

⁹² Jaski, *Kingship*, 150. For the distinctions between these acknowledged women see Nancy Power, 'Classes of women described in the *Senchas Már*', in D.A. Binchy: *Studies in Early Irish Law* (Dublin 1936), 81–108, at 81–94, and for their status Thurneysen, 'Irishes Recht', 28–30. For the *ben aititen* see also Thurneysen, 'Irishes Recht', 4. Her status is nicely described in *Díre* §2 (*Díre* is ed. and trans. into German by Rudolf Thurneysen, 'Irishes Recht', 175–232).

⁹³ This passage is edited and translated by Jaski, *Kingship*, 147. Compare Plummer's translation ('Notes IV', 113).

⁹⁴ CCF §71, German translation in Thurneysen's edition, 44–5, English translation in Jaski, *Kingship*, 147. Compare CCF §3 (commentary), which has the same content. See also Ó Cróinín, *Ireland*, 70.

⁹⁵ *Di Astud Chirt ocus Dligid* (AL 5, 456–7; this passage is also ed. and trans. by Jaski, *Kingship*, 150–1) lists the sons that were excluded from succession to the headship of a *fine*. They were termed 'the sons of darkness' and are discussed in Kelly, *Guide*, 102–3, and Jaski, *Kingship*, 148–52.

⁹⁶ Compare Jaski, *Kingship*, 229.

would be the obvious candidate for succession. But it is possible that certain arrangements were made among the eligible branches to organize succession, and that these arrangements found their way into the law tracts. Again, no law tract survives that explicitly outlines these arrangements between eligible branches for regnal succession. Recent scholars have tried to close this lacuna with the law tract *Córus Béscnai* that deals with abbatial succession.⁹⁷ However, how far these rules of abbatial succession reflect the rules of regnal succession is, of course, open to question.⁹⁸ Since these rules only apply to abbatial succession in certain monasteries, there are only a few monasteries in which they could have originated. The most obvious candidate is the monastery of Iona, since the rules expressed in *Córus Béscnai* reflect abbatial succession of that monastery in the seventh century perfectly, and were possibly outlined at a time in which these rules were in danger of being overthrown, i.e., the first half of the eighth century.⁹⁹ The implication is that the abbots of Iona may have adopted a system of succession that prevailed among the kings of their kindred, the Cenél Conaill, and may have altered it in a way that made it applicable for abbatial succession.¹⁰⁰

Now, in the last passage of *Córus Béscnai* it is argued that ‘succession shall not devolve among the branches’, or ‘there is no circuit among the branches’, but that

⁹⁷ Charles-Edwards, *Kinship*, 96–7; Jaski, *Kingship*, 229–31. *Córus Béscnai* is ed. and trans. by Thaddeus O’Mahoney and Alexander George Richey, *Ancient laws of Ireland*, vol. 3 (Dublin, 1873), hereafter AL 3, 2–79.

⁹⁸ The common link between *Córus Béscnai* and the rules for regnal succession is a commentary in the *Succession Tract* on a passage in *Córus Béscnai* that deals with kingship. See Charles-Edwards, *Kinship*, 97 and Jaski, *Kingship*, 231.

⁹⁹ That there was some tradition of compiling legal texts (especially those of canon law, of course) in this monastery in the first half of the eighth century cannot be doubted, since one of the compilers of the *Collectio Canonum Hibernensis*, Cú Chuimne, was a monk of that monastery and a pupil of the well known abbot Adomnán. For Cú Chuimne’s authorship, see Rudolf Thurneysen, ‘Zur irischen Kanonensammlung’, *Zeitschrift für celtische Philologie*, 6 (1908), 1–5, and James F. Kenney, *The sources for the early history of Ireland: ecclesiastical, an introduction and guide* (Dublin, 1929, repr. 1997), 248–9. For Cú Chuimne and his relation to Adomnán see Bart Jaski, ‘Cú Chuimne, Ruben and the compilation of the *Collectio Canonum Hibernensis*’, *Peritia*, 14 (2000), 51–69, at 53; Thomas Owen Clancy & Gilbert Márkus, *Iona, the earliest poetry of a Celtic monastery* (Edinburgh, 1995), 177–180; Michael Enright, *Iona, Tara and Soissons, the origin of the royal anointing ritual* (Berlin, 1985), 45–48. For the relationship between Cú Chuimne and the two principle recensions of CCH see Thomas Charles-Edwards, ‘The construction of the *Hibernensis*’, *Peritia*, 12 (1998), 209–37, at 213 and 237. Charles-Edwards (‘*Érlam*: the patron saint of an Irish church’, in: *Local saints and local churches in the early medieval West*, ed. Alan Thacker and Richard Sharpe (Oxford, 2002), 267–290, at 273) most recently regards *Córus Béscnai* as being probably produced in the early eighth century.

¹⁰⁰ Reeves (in a paper summarised in *Proceedings of the Royal Irish Academy*, 6 (1857), 447–451) also implies a connection between the abbatial succession of Iona and ‘eligibility to secular chieftainship’. It should be remembered that it seems to have been a general feature of Irish politics to push rivals or rival dynasties for kingship into church offices. See Ó Corráin, ‘Early Irish churches’, 328. Hence, the persons occupying the highest church offices were perfectly familiar with the mechanisms of regnal succession. Ailbhe MacShamhráin, *Church and polity in pre-Norman Ireland* (Maynooth, 1996), 112, has a different view, arguing that *Córus Béscnai* ‘tended merely to justify retrospectively the claims of families which actually enjoyed the abbatial succession, and so insisted that the founding saint belonged to their lineage.’

the candidate with the best *febas*, i.e. qualification, succeeds.¹⁰¹ Hence, the argument is that if there were several branches with eligible contenders, it is the best among these who succeeds. It seems here that qualification (of which wealth may have been the most considerable) replaced seniority as one of the primary criteria.¹⁰² This is hardly surprising, since seniority is a somewhat vague term at a stage when contenders came from two or more generations, and also from two or more different branches. How was seniority to be defined then? By individual seniority? By seniority of the generation? By seniority of the branch?¹⁰³ Each of these was presumably part of the qualification of the respective candidates, but it seemed wise to drop seniority as an ultimate criterion, since one side could argue for one definition, whereas the other for another.¹⁰⁴

A gloss on this passage of *Córus Béscnai* is more specific.¹⁰⁵ It basically states that no question arose about which branch was to have the privilege of producing the successor in case a) succession belonged to one branch only, or b) no branch save one had a suitable candidate, even though, generally speaking, more branches were eligible to bring forward a contender. Hence, a) acknowledges the fact that there was either only one eligible branch, or one branch had monopolized the kingship, and b) argues that there were generally different branches eligible, but in this particular succession only one branch could produce an outstanding candidate.

