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Ordeal in Iceland

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ORDEAL HOLDS a strange fascination for us. It appalls and intrigues. We marvel at the mentality of those cultures that officialize it; we feel a sense of horror as we imagine ourselves intimately involved with boiling water or glowing irons. And we don't feel quite up to it. So our terror and cowardice become their brutality and irrationality. I am not about to urge the reinstitution of ordeals, although most practicing lawyers will tell you that that is still what going to law is, a crapshoot they say. What I want to do is call attention to the difficulty of not being either contemptuous or romantic about customs of others that shock us or amuse us.

Social historians have borrowed much from anthropologists lately, not all of it good. From them we justify our attraction to the strange and dissimilar, to things that give us topics that are droll or outrageous. We seek to steal from anthropologists the style of the good tale without returning to the narrative style of political history. Anthropology justifies our attention to the exotic and replaces the exotica we lost when we gave up those kings and queens. The exotic also gives us a style, an ironic one. To describe what is offensive, shocking, or outrageous to us in a detached, academic style is to be ironic whether we like it or not, whether we are conscious of it or not. We have drollery thrust upon us, and we are not altogether displeased. The strange attracts us for another reason. We think we do a better job with it. It is easier to get a fix on, to discern its functions and effects because it is so obviously removed from us; it is, we feel, the Other. But the benefits we gain by separation can be undone by a tendency to invest the strange with a centrality and typicality that it may never have had, just because its very strangeness is so salient to us. Does the fact that ordeal might have been available in a culture mean that it holds a key to that society's sensibility or even to its dispute-processing system? Why should it merit any more attention than, say, the process of negotiation? I raise these issues to make explicit some of the temptations I succumb to in my own work and that are also present in various degrees in much of the recent ordeal literature.

The ordeal has had its share of able attention in the last decade. Rebecca Coleman, Peter Brown, and Paul Hyams all share a concern to rehabilitate the ordeal, to see it in its social context.[1] They reject the well-established censorious view that sees ordeal and oath as irrational modes of proof, irrational, that is, when compared to the eminent rationality of jury, inquisition, and proof by witness (see, e.g., Pluncknett

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113–15; van Caenegem 386–89, 430). They search instead to discover the function of ordeal, to see how it worked and even why it worked for so long. They are all admittedly indebted to British social anthropology and an underlying functionalist assumption that such a custom "must have made sense in its time and context" (Hyams 91).

What they argue, and here I follow Hyams and Brown, is that the ordeal is a device of small face-to-face communities in which the kin group is one of the key social groupings. People there are probably more conversant with feud than with the coercive power of the state. The primary goal of social control and dispute-processing techniques is to maintain peace and concord. It is a world of talk and consensus-building, of compromise solutions rather than adjudicated outcomes (Brown 137; Hyams 95–98; also J. Roberts 207–09). In this context the ordeal in Brown's words is an "instrument of consensus," a "theatrical device by which to contain disruptive conflict" (Brown 137; cf. Hyams 97 n.30). The ordeal was able to function as such a device because it "was mercifully slow." The process invited bargain and maneuver. "God might be believed to speak in an ordeal, but the human group took an unconscionably long time letting Him get a word in edgewise" (Brown 137).

Still, the ritual had an element of finalty that could bring closure to a case in a world where "the constant urge to reopen *res judicata* [was] the law's greatest bane" (Hyams 98). In that world it took dramatic and violent action to prevent sucessive waves of even greater violence. "When the rift runs deepest, the community requires an especially harsh and spectacular method of seeking God's judgment, comprising more than an element of punishment" (Hyams 98). Above all, the ordeal was a flexible device because it was ambiguous. In both the ordeal of iron and boiling water the hand was to be bandaged and unbound again three days later before witnesses.[2] Probands were cleared if the hand was healing cleanly; they failed if it was festering and infected. Needless to say there was often a lot of room for disagreement; but the ambivalence of the result formed the basis for consensus-building. According to Brown, "paradoxically, it is around precisely this ambiguous experience that unanimity is crystalized" (139). And the decision regarding the success or failure of the ordeal would be motivated at various levels of consciousness by a sense of what the result should be, given the identity of the party, the nature of the offense, the strength and popularity of his or his opponent's supporters, etc. (Fouracre 222; also Peters 146–55). "Judicial realism," in other words, could thrive as well in the world of ordeal as in the world of "rational" decision-making.

This functional communitarian view has recently been attacked by Robert Bartlett, who makes several points in opposition. The functionalist

social anthropological model was derived from societies a lot simpler than medieval European ones. They lacked one key element: the very real presence of rule-making lordship. For Bartlett ordeal was not a hallmark of a culture of consensus; it was not therapeutic and popular, but regalian, coercive, and intrusive. The community did not decide the issue. The administration of ordeals was institutionalized as a "regular part of the judicial procedure and they were presided over by formally constituted authorities" (Bartlett 41). The ordeal did not lead to consensus, it got results. Bartlett's emphasis is everywhere on the instrumental aspects of the ordeal (e.g., ch. 3, pp. 37, 159).[3] Although Bartlett purports to be hostile to the functional model, he appears to be inescapably a functionalist himself. He by no means adopts the censorious tone of the evolutionalists who see the ordeal as barbarian survival. He does not dismiss ordeal as irrational (156-65). His hostility is not to functional analysis, but to what he perceives as a soft romanticism of consensual communities. His own preferences for tough-minded authority are, however, no less romantic for being authoritarian.[4]

I have presented neither view with the detail and nuance it deserves and have tended to caricature them somewhat, but I hope to have provided sufficient background against which the Icelandic materials and my views of them are to be criticized and understood. Bartlett's view can have only attenuated relevance to Iceland, a medieval society remarkable for its absence of intrusive rule-making lordship. And, as we shall see, even if we concede to the *goðar* ('chieftains') some of the attributes of lordship, Bartlett's model is still not especially compatible with the Icelandic evidence. But this is not to say that the consensual model works all that well either, and Bartlett provides some useful bases for questioning it. In short, neither view captures the range of significances the ordeal might have in particular situations, depending on the changing and very practical concerns of those involved in the mundane business of asserting and defending claims and in the give and take of competing for power and status.

In this paper, I intend to present and discuss the Icelandic evidence on ordeal with a view to determining the process that led people to use the ordeal and the ways in which they manipulated it to their advantage. Some attempt will be made to get at the set of beliefs, if any, that supported the ordeal and its use. I have also somewhat arbitrarily narrowed the topic to the unilateral ordeals of turf, iron, and boiling water,[5] thus excluding lots[6] and *hólmganga* ('formal duel'), the latter having been adequately dealt with in numerous places (Maurer, *Altisländ. Strafrecht* 694–711; Jones; Ciklamini; Bø). In any event the consensus opinion is that the Old Norse *hólmganga* was not properly an ordeal; it did not

involve a *judicium Dei* (Ciklamini 181; Bø 132–35; Heusler 35; Maurer, *Altisländ. Strafrecht* 705). I also make only passing reference to oaths, which, although they share many features with the traditional unilateral ordeals, raise other issues better dealt with separately. Although this procedure somewhat artificially circumscribes the discourse, I invoke long established scholarly custom as precedent (Bartlett; Hyams; Lea; Patetta).

The presently accepted view is that the ordeals of iron and boiling water were not a pan-Germanic institution (Bartlett 7; Nottarp 69; cf. Brunner 262–64). Bartlett (7) claims a Frankish origin for them and attributes their spread to Frankish influence. A very recent observation, however, suggests that the Franks picked up the practice from Roman vulgar or ecclesiastical law (Wood 19). Whichever may have been the case, it is fairly clear that cauldron and iron were not native to pre-Christian Scandinavia and that their presence in the Scandinavian codes is attributable to Christian influence (Maurer, "Gottesurt." 42–43; Nottarp 72; Bartlett 43–44). Guðrún in "Guðrúnarkviða in þriðja" bears witness to the southern origins of the boiling water ordeal (*Edda* 233):

> Sentu at Saxa, sunnmanna gram!
> hann kann helga hver vellanda.
>
> Send for Saxi, the southern king!
> He knows how to hallow the boiling cauldron.

And the Old Norse word for ordeal, *skírsla, skírsl*, is undoubtedly a calque of *purgatio* (Maurer, "Gottesurt." 139–40). But Iceland, at least, had a native ordeal, the ordeal of turf, that saga sources indicate was current before Christianity. We will return to this ordeal in detail below.

The unavoidable sense of the sources is that in Iceland the ordeal was not a very important feature of the formal legal system. The medieval Icelandic laws, known collectively as *Grágás*, limited ordeal to cases of paternity, adultery, and incest or marriage in violation of the prohibited degrees of kinship,[7] but even in those instances the ordeal often appeared as supplementary to the more routine procedure of witness testimony or panel verdicts (e.g., *Grágás* Ib 53, II 192). There is no good reason to dispute Maurer's view that the Icelandic preference for the verdict of neighbors (*búakviðr*) pushed the ordeal to the periphery of the formal system of proof ("Gottesurt." 142). By contrast, in Norway, where the usual mode of proof was compurgation, the ordeal was much more frequently resorted to in the laws. The *Frostaþingslǫg*, for instance, provides for ordeal in proving matters of paternity (II. 1), sorcery (III. 15), bestiality (III. 18), housebreaking (IV. 5), homicide in which one of a group of possible killers must be selected (IV. 6, 14, 23), inheritance when the

claimant was conceived abroad (VIII. 16), and freeborn status (IX. 10).

The sagas, however, suggest that the possibility of recourse to ordeal in Iceland might have been a little more in the air than the laws indicate. The greater portion of Icelandic dispute-processing took place outside the formal confines of the law (Heusler 38–47; Miller, "Arbitration"). The sagas show ordeals being offered, demanded, and administered in the context of negotiations and arbitrations stipulated to by private agreement of the parties. Ordeals are thus extended to include cases of theft (*Sturlu s.* 4:65–67; *Guðm. dýra* 9:176–77), simultaneous death (*Lax.* 18:42–43), plots to kill (*Hrafn Sv.* 15:421–22),[8] and, as in Norway, homicide, when it was uncertain exactly who in a group of people involved in a melee had done the killing (*Ísl.* 24:254). Although our sample of cases is small—there are ten saga cases dealing with ordeal in Iceland[9]—it is significant, I think, that no case clearly takes place at law. In other words, contra Bartlett, we do not see the ordeal imposed on unwilling litigants by coercive authority. For the most part it is a matter of private arrangement, of disputants' choices.

