

# WHY PAY YOUR DEBTS?: MEDIEVAL ICELAND'S ANSWERS

DeLloyd J. Guth\*

## Dedication\*\*

This Article recognizes a true Scot of Viking, not Celtic, origins. His full name is William Alexander Jardine Watson. From his mother comes the Jardine, a family that arrived with William the Conqueror and received lands in Dumfries and Galloway, where the name continues. The clan Jardine's motto, much to his delight, remains *Cave Adsum* ("Beware, I am here!"). The sons of Wat, however, were Norsemen who settled in Aberdeenshire. True to their Viking tradition, the Watson is still a rover, to be sighted in Singapore, across North America and Australia, even in South Africa, where Watsons are most often regarded as Afrikaaners. Alan's prolific scholarship, of course, is cited throughout the world.

Encountering Alan Watson, in print or in person, creates warm intellectual adventures. No one works harder at examining a legal text and the ideas encapsulated in its author's choice of words. He loves to liberate words, as the table of contents to his first major monograph illustrates. *The Law of Obligations in the Later Roman Republic*<sup>1</sup> initiated the standard of excellence to which this Article, with its focus on the medieval Icelandic law of obligation, can only aspire. This *hommage*, then, acknowledges a debt, viewed through the bottom of a half-full glass, that is neatest nectar and never a duty.

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\* Professor of Law and Legal History, Faculty of Law, The University of Manitoba.

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<sup>1</sup> ALAN WATSON, *THE LAW OF OBLIGATIONS IN THE LATER ROMAN REPUBLIC* (1965).

## I. INTRODUCTION

The Icelandic Sagas and Tales<sup>2</sup> bring us Northern Europe's news for the five centuries after Charlemagne's coronation in 800 A.D. Like much of what one sees ten centuries later on CNN, that news remains a blend of fiction and faction, of patriotic propaganda and of unspeakable brutalities.

Each summer in the *Sagas* brought annual Viking raids, up and down the coastlines of the North and Baltic Seas, into Saxony, the Irish Sea, down the English Channel, into the Mediterranean, from Norway to Normandy, Russia to Sicily. Indeed, enterprising Icelanders made pilgrimages to Rome and served as mercenaries to Constantinople. The *Sagas* are full of coastal raiders returning to Iceland with their loot, like lottery winners, to become respectable landlords and farmers. Their expeditions had one purpose and two methods: they wanted what you had, and they would either take it or trade it. Theirs was a culture based mainly on violence, exchange and enslavement—or so the *Sagas* want us to believe. Accurate or not, this scenario left little role for the rule of law. All of the skull-splitting and blood-spilling pre-empted any peaceful, orderly debtor-creditor relationships. Vikings left no receipts for their loot, only the fear of next summer's return.

It may seem silly, then, to seek lawful Icelandic answers to the medieval question, "why pay your debts?" Modern readers of the *Sagas* can romanticise Viking raiders, visualising a defiant Kirk Douglas as Eirik the Red at the prow of a *langskip*. English legal historians can grudgingly admire their Francophone Viking descendants, the Normans. Those Norman conquerors of England in 1066 had imposed a militarised, landlord feudalism on Anglo-Saxon society that looked and worked much like the Icelandic society of the *Sagas*. After all, Normans and Icelanders shared the same Scandinavian roots. But where, during the Vikings' earthly and sea-going preludes to their eternal Valhalla, was there any recognition or need for debt, an attitude of obligation, a duty of repayment, or a non-violent, rule-governed process for debt-collecting? We must begin by thinking out loud about what the word "debt" meant and how it operated in medieval Icelandic society.

This Article cannot answer the factual question of whether medieval Icelanders actually paid their debts, or what the percentage of default was. The truth is that the judicial or accounting records required for such a study do not survive—if they were ever made at the time. Instead, this Article will focus

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<sup>2</sup> Unless otherwise noted all literary accounts are from THE COMPLETE SAGAS OF ICELANDERS: INCLUDING 49 TALES (Vidar Hreinsson ed., 1997).

on how debts, in the broadest sense, were created and how debts were collected, in order to identify motives and results. This Article, then, is only a first draft attempt to document and explain what is at the heart of the medieval Icelandic legal system: the law of obligation and its debtor-creditor relationships, again in the broadest, most pervasive sense.