Thus this law tract envisages two possibilities at the time of substantial segmentation of a kindred: Firstly, one branch was the only eligible or monopolized power, to the exclusion of other eligible branches. Secondly, numerous branches were eligible and produced their candidate, of which the best qualified succeeded. But a commentary to the same passage in the *Succession Tract* informs us - albeit for abbatial succession -¹⁰⁶ that in the latter case, i.e., the case of numerous eligible branches, the mechanism of alternating succession - or a circuit - could be agreed upon by two or more branches. In this case the *fine érlama*, the kin of the patron

¹⁰¹ The first translation is taken from AL 3, 78-9, the second from Charles-Edwards, *Kinship*, 96-7 and Jaski, *Kingship*, 230. Compare Ó Corráin's translation ('Hogan', 99) and also this passage in the *Succession tract* (AL 4, 372-3). The question here is whether *cuaird* is to be translated as circuit, or rather as turn/succession. If the latter is accepted, then this passage does not give evidence that alternating succession was an accepted mechanism of succession. But this is fairly unproblematic, since a commentary mentioned below describes such an alternating succession, albeit for abbatial succession.

¹⁰² See also above.

¹⁰³ This means that if several branches that derived from, say, various sons of the eponymous ancestor were eligible, then the descendants of the oldest of these brothers had the prerogative. For this possibility see Jaski, *Kingship*, 229 and Katharine Simms, *From kings to warlords. The changing political structures of Gaelic Ireland in the later middle ages* (Woodbridge, 1987), 48.

¹⁰⁴ The change from seniority to qualification as the decisive criterion at times when succession leaves the basic family units may be reflected in the first passage of the *Succession Tract* in AL 4, 373: 'the senior with the family, dignity with the chief [*flaith*], wisdom with the church'. As long as the succession in question was still within the basic kin-group, here called the family, seniority was decisive, but dignity was decisive when the head of a wider kin-group was chosen.

¹⁰⁵ This gloss is edited and translated in AL 3, 78-9. Compare this gloss in the *Succession tract* (AL 4, 372-3), which is now also edited and translated by Ó Corráin, 'Hogan', 99.

¹⁰⁶ AL 4, 372-3; this commentary is also ed. and trans. by Ó Corráin, 'Hogan', 99.

saint, and the *fine griain*, the land-owning kin, take the succession in turns. Hence, this mechanism, if applied for kingship, simply means that kingship rotates among different branches in successive order.¹⁰⁷

d. Succession to an over-kingship

Having analysed the succession within a kindred, it remains to say a few words about the succession to an over-kingship. The law texts list three grades of kings: the *rí túaithe* (petty king), the *ruire* (over-king) and the *rí ruirech* (king of over-kings).¹⁰⁸ The succession to a *rí túaithe* is analysed in detail above, since the *rí túaithe* is the head of a royal kindred. To become a local *ruire* it was, of course, essential to be a *rí túaithe* in his own right. But not every *rí túaithe* in a certain area could become the *ruire* of that area. Comparable to succession within a kindred, some kindreds brought other kindreds into submission or eclipsed them and, in effect, only the kings of certain kindreds were eligible to the over-kingship of a certain area. Among these eligible kindreds the same mechanisms applied as did that among branches of a kindred: it was possible that one kindred monopolized power after a certain period of time, or the most qualified candidate of all eligible kindreds became *ruire*, or arrangements were made between these kindreds like alternating succession. And the succession to a *rí ruirech* did not differ from the succession to a *ruire*, save for the fact, of course, that a contender had to be a *ruire* in his own right.

It may be helpful to illustrate this succession with a historical example. The king of Tara can be regarded as a *rí ruirech*.¹⁰⁹ From the mid-seventh century to the end of the tenth century there were only four kindreds, all of them from the Uí Néill, that were in a position to contest this kingship, i.e. the Cenél Conaill, the Cenél nEógain, the Síol nAedo Sláine and the Clann Cholmáin.¹¹⁰ But before being in a position to challenge for the kingship of Tara a king of any of these kindreds had to prove that he was the most powerful king in his area, i.e., the *ruire* of that area. Hence, the kings of the Cenél Conaill and the Cenél nEógain, for example, decided among themselves

¹⁰⁷ For alternating succession see Jaski, 'Old Testament', 338-9. Ó Corráin ('Irish regnal succession', 8) stresses the rarity of this phenomenon in practice. For good examples of alternating succession among Leinster dynasties see Mac Neill, *Celtic Ireland*, 125-6 and Alfred Smyth, *Celtic Leinster* (Dublin, 1982), 123. More examples are given by Jaski, *Kingship*, 232-36.

¹⁰⁸ See especially the discussions in McLeod, 'Interpreting 1', 59-60; Charles-Edwards, *Kinship*, 130-2; Binchy, *Kingship*, 31-3. The question of the existence of a fourth grade of kings, a 'high-king of Ireland', will not concern us here. The succession would essentially happen along the same lines as discussed for over-kings.

¹⁰⁹ For the problem of the status of the king of Tara, see Binchy, 'Irish history: II', 18-19 and, most recently, Charles-Edwards, *Ireland*, 518-21. Even though being king of Tara may have implied more than being a *rí ruire* at certain times, the status of a *rí ruire* nevertheless describes neatly, in my opinion, the minimum of power that a king of Tara could have had.