I do not mean to make the situation rosier than it was. Disputants' wills were not always entirely free. The range of possible choices might be quite narrow in certain cases, the culture having pretty much made the choice already. The law cast a shadow over most arbitration and negotiation, and it should not come as a surprise to us that the choices of disputants might be greatly affected, if not exactly predetermined, by the legal context in which the dispute arose. Thus it is that women were put to the ordeal, ostensibly agreed to by them or in any event by their male representatives, in cases of disputed paternity just as they could have been had the case been processed at law (*Ljós.* 23:69).

It is to the sagas that we must turn to see how ordeal worked in Iceland, for the laws, with one small exception (*Grágás* Ib 216), give us virtually no clue. Saga evidence indicates that post-conversion ordeals were administered in the same general fashion that they were in Europe (Nottarp 213–60). A fairly typical procedure from the laws of Æthelstan will suffice:

> Gif hwa ordales weddige, ðonne cume he þrim nihtum ær to þam mæssepreoste þe hit halgian scyle, ond fede hine sylfne mid hlafe 7 mid wætre 7 sealte 7 wyrtum, ær he togan scyle, 7 gestonde him mæssan þæra þreora daga ælcne, 7 offrige to 7 gá to husle ðy dæge þe he to ðam ordale gan scyle, 7 swerige ðonne þone að þæt he sy mid folcryhte unscyldig ðære tihtlan, ær he to þam ordale gá.
>
> 7 gif hit sy wæter, ðæt he gedufe oþre healfe elne on þam

rape; gif hit sy ysenordal, beon ðreo niht, ær mon þa hond undó.

(If a person pledges an ordeal, he shall go to the priest who is to hallow it three days before and feed himself on bread and water, salt and vegetables, before he undergoes it; and on each of these three days he is to hear mass. On the day he goes to the ordeal, he shall make an offering and take communion, and then before he undertakes the ordeal, he shall swear the oath that he, in accordance with the law, is innocent of the charge.

If it be the ordeal of iron, three days should pass before the hand is unbandaged [II Athelstan 23–23.1 in Liebermann 1]).

The sagas confirm that the proband fasted (*Ljós.* 23:69), that the hand was wrapped and unbound after a certain time (*Ljós.*; *Sturlu s.* 9:73), and that there was clerical supervision of the ordeal (*Ljós.*; *Sturlu s. Guðm. dýra* 9:177). The sagas are otherwise silent about particulars of ritual in the ordeal of iron. But in several instances they provide us with nice accounts of the maneuvering, manipulation, and tension that might take place in actual cases. In order to understand the situations that lead to ordeal, it is best to give rather full accounts of the disputes in which they take place.

There was a farmer's daughter named Friðgerðr who entered service with Þorkell (*Ljós.* 22-3:63-70). At the same farm was also lodged Brandr, his foster son and kinsman. A short time later Brandr went abroad, assigning beforehand to Þorkell the power to prosecute or defend any claims in which he might have an interest. Friðgerðr soon discovered herself pregnant and informed Þorkell, naming Brandr as the father. Þorkell denied her claim and she returned quite displeased to her father, who in turn visited Þorkell and made a moderate claim for reparation: he, too, was rebuffed. Friðgerðr's father then sought the support of Eyjólfr, his *goði*, and formally transferred the claim to him. Eyjólfr raised the matter with Þorkell, making a reasonable demand for compensation. But Þorkell was no more obliging than before. He would be doing his foster son a great wrong, he said, to admit liability since "anyone is equally likely to have lain with Friðgerðr" ("allir eru jafnlíkligir til samlags við Friðgerði 23.68"). And without knowing how the evidence (*sannendi*) against Brandr stood, he would not give a better answer. Eyjólfr responded by raising the possibility of an ordeal, in a passage that has more than its share of technical difficulties:

Eyjólfr svarar: "Þá eru þér tregari en vér myndim vilja, en ek mun hógliga til mæla. Villtu handsala lǫgréttu, ok skíri hon sik, ok handsala faðerni, ef hon verðr skír?" Þorkell svarar: "Þungr verðr hlutrinn várr, ef ek handsala faðerni, en annarr verðr sannr

at. En skírslunnar mun ek eigi varna; sumir kveða þó langstaðit; ok vil ek handsala rétt presti þeim, er skírslu gerir." Eyjólfr svarar: "Þat mun í lýsask, at ek vil sættask, ok kýs ek þetta af." Síðan gerði Þorkell svá, at handsalaði presti rétt, ef hon yrði skír, ok eindaga á fénu.

("You are less obliging than we would wish," answered Eyjólfr, "but I will proceed with moderation. Will you pledge payment of her personal compensation (*réttr*) should she undergo the ordeal and guarantee the paternity obligation if she is cleared?"

"That's a bad position for us to be in if I guarantee the paternity obligation and someone else turns out to be the father," Þorkell responded, "but I will not oppose the ordeal, although some will say that the case is stale. I will pledge her personal compensation to the priest who officiates at the ordeal."

"As a sign that I am willing to settle," said Eyjólfr, "I will accept the stipulation." Then Þorkell pledged payment of her compensation to the priest and a day was set for paying it over if she succeeded at the ordeal.)

In a narrow sense, Eyjólfr's proposal to submit the veracity of Friðgerðr's claim to ordeal was a response to Þorkell's request for evidence. It is not at all certain, however, that proof by ordeal was what Þorkell had in mind, as indeed his subsequent reservations about it would appear to suggest. He might well have preferred proof by witness since, as the householder of the place where the events occurred, he would have had substantial control of the content of witness testimony, more control than he would have had of God's judgment.[10] In a broader sense, ordeal was offered when it became clear that the negotiations were going nowhere. Ordeal simply did not occur to anyone until the dispute had already gone through several small transformations. Both Friðgerðr and her father had made claims without suggesting it. And even Eyjólfr, when he took over the case, at first proceeded amicably by negotiation and not by initiating a formal lawsuit, a right that, in fact, the laws gave him (*Grágás* Ib 53). The course of this dispute shows the commitment of people to try to handle this kind of claim by settlement-directed talk (S. Roberts 69-79) rather than by the controlled violence of ordeal and lawsuit or the more free-form violence of feud.[11] There is no suggestion of a "tendency to fly to the ordeal in any matter of doubt whatsoever" (Southern 96). It should also be noted that when the offer of ordeal finally was made it was by someone quite removed by affective ties to the woman who would actually have to bear the iron.[12]

But on the other side we note that Þorkell was not especially pleased

with the prospect of an ordeal either, and his reasons clearly had nothing to do with concerns for Friðgerðr's pain. Þorkell was annoyed at even having to be bothered with the claim. He believed that he and his charge were totally without obligation in the matter. Although he experienced a brief moment of doubt,[13] he could not believe that his foster son would have set him up without informing him of the possible claim. He thus refused to admit the liability others wished to impose on him ("Saklauss em ek um þetta mál [22:66]": "I have no guilt in this affair") by virtue of his being head of the household in which all the trouble arose and by virtue of his kinship to, and agreement with, the wrongdoer. Þorkell's truculence was also strongly motivated by historical concerns. He was a member of a kin group that for more than a generation had been opposed to the group now headed by Eyjólfr. The mere fact that it was Eyjólfr who had made the offer provokes resistance. Nor did it seem to matter the least bit to Þorkell that Eyjólfr was a *goði* and substantially more powerful than he himself. Even if there might have been some hint of intimidation in the negotiation as a consequence of the difference in their rank, Þorkell did not appear much affected by it. But part of his lack of enthusiasm might have had something to do with ordeal. According to the sagas, none of the ten people in Iceland who actually underwent ordeals failed. The sample size is unfortunately much too small for us to draw any firm conclusions. But if Þorkell's information was similar to ours, he might have had some misgivings about putting himself in the position of the party who won if the proband failed. The ordeal may have involved risks greater than the usual ones that attended refusals to compromise. Yet Þorkell really had no choice but to accept the offer since Eyjólfr could compel him to do so by initiating a lawsuit. But he did not have to accept with grace.

Ordeal was there to be used in a pinch. We have already noted above that Eyjólfr did not propose one until it was clear that a settlement was not to be had by a simple agreement admitting some liability. The offer of ordeal was a concession to Þorkell's recalcitrance as well as to his request for evidence. In this context it showed Eyjólfr's willingness to come to an agreement while at the same time serving as a reminder that the next step was a lawsuit. Thus the terms of Eyjolfr's offer track the many elements of the suit he feels he might have to initiate. The message was not lost on Þorkell who, thinking legally, grumblingly intimates he might have a legal defense because a limitations period had run.[14] A successful lawsuit would yield an assessment for the *réttr* ('personal compensation')[15] and *faðerni* ('paternity obligation'), could very possibly involve Friðgerðr going to the ordeal,[16] and would lead to the outlawry of the defendant (*Grágás* Ib 51–51), 53, 216; *sensu* II 192).