The original evidence for studying debt in medieval Iceland abundantly survives in at least four different primary sources: 1. the legal vocabulary, extracted mainly from the *Grágás*, now excellently translated and edited in two volumes;<sup>3</sup> 2. the aforementioned *Sagas and Tales*, now superbly translated and edited in five volumes by Vidar Hreinsson and colleagues;<sup>4</sup> 3. the law courts and their procedures, from *Grágás I*; and, 4. the substantive law of debt itself, as found mainly in the *Grágás II*. There is no greater variety and volume of literary evidence for debt available to us from anywhere else in the medieval world, not even for England's common law tradition. Let us focus first on the fascinating Icelandic legal terminology for debt.

## II. MEDIEVAL ICELAND'S LEGAL VOCABULARY

Any definition of the four letter English word, *debt*, and its equivalent five letter Icelandic word, *skuld*, will have to be bigger than its spelling. As with the Latin noun, *debitum*, the word in each language's usage contains two levels of meaning: debt as the thing which one owes, and debt as that which one ought to do, *i.e.*, make the repayment. The first is debt in the positive and material sense; the second, however, is moral and immaterial, in the broader, deeper meaning of duty.<sup>5</sup>

What was uniquely clear in the medieval Icelandic language was this same basic distinction, where *skuld* meant the debt itself and *skil* meant the duty or obligation.<sup>6</sup> Thus the debtor, or *skuldunautr*, was bound by the thing owed

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<sup>3</sup> LAWS OF EARLY ICELAND: GRÁGÁS I (Haraldur Bessason & Robert J. Glendinning eds., Andrew Dennis et al. trans., 1980); and LAWS OF EARLY ICELAND: GRÁGÁS II (Andrew Dennis et al. eds. & trans., 2000).

<sup>4</sup> *Supra* note 2.

<sup>5</sup> For earlier evidence and analysis on this topic; see DeLloyd J. Guth, *The Age of Debt, the Reformation and English Law*, in TUDOR RULE AND REVOLUTION: ESSAYS FOR G.R. ELTON FROM HIS AMERICAN FRIENDS 69-86 (DeLloyd J. Guth & John W. McKenna eds., 1982); and DeLloyd J. Guth, *Centrality of Debt in Western Medieval Sacred and Secular Legal Systems*, in CONTEMPORARY LAW 1994 DROIT CONTEMPORAIN 56-67 (H. Patrick Glenn ed., 1995, reprinted in *Ius Ecclesiae*, VII, 495-510 (1995).

<sup>6</sup> All legal vocabulary, see *supra* note 3, especially GRÁGÁS I, 270-6, and GRÁGÁS II, 405-23.

(*skuldfastr*), by way of a debt made by positive law (*lög*), hence a *lögskuld*. Beyond this was the second sense of debt as duty or obligation, identified and enforced by the positive law as *lögskil*.

This dualism of *skuld* and *skil* generically conceptualised a much more varied and enriched medieval Icelandic legal vocabulary for debt and duty. Different technical words identified a debt-creating, duty-creating human relationship. *Máldagi* meant an agreement that defined a debt, *gera* meant a court or arbitrated award to be collected, a *festamál* was a marriage betrothal agreement, with a *mundarmál* as a bride-price agreement. Then there was the simple *bót*, which was the compensation offered or awarded routinely in the *Sagas* for killing, maiming and wounding. The word *spell*, hence *spilla*, identified damage for which one owed compensation. The *gjöf*, or gift, went to someone with the clear intent of binding its receiver's loyalty and friendship. Any hired thing, a *leigu*, had a hire agreement, or *leigumál*. An inheritance, or *arfr*, might attract all sorts of debtor-creditor conflicts. Then there was the legally allowed interest rate, the *lögleiga*, and pledged money (*veð*), repayments of money (*gjald*) and fines, or *utlegir*, levied by law courts. And of course every *thjófr*, or thief, had stolen goods, or *fóli*, that could be recovered by a law-authorized search, or *rannsaka*.