¹¹⁰ Note that during the period when the kingship of Tara was exclusively held by these four Uí Néill kindreds, the succession to this kingship can basically be regarded as the succession to the kingship of one kindred, i.e. the Uí Néill, in the later phase of succession, and hence demonstrates the validity of applying mechanisms of succession within a kindred to over-kingship, since eligibility for succession to an over-kingship was in most cases justified by descent from a common ancestor.

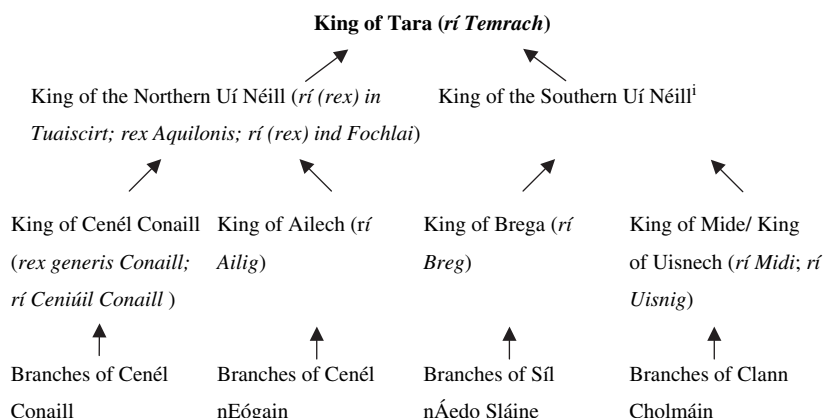


Fig. 2. The succession to the kingship of Tara. ¹Note that the 'kingship of the South' is not attested in the annals. In the analysis of the kingship of Tara, the 'king of the South' is synonymous with the most powerful king among the Southern Uí Néill. This does not necessarily imply, however, that all Southern Uí Néill kings were under his control. See Jaski, *Kingship*, 214.

who was to be regarded as the 'king of the North', i.e. the king of the Northern Uí Néill. It seems that an agreement of alternating succession was in operation between these two Northern Uí Néill kindreds in the eighth century, from the reign of Flaithbertach mac Loingsig of the Cenél Conaill to the reign of Máel Dúin of the Cenél nEógain, before this over-kingship of the North was monopolized by the Cenél nEógain.¹¹¹ The 'king of the North' was then in a position to challenge for the kingship of Tara, to become *rí ruirech*, his opponent being the most powerful king of the Southern Uí Néill dynasties (Fig. 2).

One should be aware of the fact that this system not only worked upwards, but also had implications downwards. If an over-king held a powerful position, he tried to influence the succession of the kingships nominally under his direct rule.¹¹² For example, if the king of Clann Cholmáin was extremely powerful, say king of Tara at the same time, he would try to influence the kingship of Brega (or of any branch of the Síl nÁedo Sláine) in his favour, whenever the chance arose. In this case he would support the contender for the kingship who seemed most favourable to himself. A good example is provided by an entry in the *Annals of Ulster* for 802: *A hosting by Aed against Mide, and he divided Mide between two sons of Donnchad, i.e. Conchobor and Ailill.*¹¹³ Aed Oirdnide of the Cenél nEógain was at this time well established as king of Tara and used this position to determine the struggle for the succession of Mide, and presumably that of the Southern Uí Néill at the same time.

¹¹¹ For this alternating succession see my forthcoming article about the kingship of Tara in *Peritia*, 17 (2004), and Hogan, 'Irish law of kingship', 203.

¹¹² For 'deputy kings' acting on behalf of the king of Tara or the king of the Northern or Southern Uí Néill, see Charles-Edwards, *Kinship*, 479-80; 572. For examples from the twelfth century, see Simms, *Kings*, 42-3.

¹¹³ For more details see my forthcoming article on the kingship of Tara in *Peritia*, 17 (2004).

e. *The criterion that overrides the rule - febas*

It has been argued above that, after the development of various branches of a kindred, the importance of individual seniority was replaced by the criterion of personal qualification. Qualification is, of course, in itself a very vague term and has an equally vague equivalent in Old Irish - *febas*. Not only does *febas* seem to be the determining factor for succession after several generations have elapsed from the eponymous ancestor, it is also the factor that can override the rules outlined above, especially the precedence of the senior in the early phase of succession.¹¹⁴

Hence it is important to try to define *febas* more clearly, i.e. to point out the various aspects of this term. Jaski calls it 'an almost indefinable mixture of worth, dignity, stature, suitability, wealth and power, which had numerous connotations' and which could be acquired in numerous ways so that it was 'not unlike the Roman *dignitas*.'¹¹⁵ The *Tecosca Cormaic* - the instructions of king Cormac mac Airt -, a 'collection of precepts and wise sayings' that Meyer dates to the ninth century,¹¹⁶ gives some hints as to what common people, nobles and kings regarded as *febas*, i.e. the right qualities of a candidate to succeed, in this period:¹¹⁷

'O grandson of Conn, O Cormac,' said Carbre, 'whence is chieftaincy taken over tribes, and clans, and races?'

'Not hard to tell,' said Cormac. 'By virtue of shape and race and knowledge, through wisdom and rank and liberality and honesty, by virtue of hereditary right and eloquence, by the strength of fighting and an army it is taken.'

A short tract in *Senchas Már*, which Jaski has termed the 'status-text of *Senchas Már*',¹¹⁸ argues for two aspects overriding seniority in the question of succession, and these two aspects are closely connected: worth, as defined by the number of base-clients, and status. If the younger had three base-clients in excess of the senior, they were regarded as equal, and the choice between them had to be made by lot-casting. If, however, the younger had five base-clients in excess, then it was his turn to take the kingship. This difference of five base-clients indicates a difference in noble status. Thus the younger in this passage is better qualified since he is of a higher

¹¹⁴ A passage in the *Succession Tract* (AL 4, 377) states: 'Qualification is nobler than age'. See also Jaski, *Kingship*, 124 and 169-70.