Still, both sides stood to gain from having the ordeal take place outside the context of a formal suit. Eyjólfr was saved the annoyance and danger of leading a formal prosecution, and the defendant would at best suffer only monetary damage, since outlawry claims seem to have been waived (Miller, "Arbitration" 107–15). Þorkell was allowed to save some face by playing tough regarding the details of his suretyship for the financial obligations. But the ordeal itself went no more smoothly than the haggling leading up to it:

> Skírsla skyldi vera í Laufási. En sá prestr hét Ketill, er gerði skírsluna, er kallaðr var Mǫðrvellinga prestr. . . . Síðan fastaði hon. En Eyjólfr bauzk nú til at sjá skírsluna ok kvað auðsætt, at þeir vildi enn tefja málit. "Ok skal því meira hug á leggja eptir at sjá." Þorkell kom þar, ok var nú leyst til handarinnar. Prestr veiti eigi skjót atkvæði. Þá mælti Þorkell: "Hví er þú svá mikill verrfeðrungr at segja eigi, at hon er brunnin?"—ok nefndi sér vátta at því. Prestr mælti: "Nú ferr óliðliga, er þit dœmið ok takið málit fyrir hendr mér fram, er ek á atkvæðit at veita, ok skal vera enn tilraun ǫnnur skírari." Eyjólfr svarar: "Eigi má skírari vera, en fyrir fjándskap þinn ok mútur, er þú hefir til tekit, þá skal ek heimta sem fǫðurarf minn." Þorkell svarar: "Vitu vér þat, Ljósvetningar, at ósparir hafi þér lengi verit við oss um fjándskapinn." Eyjólfr svarar: "Þér hófuð fyrri fjándskapinn, en kómuð niðr hart eptir verðleikum." Þorkell svarar: "Fyrir þessa sǫk skal ek annathvárt láta allt fé mitt eða ekki" [23:69].

> (The ordeal was to take place at Laufáss. A priest named Ketill was to conduct the ordeal; he was called the priest of the Mǫðrvellings. . . . Friðgerðr then fasted. Eyjólfr proposed to supervise the ordeal and said it was clear that the others would hinder the process, "and for that reason I will pay even more attention." Þorkell arrived, and her hand was unbandaged. The priest was slow to decide.
>
> Then Þorkell said, "Why are you such a blot on your father's name that you don't state outright that her hand is burned?" and he named witnesses to this.
>
> The priest said, "It's out of order for you two to pronounce the judgment and take the case out of my hands; the decision is mine to make. We shall make a second clearer trial of the matter."
>
> "It couldn't be clearer," said Eyjólfr, "but for your enmity and bribe-taking, and because of that I will pursue the claim as if it were my own inheritance."
>
> "We Ljósvetnings have known for a long time that your

hostility toward us is unsparing," said Þorkell.

"You started the hostility," said Eyjólfr, "and it came down hard on you just as you deserved."

"I am prepared to stake everything on this case," countered Þorkell.)

Mistrust and uncertainty characterized this ordeal. Eyjólfr suspected from the outset that the opposition had planned some underhandedness. The officiating priest was unsure of the results. And this led the disputants, both of whom were certain of the results but disagreed as to what they were, to hurl accusations at him. Þorkell cursed his indecisiveness, and Eyjólfr felt him to be on the take. Eyjólfr's irritation might have had something to do with having thought Ketill would be predisposed toward him. The priest's cognomem—"Mǫðrvellinga prestr"—links him to Eyjólfr's people, the Mǫðrvellingar.[17] Both sides then hardened their positions. Eyjólfr would make no further concessions and announced that he would continue the dispute, not as a representative of Friðgerðr this time, but in his own right: "I will pursue the claim as if it were my own inheritance." And Þorkell explicitly brought the dispute within the frame of the longstanding feud between Þorkell's kin, the Ljósvetnings, and Eyjólfr's kin—a consequence Eyjólfr had been studiously trying to avoid.[18]

The ordeal concluded nothing. There was no consensus as to outcome; there was not even agreement as to who should be empowered to determine the outcome. The occasion provided only a highly charged moment that helped further alienate the opposing sides. This incident, it should be noted, led to mobilization by both sides and to armed conflict. The dispute thus suffered a major transformation, both in the style of processing and in the numbers actively drawn into it. Bartlett uses this case to argue against Brown's view that the ambiguity of the ordeal helped generate consensus.[19] Bartlett further finds that the episode argues against group decision-making and rather for instituted and official authority: "The priest was expected to decide. He was worth bribing" (41).

But this view ignores several things. For one, the priest was not there as a representative of state or lord; he was there by agreement of the parties. For another, it is possible that the parties felt that some of the decision-making power belonged to them. They were certainly able to prevent the priest from appropriating the case to himself, and they withdrew it from him. If the case shows anything, it shows that arbitrated and adjudicated outcomes depended on more than one person's view of the evidence, whether he was priest or party. The case suggests fairly insistently that the ordeal could not be a vehicle for consensus if there

did not exist an urge toward consensus independent of the ordeal, nor could it be a successful vehicle for coercion unless the people who witnessed it were in basic agreement about the outcome (Reynolds 26). In other words, whether the community is defined in the particular context as a panel of neighbors, an audience, or the supporters gathered by the principal parties, some collective participation was needed to effect a workable decision. This is particularly true in Iceland where almost all successful social action and all successful legal action required active third-party involvement (see Miller, "Arbitration").

The ordeal, it seems, had a rather malleable cultural significance depending on the precise social context in which it arose. Identity of the parties, their past relations, their relative status, the exact issue in dispute, whether the ordeal was imposed by some authority or agreed to by both parties, whether it was customary in the particular setting, whether proxies were permitted to bear the iron, whether it was offered or demanded by the principals or suggested by third parties, would all affect the meaning of the ordeal. So, too, its significance would depend on whether it led to a result or was inconclusive. Rituals mean one thing when they work as planned and another thing when they backfire. It should not be surprising that an ordeal could yield either consensus or discord; its inherent ambiguity made it admirably suitable for either, depending on a myriad of variables.

Nothing in the nature of paternity cases would allow us to predict which side in a negotiation, if either, would raise the question of ordeal. One could, in fact, more easily imagine Þorkell demanding Friðgerðr submit to it than Eyjólfr offering her up to it. There is little indication, in this case, that the ordeal is coercive and intrusive in the way Bartlett wishes to see it; whether an ordeal is offered or demanded will depend on which side feels it will most benefit by doing so. And as with the ceremony proper the precise significance of playing an ordeal chip is context specific. In the larger scheme of things it is very hard to tell to whose benefit the mere availability of ordeals accrued without our knowing something about what the rates of outcome were and about how often ordeals were resorted to in those cases in which they were customarily available. Unfortunately this is information that will never be available to us.[20]

In one way the ordeal in this case might be seen as coercive, not of subject by lord or thingman by *goði*, but of women by men. Not only must Friðgerðr support her assertion with the iron, but Ketill, the priest, also wants her to bear the burden of the ordeal's inconclusiveness by having her carrying it again. Ketill is not extemporizing. He is moved by the authority of the law texts: "Byscopar scolo cost eiga at gera scirslor

optaR en vm siN vm faðerne manz ef þeim þickir þess þurfa oc scal su scirsla rétt er siðar er gor" (*Grágás* Ib 216: "Bishops shall have the option of holding more than one ordeal about a person's paternity if it appears that it is necessary and the last ordeal is to be the governing one"). Repeating ordeals in this fashion is apparently allowed only in paternity cases.[21] But seeing ordeal as a means of supporting male dominion over women is hard to maintain, at least in any way that would differentiate it from other legal and social disabilities women were subjected to. Men could be put to the ordeal in sexual matters, too (*Grágás* II 182, 206). The sagas show a fornication case in which the brother of the woman concerned puts the man to the ordeal to test the validity of his denial of involvement (*Sturlu s.* 9:73). Again, as in Friðgerðr's case, we see kinsmen reluctant to see their own flesh and blood burned. This same case also shows that the person whose word was being tested need not be the one actually forced to undergo the ordeal (Nottarp 261–64). The accused fornicator's place was taken by a certain man named Grímr, of whom nothing else is known. Sometimes, evidently, anyone's hand would do, although the extent to which representation was allowed is unclear. Presumably, within certain limits, it was negotiable. Moreover, the question of precisely which issue was to be proved by ordeal left a lot of room for maneuver and coalition-building. Would the man have to prove his denial, or the woman her assertion? The laws are sufficiently ambiguous to support either alternative (cf. *Grágás* Ib 49, II 192, 206), and the decision was likely to reflect the relative bargaining power of the parties. Of the ten saga cases only two clearly involve female probands. The other case involves an issue of paternity but is not technically a paternity case. In it the proband apparently volunteers herself for the ordeal to prove her own filiation for the purpose of her securing her inheritance rights (*Ísl.* 126:409; cf. also *Þorgils s.* 29:47).

Laxdœla saga gives us an account of another ordeal in the context of an inheritance dispute. The events take place in the tenth century prior to the conversion to Christianity.[22] This time the issue is not paternity, but simultaneous death. A shipwreck wiped out a husband, wife, child, and wife's father. Depending on the order of deaths the wife's surviving sister stood to take the entire estate of each victim or only half the estate of her father (i.e., WiFa). The dispute, as processed, pits the dead wife's sister's husband, Þorkell trefill, against the kinsmen of the dead husband. The sole survivor of the wreck was a man named Guðmundr. Þorkell secretly arranged with him to report the order of deaths in the way that Þorkell told him. I quote the remainder of the rich saga passage in full:

> Nú reiðisk þessi frásǫgn af Þorkatli ok hans mǫnnum, en Guðmundr hafði áðr nǫkkut qðruvísa sagt. Nú þótti þeim frændum

Þórarins (Hu) nǫkkut ifanlig sjá saga, ok kǫlluðusk eigi mundu trúnað á leggja raunarlaust, ok tǫlðu þeir sér fé hálft við Þorkel, en Þorkell þykkisk einn allt eiga ok bað gera til skírslu at sið þeira. Þat var þá skírsla í þat mund, at ganga skyldi undir jarðarmen, þat er torfa var ristin ór velli; skyldu endarnir torfunnar vera fastir í vellinum, en sá maðr, er skírsluna skyldi fram flytja, skyldi þar ganga undir. Þorkell trefill grunar nǫkkut, hvárt þannig mun farit hafa um líflát manna, sem þeir Guðmundr hǫfðu sagt it síðara sinni. Ekki þóttusk heiðnir menn minna eiga í ábyrgð, þá er slíka hluti skyldi fremja, en nú þykkjask eiga kristnir menn, þá er skírslur eru gǫrvar. Þá varð sá skírr, er undir jarðarmen gekk, ef torfan fell eigi á hann. Þorkell gerði ráð við tvá menn, at þeir skyldi sik láta á skilja um einnhvern hlut ok vera þar nær staddir, þá er skírslan væri frǫmð, ok koma við torfuna svá mjǫk, at allir sæi, at þeir felldi hana. Eptir þetta ræðr sá til, er skírsluna skyldi af hǫndum inna, ok jafnskjótt sem hann var kominn undir jarðarmenit, hlaupask þessir menn at mót með vápnum, sem til þess váru settir, mœtask þeir hjá torfubugnum ok liggja þar fallnir, ok fellr ofan jarðarmenit, sem ván var. Síðan hlaupa menn í millum þeira ok skilja þá; var þat auðvelt, því at þeir bǫrðusk með engum háska. Þorkell trefill leitaði orðróms um skírsluna; mæltu nú allir hans menn, at vel myndi hlýtt hafa, ef engir hefði spillt. Síðan tók Þorkell lausafé allt, en lǫndin leggjask upp á Hrappsstǫðum [18.42–3].