### III. MEDIEVAL ICELAND'S CONCEPT OF DEBT ACCORDING TO THE SAGAS AND TALES

Medieval Iceland's legal vocabulary suggested a highly sophisticated routine for recorded activities, instruments, encounters and relationships that derived from that simple dualism of debt and duty, of *skuld* and *skil*. But when we shift the focus to our next primary source for law, the *Sagas*, the news we get was not about a sophisticated legal system for enforcing debts and duties. Almost to the contrary, those who gathered and wrote down the *Sagas* and *Tales*, mainly in the thirteenth century, had little or no interest in making the intricacies of law and the judicial processes relevant to everyday life, by which debts and duties could be peacefully administered. The *Saga* writers do not appear to think that one paid debts because law and its enforcement procedures required it. If the *Sagas* are giving us the real medieval news of northern Europe, then that pregnant legal vocabulary seems to be stillborn, and few if any writers bothered with the niceties of law. The *saga* writers' pens located dispute resolution more often on the battlefield than in the courtroom.

The single most dominant debt-duty activity in the *Sagas* was produced by homicide.<sup>7</sup> Killing created, in the victim's survivors, the obligation either for revenge-killing or for collecting the compensation price (*bót*), or both. After Egil Skallagrímsson slaughtered Berg-Onund and his allies in Norway ("almost chopping his head off"), and prior to returning to the safety of Iceland, he said: "We fought; I paid no heed that my violent deeds might be repaid."<sup>8</sup> The rule of law intervened, albeit briefly, when Egil was outlawed and again when he sued Atli the Short in the Gula Assembly for moneys owed from lands confiscated since his outlawry. Egil then challenged Atli to a duel, killed him, and was still denied restitution by none other than King Hakon, who had personally outlawed Egil. Duty, not law and not revenge, then intervened. Egil's friend Arinbjorn gave him the amount of the confiscated debts, out of his own purse, because ". . . it's my duty to make sure that you are not deprived of what is yours by law."<sup>9</sup> The law had failed and a private remedy had to be provided.

We can begin to see answers to the question: "why pay your debts"? These men balanced their own books for their own reasons and basically did so out-of-court. This particular dispute had begun when Berg-Onund withheld a portion of an inheritance (*arfr*) related to Arinbjorn, Egil's friend. That friendship had justified Egil's acting as Arinbjorn's agent in killing Berg-Onund; and the same friendship then justified Arinbjorn's payment of Egil's confiscated land revenues, even though Arinbjorn had had nothing to do with the confiscation or fraudulent conversion of Egil's lands and revenues. This chain of *quid pro quo* actions rooted itself in a debt-duty cycle, with no apologies offered to those who literally lost their heads along the way.

If killing was a commonplace way to create a debt-duty, and kinship or friendship often a reason for the subsequent revenge-killing, then the gift (*gjöf*) was the socially binding cement. There was no free gift in the *Sagas*. It was a crucial instrument in manufacturing social ties of friendship, or of acknowledging kinship loyalties, which would bind two individuals for future times of crises. One major reason for giving gifts was to bend or control the legal system, to create a loyal band of so-called "thingmen," who would support one side against the other in petitions to an assembly or with verdicts in a law

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<sup>7</sup> See WILLIAM IAN MILLER, *BLOODTAKING AND PEACEMAKING: FEUD, LAW AND SOCIETY IN SAGA ICELAND* (1990); JESSE L. BYOCK, *FEUD IN THE ICELANDIC SAGA* (1982); and WILLIAM PENCAK, *THE CONFLICT OF LAW AND JUSTICE IN THE ICELANDIC SAGAS* (1995).

<sup>8</sup> I HREINSSON, *supra* note 2, at 113.