¹¹⁵ Jaski, *Kingship*, 276. The most recent discussion of *febas* can be found in Ó Corráin, 'Hogan', 110-1.

¹¹⁶ Kuno Meyer, *Tecosca Cormaic. The instructions of king Cormac mac Airt* (Dublin 1909), vi, xi.

¹¹⁷ *Tecosca Cormaic* §5. The translation is Meyer's (*Tecosca Cormaic*, 13). Note especially the statement of military prowess and force. This passage also appears in the *Succession Tract* (AL 4, 376-7). Compare Kim McCone, *Pagan past and Christian present in early Irish literature* (Maynooth, 1990), 122, Jaski, 'Old Testament', 337-8, Ó Corráin, 'Hogan', 110-1, and Charles-Edwards, *Kingship*, 98, who translate 'number of allies' instead of 'an army'. Another interesting description of the qualities that are expected of the head of a kindred can be found in *Cáin Aicillne* §31 (ed. and trans. by Rudolf Thurneysen, 'Das Unfrei-Lehen', *Zeitschrift für celtische Philologie*, 14 (1923), 338-94, at 369-70). See also *Di Astud Chirt ocus Dligid* (AL 5, 438-9).

¹¹⁸ The tract I am referring to is edited and translated by Jaski, *Kingship*, 286-88.

noble rank.¹¹⁹ Additionally, two passages of the *Succession Tract* explicitly point out the importance of wealth, which undoubtedly was also defined by the number of base-clients, as well as the property in land and cattle:

That thou mayest know, the right qualifications of a king (*ri*) who is wealthy and affluent.¹²⁰

The senior does not go before the junior, unless he is wealthier.¹²¹

From this evidence, as well as from the discussion of eligibility above, it can be argued that the law texts regarded status and worth as the decisive qualification of a contender for kingship. Unfortunately, any attempt to establish the *febas* of historical figures in respect of worth and status must fail, due to a lack of evidence.

Another aspect of *febas* that can be traced in the legal texts, as well as in the annals and genealogies combined for historical persons, is the status of the agnatic lineage. Two passages in the *Succession Tract* refer to a ‘hill of lordship’, i.e. a person is on the summit of lordship if his father and grand-father had been lords, and if he is a lord himself.¹²² At first sight this seems to be just another expression of the three-generation requirement. But one of these passages argues that a person has the privilege of succeeding a king (*ri*) after three *flaithi*. The term *flaith* leaves room for interpretation (in AL it is translated as king), but this passage could indicate that a person whose father and grandfather were kings was a privileged contender for kingship.¹²³ And, in my opinion, the importance of the agnatic lineage was not restricted to three generations.¹²⁴ It was rather the whole direct agnatic lineage up to the eponymous ancestor that was considered, and the *febas* of a contender was improved gradually by the number of kings in that lineage.¹²⁵

One essential part of one’s *febas* that is explicitly mentioned in *Tecosca Cormaic*, as we have seen, is military capability and power. Individual military prowess is fairly easy to trace by an analysis of the annals. Contenders for kingships tried to strengthen their claim by challenging either a rival branch of the same kindred or the king or over-king himself, to eventually succeed him in that position. But another feature that manifests itself in the annals is interesting in this respect. With the coming of the Vikings, on various occasions attacks against these ‘foreigners’ (as well as military expeditions to neighbouring kingdoms) were used by potential successors to enhance their *febas*, and with this their claim for a certain kingship.

¹¹⁹ Compare Jaski, *Kingship*, 126. See above.

¹²⁰ AL 4, 374–5.

¹²¹ AL 4, 376–7. Moreover, another passage in the same tract (AL 4, 378–9) states that in the case of *bóairi* contending for headship, wealth has precedence over age.

¹²² AL 4, 378–9; AL 4, 384–5. Compare Ó Corráin, ‘Hogan’, 111.

¹²³ Compare Ó Croinin, *Ireland*, 70.

¹²⁴ In the *Succession Tract* (AL 4, 374–5) the more general question ‘who is the noblest, i.e. in age or in family’ is asked in respect of succession, and ‘noble in family’ implies consideration of the whole agnatic lineage.

¹²⁵ Compare Charles-Edwards, *Ireland*, 90–1.

However, in order to challenge the reigning king, or a rival branch within the same kindred, external allies were of immense importance. There seem to have been two ‘classical’ external allies for any contender, i.e., the kin of his foster-father and his maternal kin. An external spectator of the Irish political scene in the late twelfth century, the Anglo-Norman writer *Giraldus Cambrensis*, makes this distinction between close agnatic relatives and the foster-kin:¹²⁶

Woe to brothers amongst barbarous people! Woe to kinsmen! When they are alive they are relentlessly driven to death. When they are dead and gone, vengeance is demanded for them. If this people [i.e. the Irish] has any love or loyalty it is kept only for foster-children and foster brothers.

Biased as his view on the Irish was in general, he nevertheless may have drawn an authentic picture of medieval Irish politics in this instance. Unfortunately we do not possess any source about the foster-kin of historical figures.¹²⁷ However, information is available in the *Banshenchas* about the mother’s kin of some of the more prominent Irish kings and in few instances also in the annals. In this context the legal position is once again of some interest. Even if the mother was a *cétmuinter* (primary wife), i.e., that her marriage status bound her as closely as legally possible to her husband’s kin, legal connections between her, her sons, and her own kin still prevailed.¹²⁸ This reflects the interest of the maternal kin in these claimants. Charles-Edwards expresses the difference between agnatic and maternal, as well as foster-kindred in respect of regnal succession admirably: ‘Close agnatic kinsmen were expected to be rivals in the competition to succeed as king; maternal relatives and foster-kin were not rivals, but rather the very people to whom the contestant would most naturally turn for support.’¹²⁹

3. Summary

If any ‘law’ of succession is deducible from legal sources, it seems to have followed these lines: In the early phase, succession to kingship was essentially the same as succession to the headship of the *gelfhine* of the person who was in later times commemorated as the eponymous ancestor, and this headship went from the eponymous ancestor to his oldest son, and then in turn to the latter’s brothers according to seniority. The headship commonly remained within this generation until the death of the last member of it, because the grandsons of the eponymous ancestor, even though they took the place of their deceased fathers, did not have the same right of inheritance as their uncles had. Once one generation died out, all members of the next generation were equal in status according to the law of inheritance, and the headship would again be inherited by the most senior member of

¹²⁶ *Topographia Hiberniae* ch. 101, translated by John J. O’Meara, *Giraldus Cambrensis: The history and topography of Ireland* (revised edition, Mountrath, 1982).