(Þorkell and his men spread this story around, but Guðmundr had earlier told another tale. The story seemed somewhat doubtful to the husband's kin. They said they would not believe it without proof and claimed half of the property for themselves. But Þorkell thought he alone should have it all and requested there be an ordeal in accordance with their custom. The ordeal in that time was to pass under a layer of turf that had been cut away from the earth with the ends still fastened to the ground. The man who had to undergo the ordeal had to pass under it. Þorkell trefill had some suspicions whether the order of deaths had actually happened as Guðmundr and he had said. Heathens did not consider themselves to have less responsiblity when such rituals were performed than Christians do now when ordeals are undertaken. The person who passed under the turf was cleared if the turf didn't fall on him. Þorkell arranged with two men to fight over something and be present when the ordeal was going on and to make contact with the turf great enough that everyone could see that they had made it fall. After that the one who was to undergo the ordeal

> presented himself, and as soon as he was under the turf these men, as was agreed, started going at it with weapons; they bumped into the raised turf and fell on top of it. The strip of turf fell, too, as was only to be expected. People jumped in to separate them, which was easy to do since they weren't fighting very hard. Þorkell trefill sought the public view of the ordeal. His men all said then that everything would have gone well if people hadn't ruined it. Afterwards Þorkell took all the movables, but the land at Hrappsstaðir lay idle.)

In the previous case Eyjólfr suspected that there might have been shady dealings; in this case there are. Þorkell leaves little to chance and even less to the gods. He suborns the surviving eyewitness, and when that is suspected, he choreographs the ordeal, not to successful conclusion, but to abortion, so as to put the affair to the "community." And one can imagine that Þorkell has not left the composition of the relevant community to chance. There is no mention that Þorkell's supporters outnumber the other side. What we see is Þorkell's cleverness in getting the jump on the others in the immediate aftermath of the failed ritual, less an example of coercion than of finesse. His hasty question to the observing audience, many of whom are his supporters, catches his adversaries off guard; it does not overpower them.

The saga account is somewhat fuzzy regarding certain particulars. We do not know exactly who or what is being put to the ordeal. The unnamed man who undergoes it does not appear to be either Guðmundr or Þorkell. Presumably the ordeal is confirming someone's statement or oath; most likely it is Guðmundr's, but it could be Þorkell's (Pappenheim 28). Nor do we know the formal decision-making process regarding the ordeal's outcome. There was no priest, but were there judges or specially selected people whose responsibility it was to declare the result? It might well be that we are really observing community decision-making here. The turf ordeal would be especially well suited for it. Unlike the trials by iron or cauldron there is no three-day wait; whether the turf is still supported by the stake or not has a lot less gray area than whether a burned hand is healing properly. Passing under turf does not require a miracle and hence no need for expertise in evaluating God's work. The range of ambuiguity in the turf ordeal is small indeed. In fact, the sole effect of Þorkell's "fixing" the ordeal was not to conclude the result of a completed ordeal (remember that he took his responsibilities in these rituals too seriously for that), but to extend its range of ambiguity, so that his people in the audience could force their interpretation on the ambiguous event. What we have here, it seems, is a fairly good indication that the judges of this ordeal were the witnesses to it. They were in this

case when the ordeal was interfered with and presumably also in those cases in which the ordeal was completed. Even in the ordeals of fire and cauldron, in which there was an officiating priest, we have seen that the priest's authority to decide was not so secure that he didn't have to worry about whether there was a constituency willing to support the particular outcome he thought to declare.

The saga writer makes up for his silence on procedure by offering explicit comment about people's state of mind concerning ordeals: "Heathens did not consider themselves to have less responsibility when such rituals were performed than Christians do now when ordeals are undertaken."[23] The irony, of course, is that because Þorkell believes that ordeals might well give the correct result he feels moved to prevent the case from getting to the gods. As he well knows, the chances of his wishful version of events having actually happened are only about one in eight.[24] The fact that people rig ordeals does not mean they do not believe in them. But if at some level of mind, only marginally conscious, they felt that heaven might intervene to give its answer to the questions posed to it, at another more mundane level of mind and fully conscious, they knew that fire burned, boiling water scalded flesh, and clumsy men could knock over a stake that held up a strip of turf. And if the supernatural was willing to wink at equivocation on occasion, why not equivocate? Disputants like Eyjólfr were well aware that Norse fatalism was hardly passive and could accommodate notions like "God helps those who help themselves." People suspected that an ordeal might be fixed. Consider Sigurð Þorláksson's comment concerning the advisability of his undergoing an ordeal (albeit in Norway) to clear himself of a charge King Óláfr lays to him:[25]

> Þat er þó satt at segja, at vér hǫfum komit í mikit vandkvæði ok orðit fyrir álygi mikilli, ok er konungr sjá brǫgðóttr ok vélráðr, ok mun auðsær várr kostr, ef hann skal ráða, því at hann lét fyrst drepa Þórálf [the person whose death Óláf attributes to Sigurðr], en hann vill nú gera oss at óbótamǫnnum. Er honum lítit fyrir at villa járnburð þenna. Nú ætla ek þann verr hafa, er til þess hættir við hann . . . [Snorri 2:135,239].[26]
>
> (To tell the truth we are in trouble, the objects of a great lie, and this king is shifty and deceitful. It's easy to see our lot if he has his way, because he had Þórálfr killed, but he will now make us outlaws for it. It is a trivial matter for him to falsify this ordeal. And I think it will not go well for anyone to take that risk with him.)

Since people knew ordeals could be fixed, they were also aware that

ordeals could give wrong results. God and the gods were not above being fooled by wiley men. Our sources, however, reveal no general questioning of ordeal on these grounds, only a questioning of the particular results (see Reynolds 36–37). In one saga example, when it became clear that the ordeal had led to a false acquittal, the moving party simply reopened the case. But this time he had, in addition to his prior cause of action for fornication, a new one for blasphemy and sacrilege (*kristnispell*; see *Sturlu s.* 9:73). As we have seen in the case of Friðgerðr, the laws themselves openly admit that results were often too close to call and that in such cases the bishop had the right to order more ordeals until the result was clearer. Maurer felt that such repetition contradicted the fundamental principle of the ordeal ("Gottesurt." 142). Omniscience evidently could not accommodate uncertainty; to equivocate was human, to be certain, divine. But when the issue of repetition arises or could arise in the sagas, people do not avail themselves of the opportunity to achieve a clearer answer; once is enough. In Friðgerðr's case an offer to repeat was explicitly rejected,[27] while in the two cases in which an ordeal was aborted, a result favorable to the proband was declared in one, and in the other (again however in Norway), the proband was held not to have made his proof (*Grettis s.* 39:133–34). The *Grágás* provision seems to be an anomaly in the world of ordeals, but it is not as troubling as Maurer would have it.[28] The God of day-to-day life was not held to the standards of the God of theologians. He could equivocate and he could be tricked, rather like human judges and juries. The possibility that God and human decision-makers would not judge perfectly every time did not prevent recourse to Him, nor to them. Disputants used the devices available to them in the culture and only questioned their legitimacy when they did not get a favorable judgment. Consistency between theory and practice was peripheral to most of the practical matters of dispute-resolution.[29]

The likelihood that a case would involve an ordeal was predicted by a kind of inverse Gresham's law: better evidence tended to drive out bad. When witnesses, written evidence, admission, or substantial local knowledge were present, ordeal was usually unavailable (Bartlett 26, 32–33; Fouracre 214–24). There would have been no objection to receiving witness testimony regarding the order of deaths in the *Laxdœla* case. In fact, it would have been preferred. When, for instance, in another, similar case the witnesses are a certain Jón, whom the saga calls *réttorðr maðr* ('a truthful man'), and Bishop Þorlákr, later to be canonized, there is no question of proving the order of deaths by ordeal (*Sturlu s.* 30:106). But Guðmundr had shown himself untrustworthy even though an eyewitness. And since there was a question as to his and Þorkell's honesty, there was little chance that the other side would accept the unsupported

oath of either.[30] The ordeal in this case served, in effect, as a surrogate oath by an unoathworthy man in which the gods were invoked as oath helpers.

In the typical Icelandic dispute the basic facts were seldom at issue. Both the laws and informal norms of what constituted honorable behavior required wrongdoers to publicize their deeds. Secret wrongs, like murder and theft, were punished more severely than wrongs openly committed or immediately owned up to (*Grágás* Ia 154). Various means were used to get at hidden facts. People consulted diviners and looked to dreams to orchestrate their suspicions in a socially acceptable fashion before attributing blame to a secret offender (Miller, "Dreams"). The ordeal could also be looked to in such situations, as when it was used in an attempt to determine who from among a crowd threw the stone that killed Kolbeinn Tumason (*Ísl.* 24:254).