<sup>9</sup> *Id.* at 135-36.

court. In *Gisli Sursson's Saga*, he made clear that "I don't want to accept these gifts—I cannot see how they will be repaid."<sup>10</sup> Gisli knew exactly what he was doing when he replied: "A gift always looks to be repaid."<sup>11</sup> And later to Havard he said: "Here is a gold ring I want you to have," only to be told: "But it is not a debt I was looking to recover."<sup>12</sup> When Gunnar of Greenland sent a board game (probably chess) and a polar bear to King Harald of Norway, the royal response was: "This man's gifts are splendid, but what does he want from us in return?" The answer was: "Quite simply, my lord, your friendship and wise counsel."<sup>13</sup> Thorir Field-Beard put it directly: "I will give you gifts of friendship if you will support me in this matter."<sup>14</sup> That was as naked a bribe as any gift could become. In *Njal's Saga*, Hrut—who had earlier been divorced because his wife claimed "his penis is so large" that she could not be satisfied—proposed that the way to pacify an enemy was to "... give him gifts and he becomes our friend for life."<sup>15</sup>

Beyond gifts to friends and kinsmen, the "giving" was part of other debt-duty creating negotiations. Hreidar saw complications when he said that: "I've got obligations on both sides—you're my friend and he's my brother" but a third party was related "through marriage."<sup>16</sup> Gifts were also used for marriage and conflict resolution. Fathers negotiated directly with would-be husbands, with daughters actively reserving the right to say yes or no. Successful betrothals (*festamál*) and marriages were separately sealed with exchanges of gifts, such as animals, money, jewelry and domestic items. Similarly, most out-of-court dispute settlements were effectively plea-bargained on terms that included exchanges of gifts and compensatory awards. All these gifts created debts for both parties, owed to each other: who then was the debtor? Who then was the creditor?

Obviously the debt-duty realities, even if fictional in the Sagas, were much more complicated than any simple owing of money or of things, based on conventional sales, loans, purchases, barter, exchanges, written contracts and oral promises. All anecdotal examples presented above immediately gave rise to collectable actions of debt and a duty to repay. The Sagas, however, rarely showed such matters being pursued in any courts and assemblies. This was

<sup>10</sup> II HREINSSON, *supra* note 2, at 14.

<sup>11</sup> *Id.* at 18.

<sup>12</sup> *Id.* at 41.

<sup>13</sup> III HREINSSON, *supra* note 2, at 411.

<sup>14</sup> IV HREINSSON, *supra* note 2, at 217.

<sup>15</sup> III HREINSSON, *supra* note 2, at 24.

<sup>16</sup> II HREINSSON, *supra* note 2, at 269, 280.

especially true for the single most frequent debt-creator, at least according to the Sagas: the sword and axe swinging, leg chopping, decapitating killer. Most compensations to be paid to the victim's widow, children, kinsman or friends were never assessed and ordered by a court of law. When Gunnar acknowledged responsibility for his servants' murder by of Njal's servant, he invited Njal to self-assess compensation. Njal asked for twelve ounces of silver and Gunnar paid this to him. Shortly thereafter, Njal's servant killed Gunnar's servant, and the twelve ounces were returned to Gunnar. In both killings the saga writer blamed the wives of Njal and Gunnar for ordering the murders. Njal's wife Bergthora told her sons to "avenge any shame" and Gunnar's wife Hallgerd demanded that he "avenge his kinsman, or else endure the contempt of all men."<sup>17</sup> The Saga-writer went on to construct the social and legal message as follows: "Gunnar and Njal said that no matters would ever arise that they would not settle by themselves. They stuck to this and always remained friends."<sup>18</sup> Where the legal system might fail, personal friendship prevailed. As in *The Saga of the People of Vatnsdal*,<sup>19</sup> a private settlement with compensation was preferable to the public legal process involving outlawry.