¹²⁷ The method to determine the foster-kin of a contender for a kingship would rather be to draw conclusions from the allies that supported his claim.

¹²⁸ See as a good summary Binchy’s appendix to Dillon, ‘Relationship’, 180–86.

¹²⁹ Charles-Edwards, *Ireland*, 95–6.

that generation, with seniority being gradually replaced as the primary criterion by considerations of wealth and other qualifications.

Especially in this early phase the law tracts made a case against succession by close kinsmen. This was done for very obvious reasons: If a close kinsman succeeded the reigning king, the kingship was in danger of being monopolized by one branch. The kin-relation of the successors determined the branch that could attempt to monopolize the kingship: If a first cousin of the reigning king succeeded, the branch that could attempt a monopolization was that of the descendants of the grandfather of the reigning king; if a brother succeeded, it were the descendants of the father of the reigning king; if a son succeeded, it were the descendants of the reigning king himself. In the latter case the same succession as outlined above would theoretically start again; in the case of a brother succeeding it would start with the second generation, and so on, at least if the monopolization was successful. The title of the kingship would, of course, remain the same, e.g. it would not change from 'king of the descendants of the eponymous ancestor' to 'king of the descendants of the reigning king', but the 'kingship of the eponymous ancestor' would become synonymous with the 'headship of the descendants of the reigning king', and thus the other branches would then be eclipsed from this kingship, at least as long as that branch remained powerful enough to sustain the kingship in their ranks.

It may be worth illustrating this early phase of succession with an historical example, and the *Sil nÁedo Sláine* seem to be suitable for this purpose, since their eponymous ancestor, Áed Sláine, who died in ca. 602, is a recognised historical figure and does not belong to the mist of pre-history.¹³⁰ According to the genealogies, Áed Sláine had seven sons.¹³¹ The first of these mentioned in the annals is Conall Laeg Breg, whose death is recorded for ca. 610.¹³² It is not unlikely that he was the oldest among the sons of Áed Sláine, and, at least according to the regnal poem of the *Sil nÁedo Sláine* attributed to Flann Mainistrech, he succeeded his father to the kingship of this kindred.¹³³ But it should be noted that this title 'king of the *Sil nÁedo Sláine*' is, of course, anachronistic, and it is not mentioned in the annals. A term to denote this kindred –*nepotes nÁedo Sláine*– is first used in 712 in the *Annals of*

¹³⁰ His death is recorded in the *Annals of Ulster* (abbreviated as AU below- the edition used is: Seán Mac Airt and Gearóid Mac Niocaill, *The Annals of Ulster (to A.D. 1131), Part 1, text and translation* (Dublin, 1983)) and the *Annals of Tigernach* (abbreviated as ATig below- the edition used is the reprint (Felinfach, 1993) of Whitley Stokes, 'The Annals of Tigernach. Third fragment', *Revue Celtique*, 17 (1896), 119–263): AU 603.2; ATig [AU 603], and he is mentioned earlier in AU 597.5; ATig [AU 597] and AU 599.2; ATig [AU 599], as well as in the *Vita Columbae* I 14 (ed. by Alan Orr and Marjorie Ogilvie Anderson, *Adomnan's life of Columba* (Edinburgh, 1961; second edition Oxford, 1991)). For Áed Sláine see Mac Niocaill, *Ireland*, 82–4. Up to AD 664 every date is preceded by 'ca.', because events in that period cannot be securely dated to a certain year. See Daniel McCarthy, 'The chronology of the Irish annals', *Proceedings of the Royal Irish Academy C*, 98 (1998), 203–55. The dates given are the ones proposed by McCarthy.

¹³¹ These seven sons are listed in Kuno Meyer, 'The Laud genealogies and tribal histories', *Zeitschrift für celtische Philologie*, 8 (1913), 291–338, at 302.

¹³² AU 611.2; ATig [AU 611].

¹³³ Flann Mainistrech VII, 3. This poem is edited and translated by Eoin Mac Neill, 'Poems by Flann Mainistrech on the dynasties of Ailech, Mide and Brega', *Archivum Hibernicum*, 2 (1913), 37–99, at 92–99.

Ulster, i.e. during the life-time of the fifth generation from the eponymous ancestor.¹³⁴ This was a time when two independent powerful branches emerged, and thus a need was felt to define that both branches belonged to the same kindred, with the implication that the head of the stronger branch would be recognized as the head of the whole kindred. Anyway, returning to Conall Laeg Breg, he seemingly was recognised as the head of the descendants of Áed Sláine. Then, according to Flann Mainistrech's poem, the headship went in turn to Conall's brothers Congal, Ailill Cruidire, Blathmac and Diarmait Ruanaid, the latter two enjoying a joint-reign.¹³⁵ Of the two sons that did not hold the headship, Dúnochad died before the end of the reign of Blathmac and Diarmait, whereas the death of the other, Máel Odar, is not recorded.¹³⁶ But it seems probable that he had also passed away, roughly 60 years after the death of his father. Hence the headship of the descendants of Áed Sláine went, in all likelihood, to the oldest son first, and passed on to the other sons. Only when this generation died out did it become available to the next generation. But it is slightly problematic that the successor of these joint kings, according to Flann Mainistrech's poem, their nephew Conaing, son of Congal, died before his uncles.¹³⁷ This may be explained by the possibility that these two kings passed the headship on to a younger, physically stronger member of the kindred, since they themselves were at least 60 years of age. Another possibility is that Conaing officially received the title 'head of the kindred of Áed Sláine' as sub-king to his uncles, who were kings of Tara.¹³⁸ In either case, it was wise that the headship was given to a nephew, as it was recommended by the law texts, rather than to a son of the reigning kings, and so dynastic feuds were avoided. Only after the death of Conall did Sechnusach, son of Blathmac, succeed.¹³⁹ However, the headship did not move on from Sechnusach to a cousin of his, but to his brother Cenn Fáelad.¹⁴⁰ This posed the danger that the headship of the descendants of Áed Sláine was being monopolized by the descendants of Blathmac, and one would expect that this succession was strongly resented by the descendants of the other sons of Áed Sláine. That this was really the case is illustrated by the fact that Cenn Fáelad was slain in battle against his cousin Fínsnechta, which was the beginning of dynastic feuds that were going to dominate the politics of this kindred for the following centuries.¹⁴¹ The