More frequently the ordeal was resorted to once blaming had already taken place and the dispute had moved into the public arena, either at law or in arbitration. In these situations ordeal provided proof of fact when better proof was missing or unobtainable. These statements, however, have to be qualified in some ways. Not all unwitnessed claims need go to ordeal. People used "rational" investigative techniques to discover theft (*Grágás* Ib 166–68; *Njál.* 49:125; *Reyk.* 2:156). And, according to the laws, general knowledge of the neighbors, whether deduced from the party's reputation or from first- or secondhand knowledge, was preferred to the ordeal in theft prosecutions (*Grágás* Ib 162–63) and even in most sexual matters.[31] Nor, on the other hand, did all witness testimony obviate the ordeal. Presumably Friðgerðr witnessed whom she slept with, but her testimony required the confirmation of the ordeal, no less than the suspect testimony of Guðmundr. The laws also record a unique instance in which ordeal could be claimed as of right by a male to defend himself in a fornication action when the wife's word was confirmed by gossip and corroborated by her husband:

> Nu liGr maðr með manz kono oc scal su söc sótt fyrir et þriðia þing ef eigi er aðr. Eigi scolo þar quittir raða. þviat eins ef hon segir boanda sinom. Nu býðr hann iarnburð oc scal eigi þvi nita (*Grágás* II 182).
>
> (If a man lies with another's wife, the case shall be prosecuted before the third thing if not before. Gossip shall not be controlling if the woman informs her husband. If he offers to bear the iron, that shall not be denied.)

The referent of "he" in the last clause is ambiguous. I take it to refer to the accused and not to the husband, since it is unlikely that the husband

would be put to the ordeal to confirm his wife's report before the accused man would be put to it to deny his wrongdoing. If this reading is correct, the ordeal functions differently here than in paternity cases. When the woman bears the iron in a paternity claim, it is a burden imposed on her, but when the accused man chooses to bear it, he is provided hereby with an alternate defense with which to oppose corroborated testimony or community opinion. The passage gives a rare instance of ordeal trumping better evidence. To sum up briefly, the ordeal was resorted to in situations in which certain knowledge was unavailable or key facts were in dispute, but not all cases of factual dispute or uncertain knowledge led to ordeal. We do not see it invoked, for example, in boundary disputes or land-title claims. In Iceland, the ordeal, except in the one instance of determining order of death in an inheritance dispute, was confined to sexual issues—paternity, adultery, and incest—and to theft.

The sagas give us two mentions of ordeal in cases of theft, both dating from the twelfth century, and they merit some comment. In one a householder named Skeggi was missing some linen (*Sturlu s.* 4:65–67). He thought he could trace it to the mistress of his servant Aðalrikr. He told Aðalrikr that he suspected him and his woman, but he offered to let the matter drop if they would confirm this to him in confidence. Aðalrikr took umbrage at the suggestion, whereupon Skeggi asked if he and his mistress would bear the iron. Aðalrikr agreed to the ordeal, but withdrew his acceptance when Skeggi demanded that he leave the household until he had cleared himself. A few months later at a festive occasion Aðalrikr sunk his axe into Skeggi's head, treating Skeggi to a nasty one-liner at the same time: "Svá kann ek járn bera [4:66]" ("This is the way I bear iron").

In another case of missing linen two men returning from a trading venture abroad quarrel when they separate (*Guðm. dýra* 9:176–77). Þormóðr accuses Illugi of either taking the cloth himself or being complicit in the theft. The following spring Illugi visits Þormóðr and asks him,

> hvárt hann vildi halda á því, er hann hafði mælt um haustit, eða vildi hann þat aftr mæla. En Þormóðr kvaðst ætla, ef hann væri valdr eða vitandi um haustit, at myndi ekki hafa skipazt um várit.
>
> whether he would hold to the accusation he had made in the fall or whether he would prefer to withdraw it. Þormóðr said that, if Illugi had taken it [the cloth] or been complicit in the fall, that was unlikely to have changed in the spring.

Annoyed at more than Þormóðr's wit, Illugi axes him between the shoulders. Þormóðr lived but was permanently injured:

> Sídan var sætzt á málit, ok skyldi Illugi bera járn ok færast undan illmæli, ok skyldi Brandr biskup gera skírslu and svá sáttina eftir. Ok fór þat fram, at Illugi bar járn ok varð allvel skírr.
>
> (It was then agreed that Illugi should bear the iron and remove thereby the slander. Bishop Brandr was to judge the ordeal and to arbitrate the settlement afterwards. And it happened that Illugi bore the iron and was cleared.)

Þormóðr received very little compensation for the injury because the slander of having defamed Illugi as a thief was balanced against the cost of the wound.

The cases have more to tell us about the dangers of theft accusation than ordeal, but they do help flesh out our account. The first case provides us with the negotiations surrounding the ordeal. They show that Aðalrikr is less hostile to the prospect of bearing hot iron than to admitting the theft, even when the admission was to be held in confidence. To admit oneself a thief, even in private, was too great an ignominy to be endured (Andersson). We get a sense, too, that the willingness to accept a demand to go to the ordeal was expected to be perceived as a concession to the demandant sufficient to elicit some reciprocity. This is the significance of Aðalrikr's anger at being asked to leave the household once he has agreed to the ordeal (assuming the sincerity of his willingess to suffer it). Aðalrikr's reaction also reveals that he felt the acceptance itself should have been construed by Skeggi as successful part performance, that is, merely by agreeing to submit to the test he weakens the presumption against him, even if he is not able to reverse it altogether. Aðalrikr's remark when he kills Skeggi suggests that it was the ordeal he objected to, but the remark is better seen as a clever way of showing hostility to being accused of theft rather than hostility to ordeal per se. Were Aðalrikr to have said something as uninspired as "you'll never call me a thief again," he would have been reciting the exact words he never wanted to hear repeated.

The second example provides us with clues as to why Illugi succeeded at the ordeal and subsequent arbitration. The very favorable award Brandr adjudged him—he virtually excused the attack on Þormóðr—suggests a predisposition in his favor. Þormóðr, it appears, breached some fairly serious rules of procedure. Accusation of theft was a dangerous business, because it was virtually inseparable from one of the worst insults the culture knew (Andersson; Miller, "Dreams" 108–10). The laws, for instance, provided that a verdict of acquittal gave rise to an action for slander, unless the accuser had taken care to hedge the summons in subjunctives and to disclaim any attempt to defame the accused (*Grágás*

Ib 162–63). Þormóðr, literally speaking, paid for his wit. The account is too spare to claim that Illugi's hand healed cleanly. Most people, the bishop included, were likely to judge it clean because they felt that Illugi had more right than Þormóðr, a view we can deduce from the terms of the subsequent arbitration award. One wonders why the case involved ordeal rather than a verdict of the countryside, which was the legal procedure in such a case (*Grágás* Ib 162–63). We can only conjecture. Was it that Illugi thought his chances were better with the iron? Or was it that Þormóðr put him to it because he would at least have the satisfaction of knowing that Illugi suffered some pain, in the event that he, Þormóðr, were not ultimately to prevail?

There is more to ordeal than the legal problem of acquiring a knowledge of facts otherwise unknowable or the social problem of finding a way to conclude troublesome disputes. Something has to be said about two features of ordeal present often enough in the practice to merit discussion, that is, pain and humiliation. One way to account for what the sources suggest was a low rate of failure for those who undertook the ordeal is that it was perceived to be as much punishment as proof. In truly doubtful cases public sentiment may have been satisfied if the object of suspicion bore some pain; and if the prospect of the ordeal was sufficiently terrorizing, it could also function as judicial torture and extract a confession (Lea 145; Hyams 98, 100–01, 105). But neither punishment nor pain appears to be a necessary condition of ordeal. The deterrent effect of pain must have been vitiated to the extent that the proband could be a proxy for the real party of interest. And before Christianity brought the iron and cauldron, the natives had their submission to the turf; a test more benign would be hard to imagine.

But reconsider the turf. Saga evidence provides us with enough information to show that the ceremony was multivalent, serving in at least two other ritual settings. We know that the initiation ritual for blood brotherhood involved passing under raised turf (*Fóstbr.* 2:125; *Gísl.* 6:22–24). The actors mixed their blood in the earth, and each swore an oath to avenge the other just as if he were his brother. We also know that passing under the turf could serve as a formal humiliation ritual. *Vatnsdœla saga* provides the account. After Jǫkull struck Bergr, the latter brought the case to the thing. Men mediated and succeeded in convincing the parties to settle the case. Bergr said he would accept no compensation and would settle only if Jǫkull passed under three strips of turf:

> sem þá var siðr eptir stórar afgørðir,—"ok sýna svá lítillæti við mik." Jǫkull kvað fyrr mundu hann troll taka en hann lyti honum svá. Þorsteinn [Jǫkull's brother] kvað þetta vera álitamál,—"ok mun ek ganga undir jarðarmenit." Bergr kvað þá goldit. It fyrsta

jarðarmen tók í ǫxl, annat í bróklinda, þriðja í mitt lær. Þá gekk Þorsteinn undir it fyrsta. Bergr mælti þá: "Svínbeygða ek nú þann, sem œztr var af Vatnsdœlum (33:87–8)."[32]

(as was then the custom after major offenses—"and show in this way his humility to me." Jǫkull said a troll could take him before he'd bow to him [Bergr]. Þorsteinn [Jǫkull's brother] said the matter was worth consideration—"I will pass under the turf." Bergr agreed to that. The first strip came up to the shoulder, the second to the waist, the third to the thigh. Þorsteinn went under the first. Bergr then said, "I have now made him who was the highest of the Vatnsdale men bow like a pig.")

Þorsteinn refused to go on, and the ceremony ceased with challenges to *hólmgǫngur* being offered instead. In *Njáls saga* Skarpheðinn makes reference to the same ritual when he insults Skapti the Lawspeaker (119:298–99):

Þú heitir Skapti Þóroddsson, en fyrr kallaðir þú þik Burstakoll, þá er þú hafðir drepit Ketil ór Eldu; gerðir þú þér þá koll ok bart tjǫru í hǫfuð þér. Síðan keyptir þú at þrælum at rísta upp jarðarmen, ok skreitt þú þar undir um nóttina.

(You are called Skapti Þóroddsson, but earlier you called yourself Bristlehead when you had killed Ketill of Elda. You shaved your head and covered it with tar. Afterwards you paid slaves to raise up a strip of turf, and you slunk under it for the night.)