Many killers promptly invited their victim's survivors to name the compensatory price (*bót*), as if to say: I have violently eliminated my problem, so how can I non-violently eliminate yours, in terms of your loss of the dead man's future earnings? While the killer's act signified a failure for peaceful negotiations, once the killing had succeeded, the saga writers tell us that the *bót* was negotiated on the killer's survivor's terms. Apparently most killers paid whatever the widow, son, daughter, kinsman, or even friend of the victim, self-assessed the loss to be worth. It remained for the killer, of course, to decide how much he might actually pay to prevent a revenge-killing. But at this point the *bót* began to function more like a license-to-live for the killer, rather than as a punishment. This man-price, or *wergild*, therefore could create highly negotiable and collectable *post-mortem* debt-duty relationships, akin perhaps to our modern world's use of term life insurance policies, payable to survivors! Thus the killer paid the debt in order to live, and in order to prevent any revenge-cycle.

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<sup>17</sup> III HREINSSON, *supra* note 2, at 52, 54.

<sup>18</sup> *Id.* at 55.

<sup>19</sup> IV HREINSSON, *supra* note 2, at 66.

Often a simple debtor-creditor relationship ended either in a forfeiture of collateral or in the creditor killing the debtor, settled privately and in avoidance of any judicial procedure. In the *Saga of Thorstein the White*, we learn that:

Thorstein [the White] was a generous lender, and Steinbjorn borrowed so heavily from him that he ran low on money, until he began to think his debtor in trouble and his investments in Steinbjorn unsafe. So he demanded his money back, and their financial dealings ended with Steinbjorn's handing over the property at Hof to Thorstein [the White].<sup>20</sup>

The unpaid money debts, then, forced a mortgaged transfer of the lands and buildings by way of an out-of-court private settlement.

In another case in the same Saga, however, another Thorstein named the Fair rode inland to collect from Einar Thorirsson a debt he claimed arose from a slander. But that was only part of the story. Einar had previously breached several debt-duty obligations to Thorstein the Fair: abandoning Thorstein, who was sick with scurvy, and their shipping partnership in Norway; and then announcing in Iceland that Thorstein was dead in order to break Thorstein's betrothal to Helga, so that Einar could marry her instead; which he did. When Thorstein the Fair confronted Einar, he said, "I have come because I want to know how you intend to compensate me for your making fun of my having scurvy at sea and for laughing at me with your oarsmen."<sup>21</sup> Einar had the second but not the last laugh, saying: "Go and collect first from all the others who laughed at you. I will compensate you if all the rest do."<sup>22</sup> Infuriated, Thorstein the Fair chased Einar into his bedroom and ran his spear through him; a most Freudian symbolism, in the marital room with a spear, for the man who had stolen his bride! Einar's father, Thorir, soon sent a party of seven to revenge-kill Thorstein the Fair. They managed to kill two brothers of Thorstein the Fair, while losing three of their own gang, including Thorgils. Two broken obligations and one slander produced six dead bodies. Thorstein

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<sup>20</sup> *Id.* at 303-04.

<sup>21</sup> *Id.* at 307.

<sup>22</sup> *Id.*

the Fair fled Iceland for five years and “was outlawed for the slaying of Einar” the following summer.<sup>23</sup>

He prospered mightily abroad as a raider and trader. Upon his return, Thorstein the Fair went straight to Thorstein the White, now old and blind, who—according to the saga writer—“smelled the stench of merchants and asked who had come.”<sup>24</sup> Now the fully private, out-of-court settlement process, so preferred by all the saga writers, began to unfold. The killer offered the victim’s father “self-judgement for your son Thorgils,” meaning name-your-price for compensation.<sup>25</sup> The father said “that he had no wish to have his son Thorgils in a purse . . . [but also] I don’t want to have your head struck from your shoulders. ‘Ears fit best where they grow.’ ”<sup>26</sup> The father offered to “consider us reconciled,” if the killer would move all his wealth into the father’s home at Hof, care for him in his old age and, later, marry Helga, who the killer had been originally betrothed to and whom he had widowed when he killed the slandering Einar.<sup>27</sup>

To summarise the saga writers’ consensus about debt-duty relationships: the realities of medieval Icelandic society dictated a ‘kill first, pay later’ culture which shamelessly used gift-giving to buy loyalties and which preferred private, out-of-court settlements.