¹³⁴ AU 711.6.

¹³⁵ Flann Mainistrech VII, 4–6.

¹³⁶ The death of Dúnochad is recorded in AU 658. The *Annals of Tigernach* list his death twice, in ATig [AU 655] and ATig [AU 658].

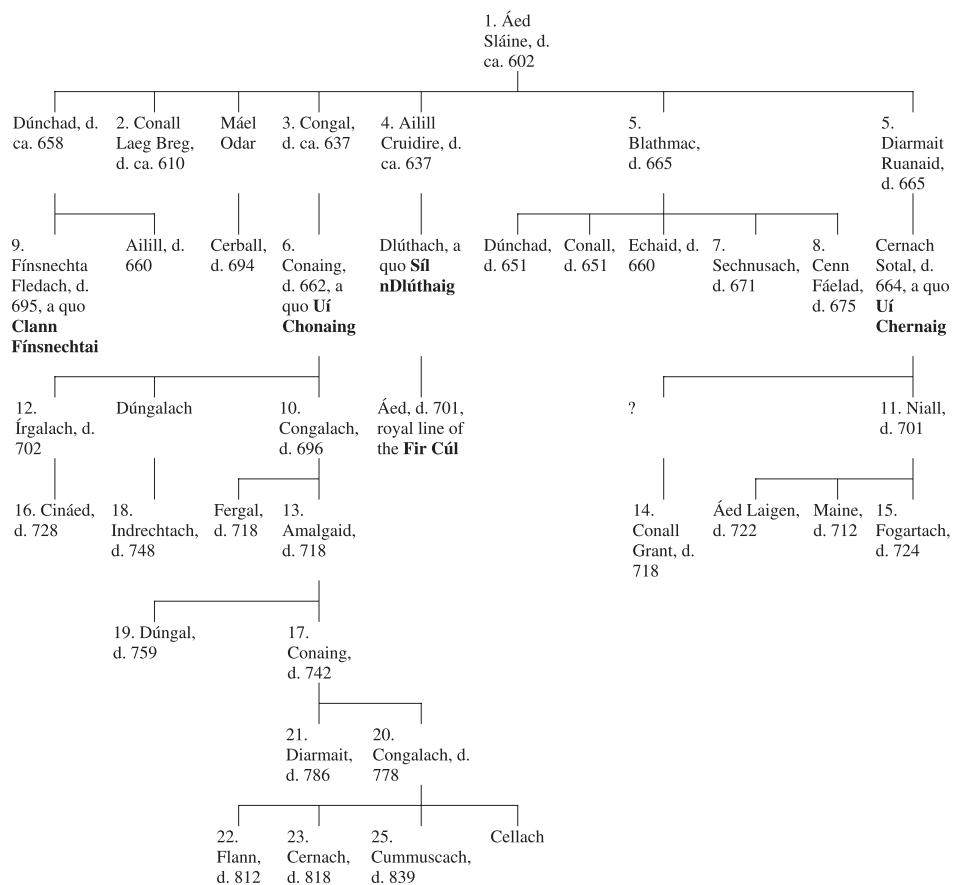
¹³⁷ For the succession see Flann Mainistrech VII, 7. Blathmac and Diarmait died in 665 (AU 664.1; ATig [AU 664]), whereas Conaing fell in battle in 662 (AU 661.2; ATig [AU 661]). See also Mac Niocaill, *Ireland*, 98.

¹³⁸ It seems from the above mentioned annal entries that Conaing died fighting for his uncles.

¹³⁹ Flann Mainistrech VII, 8. If, however, Conaing was never acknowledged as the head of the descendants of Áed Sláine, it must be presumed that the subsequent father-son succession from Blathmac to his son Sechnusach was resented by the other grandson of Áed Sláine, and a challenge was presumably only avoided, because no other contender had comparable power.

¹⁴⁰ Flann Mainistrech VII, 9.

¹⁴¹ AU 674.1; ATig [AU 674]. Compare Mac Niocaill, *Ireland*, 107. Before this date, no dynastic in-fight among the *Sil nÁedo Sláine* is recorded in the annals.



dimension of this conflict is not assessable, but it is noteworthy that the descendants of Blathmac are never heard of again. Finsnechta himself, who secured the headship of the descendants of Áed Sláine with the victory over his cousin, had a long and illustrious reign, and he presumably was the last descendant of Áed Sláine of his generation when he was killed by his kinsmen of the next generation, i.e. Aed, son of