Earlier commentators on turf submission have seen the blood-brotherhood ceremony as the origin of the other variants. A typical account explains it as a symbolic rebirth (Pappenheim 32, Zachariae 148, de Vries 114–15) extended to serve as an ordeal, apparently deriving from people's feelings of inauspiciousness when one of the participants in a blood-brotherhood initiation knocked over the turf, and further extended to serve as a ritualized humiliation, because of what it meant to bow before someone, as in the Roman ritual of passing under the yoke (Pappenheim 33–35).

More thoughtful is Maurer's explanation ("Gottesurt." 146–48 and Rev. 106). All variants have in common the function of confirming oaths—of blood brotherhood, of the truth of one's testimony (as in the ordeal), or of truce (as in the episode from *Vatnsdœla saga*). He more precisely identifies the last instance with the *jafnaðareiðr*, the so-called 'levelling oath,' in which the wrongdoer, as part of a settlement, promises the other party that he, too, would have accepted compensation rather than have pursued blood vengeance if their positions were reversed.

Maurer sees a difference between the ordeal of iron and cauldron on the one hand and of turf on the other. The former were used to determine the truth or falsehood of past events; the latter was used as *ersatz*-oath-helping to reinforce either a promise regarding future obligation (as in blood brotherhood and the levelling oath) or an assertion regarding present utterances (as in a confirmation of testimony). Maurer's view has the virtue of elegant comprehensiveness, but it is too legalistic to be very satisfying. Moreover, the sources all emphasize the ceremony at the expense of the underlying oath, which, in fact, goes unmentioned except in the blood-brotherhood ceremony (Pappenheim 28). The ritual itself must be more significant than Maurer would make it.

All enactments of the ceremony involve some kind of status adjustment and redefinition. This is clearly so in blood brotherhood and the formal humiliation ritual. And when the turf was raised to perform one ritual, the meaning central to that one would have to suffer from association with the other rituals that could occur in the same setting. More particularly, all the rituals in this setting share a feature of humiliation, most strongly so in the case from *Vatnsdœla saga*, slightly less so in the ordeal, and least so in the blood-brotherhood ceremony. But even the last involves bending and bowing; it effects a termination of one's prior being and reconstitutes the actor as a new being with a new status. Such rebirth is a standard feature of both status-degradation and status-enhancement ceremonies (Garfinkel). In the blood-brotherhood ceremony the new status should be enhanced, otherwise there would be no motivation for entering into it, but the drama of the ritual forces a degradation as a condition of the enhancement.

In the formal humiliation and ordeal settings, the adjustment in status is more complex. Both involve a staged enactment of humiliation. But depending on the identity of the person submitting to the ritual and the exact context in which it arises, there need be no permanent change or loss in status (Geary 131).[33] In one recurring pattern exemplified by the *Vatnsdœla* case or in levelling-oath situations generally, the person put to the performance already has, in one sense, the upper-hand. He is the injuror, not the injured, and one can imagine his performance veneered with sneering contempt for his adversary. Yet Skarpheðinn's insult to Skapti the Lawspeaker (see above) serves as a reminder that, even though the performer might have felt himself untouched by the ceremony at the time, the mere fact of having once performed it is fodder for future insult and humiliation. One can even imagine certain ordeal performances following this paradigm, as indeed seems to have been the case when Þorkell trefill agreed to submit his case to the sod.

The ordeal of turf partakes of status degradation and humiliation not

only by association with the ceremony's other ritual contexts but also by the general involvement of ordeal in status definition and ritualized humiliation. Which party is put to the ordeal is affected by status. Those of relatively lower status are more likely to go to it than those of higher status (Bartlett 33; Lea 148); those of higher status are more likely to demand it; those of lower to offer it. This tendency probably explains why Skeggi was so quick to request the ordeal of Aðalrikr, his servant, and why Sigurðr Þorláksson made his offer to King Óláfr (see above).

Consistent with this bias we frequently find that, among the members of the side put to the ordeal, the actual performance of it devolves upon its humbler members— the women, the servants. This feature, however, does not prevent disputants from manipulating the semantics of the situation to their own advantage. Parties play the ordeal chip by offering to undergo ordeal as a way of signalling concession or self-abnegation or humility towards the other, without really inwardly adopting the psychology that the body must then perform.[34] Likewise a party might demand the ordeal simply to have a public display of the other party acting humbly, the physical enactment sufficing in this world where appearance so often was reality. When Þorkell trefill put his case to the turf, when Eyjólfr offered Friðgerðr up to the iron, these were gambits designed to achieve results. They gave up something to get something, and what they gave up (even if only symbolically and temporarily) was status relative to the other party. And the fact that the ceremony could be performed by a proxy did not change the ritual significance. Enough of the principal's person attached to his agent to satisfy the other side, and the identity of the proband was subject, I assume, to the agreement of the parties. Bergr is thus willing to accept Þorsteinn for Jǫkull, the actual wrongdoer. Bergr is quick to make clear what he gained by the substitution: "I have now made him who was the highest of the Vatnsdale men bow like a pig." Matters of substitution, we see, were very much affected by what was to be won or lost in the game at hand.

What the turf ordeal makes explicit can be extended to the painful ordeals, even though the cultural association with a formal humiliation ritual is lost. In that culture to endure pain at the hand of another was humiliating, even more so if the iron should leave a permanent scar. The confinement of ordeals in *Grágás* to sexual matters and particularly to paternity suits may even be seen as a way of defining women's status by forcing them to supplement words with pain and humiliation.[35] To a certain extent then the ordeal was coercive, but not in the way Bartlett would have it. It was not an instrument of criminal justice because there was no criminal-civil distinction in Iceland; all legal action was "civil," if we insist on invoking these anachronistic and unhelpful categories.

There were no constituted secular authorities who pretended to claim ordeal as prerogative with the power to impose it, grant it, or exempt one from it. Rather, ordeal was part of the repertoire of options competing disputants had at their disposal, and it was applicable to only a narrow range of situations. If putting someone else to the ordeal or offering to endure it improved one's position vis-à-vis the other, one might use it, but only if customary practice "officialized" the use of ordeal in those circumstances. And the distinct sense of the sources is that customary practice did not allow a big place for ordeal. Actual performances seem to have been relatively rare.

But ordeal was neither an especially good symbol of the will toward consensus nor, as our cases have shown, a very effective instrument for achieving it when it was desired. True, Iceland was a model of the face-to-face society in which, according to Hyams and Brown, the ordeal made sense. But so did negotiation, mediation, arbitration, and adjudication. There is absolutely no basis for investing ordeal with a special status that makes it the key to the culture or its mentality. I can't rid myself of the feeling that ordeal often acquires a special status in the subject culture because it would seem so strange in ours. I do not mean to claim that ordeal is an empty category devoid of analytic usefulness. After all, the natives had a special name for it; they distinguished it from other modes of proof. They perceived, as we do, that there was something different, in intention and theory if nothing else, in letting God decide rather than in letting man decide. But really what is the difference between a submission to turf and a contemporary case in which facts are found by sleepy jurors after listening to coached and interested witnesses, after having the most relevant evidence excluded by rules that trust lawyers more than jurors and in which an incompetent judge renders judgment? If there is a difference, it is not in the likelihood of getting the answer right or, for that matter, in the presence or absence of pain and humiliation.

Thanks are due to Stephen D. White with whom I have discussed ordeals on many occasions. He presently has in draft an important contribution to the ordeal question focusing on northern French materials. I also wish to thank Kathleen Koehler for reading and commenting on earlier drafts of this article.

[1] Despite its age the work of Lea and Patetta is still of much value; it is generally improved upon by Nottarp, who also provides a useful guide to the vast amount of *Rechtsschule* scholarship on ordeal.

[2] In the ordeal of iron the proband had to carry a red hot iron for a prescribed distance, usually on the order of nine feet. In the boiling water ordeal the proband was required to lift a stone from a cauldron of boiling water. In Anglo-Saxon England the depth of the water, the weight of the iron and the distance it had to be carried could be varied to reflect the severity of the offense or the reputation of the proband (Liebermann 1:386).

[3] Another major theme in Bartlett is the importance of the role of twelfth-century intellectuals in bringing about the prohibition of clerical participation in ordeals in 1215. He argues against Hyams, who minimizes the role of the intellectual elite and claims that interest in the ordeal withered away because it no longer suited the changed circumstances of the twelfth century: "Legal change seldom emerged directly from positive, public decisions motivated by a driving desire for a higher rationality . . . Hosts of private individuals transformed medieval law in their struggles toward their own goals" (Hyams 125).

[4] Bartlett's views on authority and decision-making in the tenth through twelfth centuries would have benefited by consideration of Susan Reynolds' recent book. Presumably Bartlett's work was already in press when *Kingdoms and Communities* appeared.

[5] The ordeals of bearing the red hot iron and of pulling a stone from a cauldron of boiling water are 'autonomic' in J. Roberts's sense, that is, success or failure depends on such involuntary responses as scalding, blistering, healing. They are thus different from the ordeal of turf, the results of which are much more dependent on the skill of the proband. I do not find the distinction especially significant except in so far as the social significance of the ordeal might be affected by making the proband suffer physical pain. See the text on the punitive aspects of ordeal.

[6] In the sagas the casting of lots is used to decide which of two disputants should arbitrate the settlement between them (*Ísl.* 162:475), which of two men equally obligated should undertake the dangerous task of prosecuting a killing case (*Njál.* 55:140), and who on a becalmed ship is to be held responsible for the luckless weather (*Ljós.* 28:94). Only the last instance looks like an ordeal. Lots figure in several places in the laws. They are used to determine, among other things, the assignment of indigent dependents when other means of assignment—by oath of neighbors or by the father—have failed (*Grágás* Ib 6, II 110), the order of cases at court (Ia 53), and the member of the panel of neighbors to deliver the verdict if they cannot decide among themselves (Ia 64). See further *Grágás* III 624.

[7] The *Grágás* provisions dealing with ordeal in paternity claims are Ib 25, II 149; Ib 49, II 178; Ib 216, II 58, III 20, 146, 456; II 192; for adultery: II 182; and for incest: II 206. After allowing for duplication among the *Grágás* manuscripts, these passages represent only six independent entries.