Assuming that my reading of the 2184 pages of the five volume English translation is correct, then we must ask if the saga realities are the same as the legal realities; namely, do the Sagas and Tales coincide with what the *Grágás* prescribed as the laws and procedures governing debt-duty relationships. If the two realities were the same, then we can be confident about our knowledge of why medieval Icelanders paid their debts. But if the two realities differed, perhaps dramatically, then what can we know and who should we believe? Does the *Grágás* only tell us the ideal, what ought to be happening for debt-duty enforcement? Or, is it the saga writers who are uniformly distorting reality, either by deliberately cutting the courts out of the picture or at least by ignoring them and taking their activities for granted? What is ultimately at stake here is the legal historian’s best answer to the core question: medieval Iceland’s commitment to the rule of law and, if so, whose law?

<sup>23</sup> *Id.* at 309.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 309-10.

IV. MEDIEVAL ICELAND'S CONCEPT OF DEBT ACCORDING TO THE *GRÁGÁS*

We already know that medieval Iceland had a legal vocabulary that served the conventional technicalities of the debt-duty relationship. We can safely assume that such words existed to be used and did not operate in a void. This brings us, then, to the realities of our third and fourth primary sources for medieval Icelandic debt: the law courts and their procedures, and the substantive law of debt itself. Here we arrive at the single most important collection of medieval laws for all of Europe, the *Grágás*. The uniqueness of the *Grágás* was in the simple fact that, unlike all other European states of the twelfth and thirteenth centuries, the Iceland that produced it had no centralising kingship, no dynastic nobility, no professionalised group of jurists or lawyers, no ecclesiastical power competing for political governance, and no central or even local permanent executive institutions and offices for law enforcement and fiscal administration. Anyone trained in medieval law and history must ask: how did the Icelanders manage?

From the University of Manitoba's first volume of the English translation of the *Grágás*, published in 1980, we know the institutional realities.<sup>28</sup> The assemblies and courts existed, with well-defined procedural requirements. They appeared to have been busy at all times. The first debt-duty that they created was to truth-speaking, in their oath requirement, an obligation to say "words of honour [that] were [not] wrongly given" and to not give "false witness."<sup>29</sup> Then there were the verdicts of usually twelve jurors, sworn to determine conflicting issues of fact. Fines and penalties were to be assessed and paid in the courts, with half going to "the assembly and half to the man who prosecutes."<sup>30</sup> Outlawry, both full and lesser, was the ultimate legal weapon, for which the single most important law court existed: the Confiscation Court.<sup>31</sup> Once the verdict of outlawry was given, "those men who had money owed them by [the outlaw] . . . are to have called witnesses . . . to provide formal means of proof."<sup>32</sup> "Suits concerning money are to be prepared . . . just as for a debt court," which "was only held when someone died leaving debts."<sup>33</sup> Most importantly, the *Grágás* reinforced the violent

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<sup>28</sup> GRÁGÁS I, *supra* note 3.

<sup>29</sup> *Id.* at 62, 68.

<sup>30</sup> *Id.* at 117.

<sup>31</sup> *Id.* at 88-112.

<sup>32</sup> *Id.* at 89-90.

<sup>33</sup> *Id.* at 90.

imagery and reality of the Sagas by devoting two distinct sections to laws governing homicide and the *wergild*, or man-price compensation rules.

Here I can only whet the appetite for knowing more about debt prosecuting and collecting, but two points are obvious: an elaborate set of institutional procedures existed to enforce non-violently the debt-duty relationships; and the saga writers made little significance or record of any of this. While they occasionally described assembly proceedings, these were almost exclusively the formalities for outlawing accused killers, after which nothing further was recorded, *i.e.*, no mention of Confiscation Court proceedings.