Fig. 3. Succession to the headship of the descendants of Áed Sláine according to Flann Mainistrech. Notes: The Arabic numbers denote the order of succession according to Flann Mainistrech's poem. This order conflicts with the information of the annals in the following cases: The successor of the joint-heads Blathmac and Diarmait, Conaing, died before his uncles. It has been argued above that these two heads either abdicated to make way for their nephew, or - and more likely, since no abdication is mentioned in the annals - they installed their nephew as sub-king of the descendants of Áed Sláine while they were acknowledged kings of Tara. But then the annals do not bestow Conaing with any title, and thus he may not have been head of this kindred at all. Furthermore, the reign of Fogertach, who is the 15th head of the descendants of Áed Sláine according to Flann Mainistrech, seems to conflict with the evidence of the annals. Fogertach is the first descendant of Áed Sláine named in the annals (AU 703.4) after the death of Írgalach (nr. 12), and this makes it plausible that he was Írgalach's successor. The successions within the descendants of Áed Sláine were presumably like this: Fogertach succeeded Írgalach in the headship of the descendants of Áed Sláine as a whole, which left Conall Grant with the headship of the Uí Chernaig, as sub-king to Fogertach, and Amalgaid presumably filled the vacancy left by Írgalach among the Uí Chonaing. When Fogertach was expelled from his kingship (without further specification – AU 713.4) by the reigning king of Tara, the Cenél nEógain dynast Fergal, son of Máel Dúin (an information that is only attested by the *Annals of the Four Masters* for the year 712), this left the headship of the descendants of Áed Sláine vacant, i.e., there was no strong ruler over all the branches that descended from Áed Sláine, which was exactly the political situation that was favoured by Fergal and his ally Diarmait Midi of the Clann Cholmáin. But when Conall Grant managed to kill Diarmait, who was possibly appointed by Fergal to control southern Brega, this paved the way for the return of Fogertach to the headship of the descendants of Áed Sláine two years after his expulsion (AU 715.3). Fogertach, then, challenged Fergal as king of Tara (AU 716.6), while Conall Grant killed Amalgaid, who may have been a supporter of Fergal, in battle, a deed that was revenged by Fergal two months later (AU 717.3). That Amalgaid and Conall Grant are included in Flann Mainistrech's poem is, then, possibly due to their joint reign in the two-year interregnum. Compare the discussion in Charles-Edwards, 'The Uí Néill 695-743: the rise and fall of dynasties', *Peritia*, 16 (2002), 396-418, at 404-6. For the problem of the identification of the 24th king listed by Flann Mainistrech see Mac Neill, 'Poems by Flann Mainistrech', 98. In the identification of Conall Grant I have followed Charles-Edwards, 'The Uí Néill', 417-8, who is more cautious in not identifying the father of Conall with Niall, as Mac Neill, 'Poems by Flann Mainistrech', facing page 46, 96-7, Byrne, 'Historical note', facing page 400, and Jaski, *Kingship*, 307, have done. The latter may be right, but the sources only identify him as grandson of Cernach Sotal (with the exception of CGH 160, where Conall Grant is recorded as the son of Cernach Sotal). More extensive genealogical charts of the Síol nÁedo Sláine can be found in Mac Neill, 'Poems by Flann Mainistrech', facing page 46; Byrne, 'Historical note', facing page 400; Jaski, *Kingship*, 307; Charles-Edwards, *Ireland*, 602-3; Charles-Edwards, 'The Uí Néill', 417-8.

Dlúthach, and Congalach, son of Conaing, in 695.¹⁴² With this proof of his military capability, Congalach was the first of his generation to claim the headship of the descendants of Áed Sláine (Fig. 3).

However, at the later of phase of succession, after three or more generations had passed on, branches of a kindred developed, some of them eligible to produce a candidate, and some of them not, primarily due to the loss of status of these branches. The succession in this later phase was decided among the heads of the eligible branches, and at this stage at the latest seniority lost its primary importance and was replaced by qualification (*febas*). Three relationships between the branches as regards succession were known in the law texts: Succession was either the prerogative of one branch, or several branches were eligible and the most qualified candidate succeeded, or alternating succession was agreed upon by the eligible branches.

Some of these features can again be illustrated by the history of the *Síl nÁedo Sláine*. In the fourth generation from the eponymous ancestor a certain pattern of segmentation evolved, which resulted, in the long run, in two powerful branches contesting the kingship of this kindred, while the other branches either developed into independent allies of either of the two main segments, or lost their importance completely and thus found no place in the historical records. One of these branches that lost its importance is the *Clann Fínsnechtaí*, i.e., the descendants of Fínsnechta Fledach.¹⁴³ An example for a strong and independent ally of one of the two main branches, the *Uí Chonaig* in this case, are the *Fir Cúl Breg* (the royal line of the *Fir Cúl* was also called *Síl nDlúthaig*, after Dlútach, grandson of Áed Sláine).¹⁴⁴ When Fínsnechta ‘assumed clerical life’ in 688, the headship of the descendants of Áed Sláine became available to the members of the fourth generation from the eponymous ancestor.¹⁴⁵ It was contested in the battle of Imlech Pich, in which

¹⁴² The grandsons of Áed Sláine that are known to us are (their respective death notices are in brackets, as far as they are recorded): Dlúthach, son of Ailill; Dúnochad, son of Blathmac (AU 650.1; ATig [AU 650]); Conall, son of Blathmac (AU 651; ATig [AU 650]); Echaid, son of Blathmac (AU 659.2; ATig [AU 659]); Ailill, son of Dúnochad (ATig [AU 659]); Conaing, son of Congal (AU 661.2; ATig [AU 661]); Cernach Sotal, son of Diarmait (AU 663.4; ATig [AU 663]); Sechnusach, son of Blathmac (AU 670.1; ATig [AU 670]); Cenn Fáelad, son of Blathmac (AU 674.1; ATig [AU 674]); Cerball, son of Máel Odar (AU 693.3; ATig [AU 693]), if his identification is correct (AU calls him the son of Máel Odar, and the *Laud* genealogies list a Máel Odar among the sons of Áed Sláine; compare the genealogical charts in Francis J. Byrne, ‘Historical note on Cnogba (Knowth)’, *Proceedings of the Royal Irish Academy C*, 66 (1968), 383–400, facing p. 400; Jaski, *Kingship*, 307). Fínsnechta Fledach himself died in 695 (AU 694.1; ATig [AU 694]).

¹⁴³ One line of this kindred is recorded in: *Corpus Genealogiarum Hiberniae*, vol. 1, ed. M.A. O’Brien (Dublin, 1962, reprinted 1968, 2001), 161. Only two members of this kindred, i.e., two sons of Fínsnechta, are mentioned in the *Annals of Ulster*. AU 694.1; AU 717.8.