[8] The compiler of the *Sturlunga saga* version (15:219) of *Hrafns saga* omitted Þorvaldr's demand that Hrafn carry the iron to prove that he had not intended to kill him. I know of no satisfactory way of accounting for the omission. By the time the compiler was doing his work, ordeals had been prohibited for a considerable period (see below n. 23). The compiler would not have been the sort to make pious emendations (see Úlfar Bragason in this volume), and had he done so, it would be even harder to account for his wishing to make Þorvaldr the beneficiary of that piety. In any event Þorvaldr's demand for an ordeal predated Lateran IV by five years, and so his soul was not in need of assistance on that account. (Sagas are cited by chapter and page number to facilitate reference to other editions and translations which tend to maintain the same chapter numbers).

[9] Saga accounts involving ordeals are found in *Lax.* 18:42–43; *Ljós.* 23:69; *Sturlu s.* 4:65–67; 9:73; 16:84; *Guðm. dýra* 9:176–77; *Hrafns s. Sv.* 15:421–22; *Ísl.* 24:254; 126:409, and perhaps *Þorgils s.* 29:47. In three of these cases only an offer or demand for ordeal was made; the remainder represent actual performances. In one case (*Ísl.* 24:254) there were four probands, thus making ten in all. I note, too, for the sake of completeness, Þangbrandr's miracle of the burning berserkr in *Njáls saga* (103:266–67); it is technically an ordeal but so removed from the world of law and social control that I do not number it among the saga cases (Nottarp 72).

[10] Another version of *Ljósvetninga saga* depicts a chieftain's aggressive harrassment of

another chieftain's thingmen thus: "he dug up . . . fornication cases and actions for riding someone's horse without permission and anything else he might find" (*Ljós.* 5:20). The passage implies that to take fornication cases to law was inappropriate. They were so ubiquitous as to be trivial. Even the association of fornication with horse-riding suggests that one should perhaps wink at boys being boys. The issue in this case is aggravated by a paternity claim, which was not to be winked at, but the implication is still that this was the type of claim that should not prompt furious response.

[11] Compare, however, King Hákon's willingness to let his mother bear the iron to prove his paternity (*Hákonar s.* 13–14:21; 41–46:40–43). Such is the world of kings that Inga, his mother, displayed no reluctance to do so, but her choice might be owing more to authorial strategy than to her fearlessness.

[12] See below, n. 16.

[13] Þorkell's first words to Friðgerðr after she informs him of her condition are, "Þó hefir hann (Brandr) þetta óvinliga gǫrt ok sagt mér ekki til. Er mér þetta vandsét mál [22:65]." ("It was ill-willed of him not to have told me. This is a difficult case for me.") Nevertheless, he immediately becomes intransigent.

[14] According to one *Grágás* provision paternity cases (*faðerni*) never grow stale (II 192). Fornication cases (*legorð*) however are subject to a limitations period that starts to run when the *aðili*, i.e., the person in charge of bringing the suit, has notice of the claim (Ib 52, II 184). The case is then to be brought at the next Allthing after he has notice or after the woman gives birth (Ib 54; II 184). A provision marked as a new law in one manuscript, however, sets the limitations period at three years (II 184–85). Þorkell's objection is without merit with regard to the paternity case, but depending on the applicable provision and facts not mentioned in the saga, he may well have some argument with regard to the fornication case.

[15] The *réttr*, set at six marks for all free men and women, was owed by wrongdoers to the injured parties. In this case, however, it was pledged to a third party by stipulation. The *réttr* was due for slander (*Grágás* Ib 181, II 390), fornication (Ib 52, II 183), and all injuries of any consequence. The *réttr* was doubled for offenses that violated the peace of the things (Ia 97). See further III 661–62. In spite of its ubiquitousness in the laws *réttr*, according to Heusler (202), figures only in this saga case, although an attempt is made in *Íslendinga saga* (20:246) to settle a *legorð* action by offering more than double the *réttr*. Presumably it was taken into account by arbitrators in fashioning their awards, but the sagas are strangely silent about it.

[16] The laws nowhere state that a woman must go to the ordeal to prove a paternity claim. One provision in *Grágás* explicitly sets forth the four ways "er menn beR i átt a landi her" ("by which people are filiated to a kin group"): 1) if the child is born to a woman who lives with her husband; 2) if the man agrees by handsel to warrant that he is the father; 3) if by ordeal she proves the man liable; and 4) if a verdict determines the man guilty (II 192). The fact that the law allows disputed cases to be settled either by verdict or by ordeal and then gives no indication of the mode of proof to be preferred in a given situation emphasizes the importance of disputant choices and strategies in opting for ordeal.

[17] *Guðmundar saga dýra* (3:163) shows that a century after the events in *Ljósvetninga saga* the farm at Laufáss was occupied by descendants of Eyjólfr (*Ljós.* 23:69 n. 1).

[18] Just prior to the Friðgerðr incident Eyjólfr had concluded a formal friendship with Þorvarðr, the leader of the Ljósvetnings, in an effort to improve relations between the two groups (*Ljós.* 22:62–63). Þorkell's behavior indicates that the alliance was not especially welcomed by some of Þorvarðr's constituents. Eyjólfr was aware that pursuing Friðgerðr's claim could lead to trouble. For this reason he was reluctant initially to take it up (22:66–67).

He had also intended to meet with Þorvarðr, with whom he felt he could settle the case, but by a series of accidents he ran into Þorkell first (23:67).

[19] Bartlett and, to some extent, I myself are guilty of caricaturing the consensus model of Hyams and Brown, although Brown's was put forward almost by way of caricature as an exercise in modeling. Neither Brown nor, in particular, Hyams supposes that disagreement does not exist in consensus societies. Consensus is not a state, but a style. The claim is that these societies go about containing disorder and maintaining social control differently from societies with an intrusive state and that the ordeal is significant because of its effectiveness in maintaining the consensus style of conflict management. For Brown and, to a lesser extent, for Hyams, ordeal also carries a symbolic load, as a sign of the consensus style of which it is a part. The question of the appropriateness of the ordeal as symbol is not really subject to proof, it being a matter largely of how the historian decides to tell his story (see below n. 33), but the question of the ordeal's effectiveness as a tool of conflict resolution is partly empirical and should be subject to disproof. In this case there is no way of knowing whether the ambiguity of the ordeal contributed to the exacerbation of an already tense situation in a way different from, say, an arbitration without ordeal would have done. The scene suggests, however, that it did.

[20] Even outside Iceland statistics on ordeal are virtually impossible to come by. When some attempt at them is made, scholars usually resort to the Varad registry, a catalogue of cases settled at a church in Varad, Hungary, from 1208–34. Zajtay notes that the registry shows results favorable to the proband more times than not (547).

[21] It should be noted that the only instance in the laws when torture is explicitly allowed is to compel an unmarried woman to identify the father of her child when she is reluctant to do so (*Grágás* Ib 58, II 182). Some small solicitude is shown the victim. The pain is thus to fall short of causing injury or visible marks ("at hvarki verðe orkumbl ne ilit"). There is, however, also a passage that implies permissible torture of men (II 379): "Ef maðr bindr maN eda pínir þaN er hann a eigi at pína . . ." ("If a man binds another or tortures him when he ought not to [when he has no right to] . . ."). See Maurer, *Altisländ. Strafrecht* 674–77.

[22] The reliability of the saga account as an accurate description of events nearly three centuries earlier is problematic, but nothing in the description prompts incredulity. (The saga accounts of bearing the iron do not present problems of accuracy to as great a degree since the authors would presumably have had fairly reliable information about the ordeal). It seems much more unlikely to me that the author invented the turf ordeal by analogy to blood-brotherhood ceremonies (see text) than that he recorded an antique ritual preserved in oral tradition. As is so often true in saga accounts of the mechanics of disputing, the depictions of tactics and strategy ring true and accord very well with anthropological descriptions of dispute-processing in preindustrial cultures.

[23] Despite the ban on clerical participation in ordeals formulated at the Lateran Council of 1215, it was not until 1247 that they were banned in Norway by Cardinal Vilhjálmr at the coronation of Hákon (*Hákonar s.* 255:251). Word of the ban is assumed to have reached Iceland the following year. The *Lax.* passage is used to date the saga to some time before 1247 (*Lax.* xxvi).

[24] There are twenty-four possible orders in which four people could die. Three of these sequences would send all the property to Þorkell's wife: WiFa-Hu-child-Wi (Þorkell's version), Hu-child-Wi-Fa and Hu-child-Fa-Wi. It is also possible other sequences would do the same, but the saga does not give us sufficient information about husband's surviving kin to know. Moreover, such sequences would be longshots requiring husband's kin to be no nearer than first cousins (*Grágás* Ia 219).

[25] See also *Hákonar saga* for an attempt to use magical herbs to prevent the hand from

blistering (44:42). For other cases of fixing ordeals by magic or collusion, see Lea (158–62) and Nottarp (266–67).

[26] Bartlett (15–16) erroneously uses this case to show that kings could insist on the ordeal as a way of subjugating rivals. The source is clear that Sigurðr volunteered to clear himself by ordeal, although he soon regretted the offer; the king did not insist on it.

[27] Þorkell, however, speaks of multiple ordeals when he heatedly informs Brandr of the results of the ordeal on his return to Iceland: "En ek ætla, at [Eyjólfr] geri þat lítt eptir sannri raun, því at skírslur hygg ek, at henni gangi æ til smánar [22:70]" ("But I believe Eyjólfr is doing that [i.e., claiming the *réttr*] without valid evidence because I think ordeals will always go against her").

[28] Patetta (49) gives one other example from Africa.

[29] Theories of ordeal, however, were of more than passing concern to the clerical reformers of the twelfth century who sought to abolish it or at least eliminate clerical involvement in it (Baldwin; Bartlett 70–102).

[30] Whether Þorkell offered the ordeal as the saga says or whether he offered it in response to a demand by his opponents is not altogether clear and depends on whether *raunarlaust* ('without proof') had a more specific sense clearly indicating ordeal. Most likely Þorkell offered the ordeal because other modes of proof were not available to him.

[31] On theft see *Grágás* Ib 162–63; on paternity see n.7 above. For other sexual matters see Ia 164; Ib 47, II 176.