Even more to the point, the saga writers simply did not concern themselves with the substantive law of debt-duty relationships, except in the sorts of anecdotal examples which I have excerpted from their narratives. But in the translated edition of *Grágás II*, there were separate sections for such debt-duty matters as the "hire of property," and "on commerce obligations" and "on tithe payments." Each offered elaborately detailed rules of behavior, which I must leave to study on my next occasion. Each revealed a level of sophisticated commercial law unrivalled in the records of the rest of medieval Europe. Each established beyond doubt that debt-duty relationships were ruled by law, and not by violence, privately powered settlements, the bribery of gifts, or the bondage of blood.

## V. CONCLUSIONS

In any legal system the debt-duty relationships must be enforceable, whether in or out of court. The answers to the question, "why pay your debts?" rest on a wide variety of reasons, intentions and authorities. The first is usually a positive law requirement: the statute or code commands you. This plays no role in the Sagas but is important to the *Grágás*. The second may be because the customary law, usually in the oral tradition, expects you to do so for the sake of community order. This is more important to the Sagas than to the *Grágás*. The third emphasises analogies to past similar cases as precedents, but this approach, which we identify with the English common law, does not seem to matter either in the Sagas' version of reality or that of the *Grágás*. Fourthly, there is no sign of a religious law requirement for paying your debts in either of the texts. However, there are occasional hints of morality, of a consensus about what is right and what is wrong, and about justice and equity, operating in the Saga narratives regarding debt-duty. In the fifth category is the conventional reason for paying your debts: a *quid pro quo* exists, involving reciprocity and mutual consideration. Similarly, and sixthly, the principle of

*status quo ante* requires that the debt-duty relationship be restored or be returned to what existed prior to it. Seventh, one pays one's debts because of a recorded promissory commitment, whether oral or literal. There may be subtleties and nuances in the Sagas to suggest such reasons as *quid pro quo* and *status quo ante*, but they are not as explicit to the narratives as is the naked promise, on which reputation and honor rest. The *Grágás*, however, did not explain its substantive law of debt-duty in such terms; but there can be little doubt that it was governed by such prescriptive thinking. The eighth reason divides the two texts dramatically: brute force is the technique of the Sagas in which you pay debts under the threat, and then the reality, of violence. This is exactly what the *Grágás*'s laws and procedures were designed to prevent. This brings us to the ninth, and final, element: self-help. The Sagas presented it as the norm; the *Grágás*, out of necessity, institutionalised self-help. This is because judges and jurors must decide according to the rules of law. Therefore by using self-help, the courts could then license the winner to go out and enforce that judgment. The self-help system was therefore the result of a medieval Icelandic legal system that lacked an institutionalised enforcement bureaucracy, as existed for example, in England through royal officials and an executory writ system.

Reconciling the legal realities of the Sagas and the *Grágás* regarding debt-duty relationships is a much larger task than this Article can accomplish. Here I can only offer tentatively my own thematic suggestions and documentary readings, knowing full well that wiser, more learned scholars precede me, especially in Iceland but also in North America, like William Ian Miller and Jesse Byock, and in the three marvelous English translators of the *Grágás*, Andrew Dennis, Peter Foote and Richard Perkins.

There is something majestic and monstrous about the medieval Iceland portrayed in the Sagas. There is something meticulous and monumental about the rational order portrayed in the *Grágás*. Together they make a wonderful connective in legal history. *Njals Saga*, for example, shows that law, and knowledge of law, were of great importance in Icelandic society but not as paramount as the blood feud in creating obligations. Alan Watson has read carefully the Roman sources of law, most notably *The Digest of Justinian*,<sup>34</sup> which portray a law of obligation that is bloodless, which it never could have been. Connecting law with social reality must remain a mystery that legal historians are best equipped to pursue. That is also why the legal historian

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<sup>34</sup> DIGEST OF JUSTINIAN (Theodore Mommsen & Paul Krueger, eds., Alan Watson, trans., 1985).

owes a debt-duty to combine the literary and legal truths of any culture, especially one that so beautifully and so uniquely documents an Iceland that remains a medieval and modern model for the world.