¹⁴⁴ In 695 the head of the *Fir Cúl*, Áed, son of Dlúthach, sided with Congalach of the *Uí Chonaig* in the killing of Fínsnechta (AU 694.1; ATig [AU 694]). Then, in 712, the *Fir Cúl* defeated the rivals of the *Uí Chonaig* in battle (AU 711.6; ATig [AU 711]). And the annals seem to imply that they sided again with the *Uí Chonaig* in the defeat against the *Uí Chernaig* of 718 (AU 717.3; ATig [AU 717]). For the feud between the *Fir Cúl* and the *Uí Chernaig* see Charles-Edwards, ‘The *Uí Néill*’, 401.

¹⁴⁵ AU 688.2; ATig [AU 688]. Of the grandsons of Áed Sláine listed above only Cerball was still alive in 688, if his identification is correct. See above.

Niall, son of Cernach Sotal, defeated Congalach, son of Conaig.¹⁴⁶ Whatever the immediate implications of the outcome of this battle concerning succession, they were short-lived, since Fínsnechta returned to office the following year.¹⁴⁷ It demonstrated, nevertheless, that it were these two branches that would contest the kingship.¹⁴⁸ Both branches seem to have been equal in power, but instead of agreeing on alternating succession, it was the power of the day that decided succession. That Congalach had the upper hand in the end was presumably due to the fact that he demonstrated his worthiness by managing to kill the reigning king, Fínsnechta.¹⁴⁹ Anyway, his reign lasted only for a year and he was succeeded by Niall, the head of the rival branch, who had defeated him eight years earlier.¹⁵⁰ This succession was seemingly unopposed at first, at least the annals do not record an immediate clash between the two branches. But in 701 Congalach's brother Irgalach managed to kill Niall, and with this act secured the headship of the descendants of Áed Sláine for himself.¹⁵¹ The dynastic feud between these two branches went on for the following three decades, with changing fortunes on both sides, until finally both branches developed into separate dynasties and ruled independent kingdoms, with the northern dynasty of the Uí Chonaing subduing the southern dynasty more often than not, and with that effectively claiming the headship of all the descendants of Áed Sláine.¹⁵²

Moreover, a view on eligibility for succession different from the traditional association of eligibility with a kin-group can be postulated. The only qualifications in kindred-terms that a possible contender for kingship had to fulfil were membership of that kindred, defined as being a descendant of the eponymous ancestor, and acknowledgement by the kindred, i.e., he had to be the offspring of an acknowledged alliance or, in case he was the offspring of an extra-marital

¹⁴⁶ AU 687.4; ATig [687]. For this battle see Byrne, 'Historical note', 396; Byrne, *Irish kings*, 118; Mac Niocaill, *Ireland*, 108-9; Charles-Edwards, 'The Uí Néill', 403; Michael Byrnes, 'The Árd Ciannachta in Adomnán's *Vita Columbae*: a reflection of Iona's attitude to the *Sil nÁeda Sláine* in the late seventh century', in: *Seanchas. Studies in early and medieval Irish archaeology, history and literature in honour of Francis J. Byrne*, ed. Alfred P. Smyth (Dublin, 2000), 127-36, at 130.

¹⁴⁷ AU 688.2; ATig [AU 688].

¹⁴⁸ For the development of these two branches see Byrne, 'Historical note', 396-7.

¹⁴⁹ This succession is recorded by Flann Mainistrech VII, 11.

¹⁵⁰ Flann Mainistrech VII, 11.

¹⁵¹ AU 700.11; ATig [AU 700]; Flann Mainistrech VII, 11.

¹⁵² Compare the genealogical chart. That this feud continued can be indicated by the fact that Amalgaid was killed in the battle of Kells against Conall Grant (AU 717.3; ATig [AU 717]), and Fogertach in battle against Cináed (AU 723.3; ATig [AU 723]). For the context see Mac Niocaill, *Ireland*, 119-22. With Cináed's reign the kingship was, then, monopolised by the Uí Chonaing. The reader of this article will realise that the succession of Indrechtach (nr. 18) does not fit in the theory of succession postulated above. But his succession has to be explained, in my opinion, in the political context: The Cenél nEógain king of Tara, Áed Allán, had the *Sil nÁedo Sláine* king Conaig strangled (AU 741.7; ATig [AU 741]), and this opened the way for Indrechtach, who had previously been passed over in the succession, because he presumably could not compete with Conaig. This time, however, he made his intentions clear by fighting his relatives (AU 742.2; ATig [AU 742]), possibly with Cenél nEógain support at his hand. For the intrusion of the Uí Chonaing in the kingship of the Ciannachta Breg at around this time, see Byrnes, 'The Árd Ciannachta', 131 and Paul Byrne, 'Ciannachta Breg before *Sil nÁedo Sláine*', in: *Seanchas*, 121-6.

relationship, he had to be acknowledged by his father and the latter's kin. Other than that, only members of the highest social class, i.e. nobles of the grade of an *aire forgill*, were eligible. If this grade could not be maintained by three generations, the whole line would lose this status for at least another three generations and with it eligibility to kingship. Moreover, this noble grade could only be obtained at the age of 14 or 17 (presumably depending on regional customs), so that no person under this age was eligible. But even if a person qualified in respect of descent, age and social status, he nevertheless was ineligible as long as he was a *mac béo-athar*, 'a son of a living father', i.e., at least as long as his father was himself fit for office.

There was, however, one additional criterion that not only decided who would become king, but that could also override the general rules of succession as well as the aspects of eligibility – *febas*. The main criteria of this *febas* were worth, as defined predominantly by the number of a person's base-clients, and, more importantly, military power. Military power in this respect can be defined as the person's individual military prowess, i.e. his qualities as a warrior and the fame of his victories, as well as the amount and quality of his external support, and the natural external allies of a contender for kingship seem to have been his maternal and his foster-kin.

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