[32] On "swinebending" see also *Hrólfs saga kraka* (45:90): "Svínbeygða ek nú þann, sem Svíanna er ríkastr" ("I have now made him who is the most powerful of the Swedes bow like a pig").

[33] Geary's article provides an excellent example of a ritual designed to coerce and punish and dependent for its effectiveness upon building a consensus in the relevant community. The humiliation of saints appears in every way to be a better emblem than the ordeal of a type of disputing device congenial to small consensual communities. See also Brown (142).

[34] Compare, for example, how certain requests to foster another's child could be used as formal acts of humiliation (Miller, *Skarpheðinn* 325–26).

[35] The laws purported to distinguish type of ordeal by sex. In matters of incest men are to bear the iron, and women are to be put to the cauldron of boiling water from which they were to extract a stone (*Grágás* II 206). Although the sagas provide no examples of the cauldron, both Guðrún and Herkja suffer it in the *Edda* (233).

WORKS CITED

Andersson, Theodore M. "The Thief in *Beowulf*." *Speculum* 59 (1984): 493–508.

Baldwin, John W. "The Intellectual Preparation for the Canon of 1215 Against Ordeals." *Speculum* 36 (1961): 613–36.

Bartlett, Robert. *Trial by Fire and Water: The Medieval Judicial Ordeal*. Oxford: Clarendon Press, 1986.

Bø, Olav. "*Hólmganga* and *einvígi*: Scandinavian Forms of the Duel." *Mediaeval Scandinavia* 2 (1969): 132–48.

Brown, Peter. "Society and the Supernatural: A Medieval Change." *Dædalus* 104 (1975): 133–51.

Brunner, Heinrich. *Deutsche Rechtsgeschichte*. 2nd ed. 2 vols. Leipzig: Duncker and Humblot, 1906.

Caenegem, R. C. van. "La preuve dans le droit du moyen âge occidental: rapport de synthèse." *La preuve*. 2nd part. Vol. 17 of *Receuils de la Société Jean Bodin*. Brussels, 1965.

Ciklamini, Marlene. "The Old Icelandic Duel." *Scandinavian Studies* 35 (1963): 175–94.

Colman, Rebecca V. "Reason and Unreason in Early Medieval Law." *Journal of Interdisciplinary History* 4 (1974): 571–91.

Edda: Die Lieder des Codex Regius nebst verwandten Denkmälern. Ed. Gustav Neckel. 3rd ed. rev. Hans Kuhn. Heidelberg: Carl Winter, 1962.

Fóstbræðra saga. In *Vestfirðinga sǫgur*, ed. Björn K. Þórólfsson and Guðni Jónsson. Vol. 6 of Íslenzk fornrit, 1948.

Frostaþingslǫg. In vol. 1 of *Norges gamle love*. Ed. R. Keyser and P. A. Munch. Christiania [Oslo], 1846. 5 vols. 1846–95.

Fouracre, Paul. Conclusion. *The Settlement of Disputes in Early Medieval Europe*. Ed. Wendy Davies and Paul Fouracre. Cambridge: Cambridge UP, 1986. 214–28.

Garfinkel, Harold. "Conditions of Successful Degradation Ceremonies." *American Journal of Sociology* 61 (1956): 420–24.

Geary, Patrick. "Humiliation of Saints." *Saints and their Cults: Studies in Religious Sociology, Folklore and History*. Ed. Stephen Wilson. Cambridge: Cambridge UP, 1983. 123–40. Rpt. with some revisions and trans. from "L'humiliation des saints." *Annales, E.S.C.* 34 (1979): 27–42.

Gísla saga. In *Vestfirðinga sǫgur*, Ed. Bjoïn K. Þórólfsson and Guðni Jónsson. Vol. 6 of Íslenzk fornrit, 1948.

Grágás Ia, Ib. *Grágás. Islændernes lovbog i fristatens tid, udgivet efter det Kongelige Bibliotheks haandskrift*. Ed. Vilhjálmur Finsen. Copenhagen, 1852. Rpt. Odense: Odense UP, 1974.

_____ II. *Grágás efter det Arnamagnæanske Haandskrift nr. 334 fol., Staðarhólsbók*. Ed. Vilhjálmur Finsen. Copenhagen, 1879. Rpt. Odense: Odense UP, 1974.

_____ III. *Grágás. Stykker, som findes i det Arnamagnæanske Haandskrift, nr. 351 fol. Skálholtsbók*. Ed. Vilhjálmur Finsen. Copenhagen, 1883. Rpt. Odense: Odense UP, 1974.

Grettis saga Ásmundarsonar. Ed. Guðni Jonsson. Vol. 7 of Íslenzk fornrit, 1936.

Guðmundar saga dýra. Sturlunga saga 1:160–212.

Hákonar saga. Ed. Gudbrand Vigfusson. London, 1887. Vol. II of *Icelandic Sagas*. 4 vols. Rolls Series.

Heusler, Andreas. *Das Strafrecht der Isländersagas*. Leipzig: Duncker and Humblot, 1911.

Hrafns saga Sveinbjarnarsonar. Reykjavik: Haukadalsútgáfan, 1954. Vol. 1 of *Sturlunga saga*. Ed. Guðni Jónsson. 375–444.

Hyams, Paul R. "Trial by Ordeal: The Key to Proof in the Early Common Law." *On the Laws and Customs of England: Essays in Honor of Samuel E. Thorne*. Ed. Morris S. Arnold, et al. Chapel Hill: U of North Carolina P, 1981.

Íslendinga saga. Sturlunga saga 1:229–534.

Íslenzk fornrit. Reykjavik: Hið Íslenzka Fornritafélag, 1933–.

Laxdœla saga. Ed. Einar Ól. Sveinsson. Vol. 5 of Íslenzk fornrit, 1934.

Lea, Henry Charles. *The Ordeal*, Part III of *Superstition and Force*. Philadelphia: U of Pennsylvania P, 1973.

Liebermann, F. *Die Gesetze der Angelsachsen*. 2 vols. Halle: Max Niemeyer, 1903–06.

Jones, Gwyn. "Some Characteristics of the Icelandic 'Hólmganga'." *Journal of English and Germanic Philology* 32 (1932): 203–24.

Ljósvetninga saga. Ed. Björn Sigfússon. Vol. 10 of Íslenzk fornrit, 1940.

Maurer, Konrad. *Altisländisches Strafrecht und Gerichtswesen*. Leipzig: A. Deichert, 1910. Vol. 5 of *Vorlesungen über altnordische Rechtsgeschichte*. 5 vols. 1907–10.

_____. "Das Gottesurtheil im altnordischen Rechte." *Germania* 19 (1874): 139–48.

_____. Rev. of "Fostbræðalag," by Valtýr Guðmundsson. *Zeitschrift des Vereins für Volkskunde* 3 (1893): 100–07.

Miller, William Ian. "Justifying Skarpheðinn: Of Pretext and Politics in the Icelandic Bloodfeud." *Scandinavian Studies* 55 (1983): 316–44.

———. "Avoiding Legal Judgment: The Submission of Disputes to Arbitration in Medieval Iceland." *American Journal of Legal History* 28 (1984): 95–134.

———. "Dreams, Prophecy and Sorcery: Blaming the Secret Offender in Medieval Iceland." *Scandinavian Studies* 58 (1986): 101–23.

Njáls saga. Sub. nom. *Brennu-Njáls saga*. Ed. Einar Ól. Sveinsson. Vol. 12 of Íslenzk fornrit, 1954.

Nottarp, Hermann. *Gottesurteilstudien*. Munich: Kösel Verlag, 1956.

Pappenheim, Max. *Die altdänischen Schutzgilden*. Breslau, 1885.

Patetta, Federico. *Le ordalie*. Turin, 1890.

Peters, E. L. "Aspects of the Control of Moral Ambiguities: A Comparative Analysis of Two Culturally Disparate Modes of Social Control." *The Allocation of Responsibility*. Ed. Max Gluckman. Manchester: Manchester UP, 1972. 109–62.

Plucknett, Theodore F. T. *A Concise History of the Common Law*. 5th ed. Boston: Little, Brown, 1956.

Reykdœla saga. In *Ljósvetninga saga*. Ed. Björn Sigfússon. Vol. 10 of Íslenzk fornrit, 1940.

Reynolds, Susan. *Kingdoms and Communities in Western Europe, 900–1300*. Oxford: Clarendon P, 1984.

Roberts, John M. "Oaths, Autonomic Ordeals, and Power." *American Anthropologist* 67 (1965): 186–212.

Roberts, Simon. *Order and Dispute: An Introduction to Legal Anthropology*. New York: St. Martin's, 1979.

Snorri Sturluson. *Heimskringla*. Ed. Bjarni Aðalbjarnarson. 3rd ed. 3 vols. Reykjavik, 1979. Vols. 26–28 of Íslenzk fornrit.

Southern, R. W. *The Making of the Middle Ages*. New Haven: Yale UP, 1953.

Sturlu saga. *Sturlunga saga* 1:63–114.

Sturlunga saga. Ed. Jón Jóhannesson, Magnús Finnbogason, and Kristján Eldjárn. 2 vols. Reykjavik: Sturlunguútgáfan, 1946.

Vatnsdœla saga. Ed. Einar Ól. Sveinsson. Vol. 8 of Íslenzk fornrit, 1939.

Vries, Jan de. "Der altnordische Rasengang." *Acta Philologica Scandinavica* 3 (1928–29): 106–35.

Wood, Ian. "Disputes in Late Fifth- and Sixth-Century Gaul: Some Problems." *The Settlement of Disputes in Early Medieval Europe*. Ed. Wendy Davies and Paul Fouracre. Cambridge: Cambridge UP, 1986.

Zachariae, Theodor. "Scheingeburt." *Zeitschrift des Vereins für Volkskunde* 20 (1910): 141–81.

Zajtay, Imre. "Le Registre de Varad: Un monument judiciaire du début du XIII siècle." *Revue historique du droit français et étranger* 4th ser. 32 (1954): 527–62.

Þorgils saga ok Hafliða. *Sturlunga saga* 1:12–50.