

CHAPTER XL. INDEMNITY, WEREGILD.

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The freeman's right to peace -- Inviolability of body and honour -- Indemnity for murder -- Inequality of freemen's personal rights -- Computation of indemnity -- Lists of the amount paid or received -- The rights of Icelanders trading in Norway -- Indemnity for wounds -- Laws relating to indemnity -- Slander -- Indemnity in kind.

EVERY *freeman* was *fridheilag* (peace-holy), unless he had forfeited his right to peace. This sacredness of person meant, both inviolability of body and honour: for every breach of this, in deed or word, he could claim a redress consisting of a certain amount of money, which was his *rét*.

"It is first in our *mannhelgi* (man-holiness) that every man in the country shall be peace-holy in and out of the country" (Frostath., iv. 1).

Blood feuds and revenge were of such common occurrence in these days, that throughout the Sagas there is a great mass of literature which deals with the customs and laws regulating the indemnity for murder.

As every individual, so every family had its *rét*. This was the so-called *manngjöld*, or indemnity due to the family as a redress for the slaying of one of its members. This view of the family, which is very old, namely, that it was its right and duty to avenge the slaying of one of its members on the slayer or his family, was the law of the land, and the *weregild* (indemnity) was equivalent to buying off the family revenge. It was really the price of the dead man, which varied according to his *rét* when living.

If the slayer died before paying the *weregild*, his heir had to pay it.

From the laws we find that the *rét*, or personal rights of every freeman, were not equal. People were divided into classes, as we have seen, and it was according to his rank that a man had to pay or receive *weregild*.

The entire family *weregild* was computed in gold, one $\frac{1}{2}$ *mark* of gold being reckoned as eight *marks* of silver in weight. Six marks of gold seem to have been the family *weregild* for a *haudd*, and that of the other classes was fixed in proportion.

A general rule seems to have prevailed for the computation of the *rét* in all upper classes, which was reckoned in silver, or 12 ells of *vadmal* for every *eyrir*. In the lower classes it was reckoned in the so-called *lögeyrir* (legal *eyrir*), i.e. about 12 feet of *vadmal* for every *eyrir*.

Some *rétts* were hereditary, and a wife enjoyed the same *rét* as her husband received, and retained it even during widowhood.

"This is about the rights of women. Every man has full *rét* on behalf of his wife. Three marks are due to a *haudd* if his wife is struck.

"A widow shall have her rétt herself, as high a rétt as that of her late husband, and whoever she wishes shall claim it" (Frostath., x. 37).

In Gulathing's Law the haulld is the centre of the division; his rétt is three marks.

"A haulld shall get as his full rétt three marks. The rétt of every man upward (of higher rank) from the haulld shall increase by a third and decrease downwards" (Frostath., x. 34).

The amount to be paid or received by each degree of a family was entirely independent of the number of members of such degree. In the computation the following rules were chiefly followed: -- The weregild on both sides embraced the family within the same degrees of the slain and the slayer, each individual degree on the side of the slayer paying weregild to the corresponding one in the family of the slain; the first receiver of weregild was the son of the slain, or, if he was not alive, the father.

"The first indemnity (*baug*)² is called head-indemnity. That is ten marks. That is (as much as) thirty-two cows if the slain man is odal-born. The weregild increases and decreases like other réttis of men. The father shall get it if the son is not alive; if both live, the father owns three marks. If he is not able to fight, he gets twelve aurar from the slayer. If the slayer is outlawed he loses that indemnity. When the slayer dies his heir *receives the axe* (has to pay the weregild)" (Gulath., 218).

"The second indemnity is called brother's indemnity. That is five marks, or sixteen cows. The third is the indemnity of the brødrung (first cousin). That is four marks, or half an eyrir less than thirteen cows" (Gulath., 219).

The sum paid was the same whether the receiver was one or more. The amount paid by each degree became smaller in proportion as the kinship became more distant. The degrees of kinship embraced in the weregild were always considered as existing on both sides. If they in reality did not exist, the slayer had to pay, and the next of kin on the other side to receive, for the missing degree.

"The slayer shall pay the head-indemnity to the son of the dead. The brother of the slayer shall pay indemnity to the brother of the dead if he is found; otherwise the slayer shall pay it. The brødrung of the slayer shall pay to the brødrung of the dead brødrung-indemnity if he is found; otherwise the slayer shall pay it" (Gulath., 222).

The *saktal* was a list of the amount to be paid or received by every degree in the weregild. Two or three of these lists are found in the Gulathing's Law, and one in the Frostathing's Law.

The nearest kinswomen on both sides, mother, daughter, sister and wife, paid and received a certain gift called *Kvenngjöf*. Otherwise a woman was never reckoned as payer or payee, unless she were sole heir. But the moment she was married her rights in this respect passed over to her nearest male relative.

"A mark is a woman's kvenngjöf. Four women shall receive it if they are found; the mother of the slain man, his daughter, his sister, and his wife. Each of them receives two aurar if they all exist. Wherever they are not found the son of the slain man shall receive it. If all the women are missing, the slayer shall take this mark and pay it to the son of the slain. If one of the women is missing, the son of the slain shall receive two aurar, and if two are missing, half a mark, and if all are missing, one mark" (Gulath., 221).

The Gulathing's Law differs from the Frostathing's Law only in one point, viz., the last divides the bondi into two classes, the *árborinn-man* and the *reksthegn*.³ The law seems to mean in the case of the latter a man who was not odal-born, yet could point to four generations of freemen on his father's side; but the difference between the two is not told.

The Icelanders when trading or staying in Norway took the rétt of a haulld; but if they remained more than three years, or settled there, they were to have the rétt which they had in their own country, and which had to be proved by witnesses.

All other foreigners had the rétt of a bondi unless they could prove by witness a higher one.

"A freedman (*leysingi*) owns six aurar as single rétt, and his son a mark as single rétt. A *bondi* owns 12 aurar as single rétt, a *haulld* three marks, a *lendrman* and a *stallarii* (marshal) six marks, the jarl and the bishop 12 marks. The son of a *lendrman* shall get the rétt of a haulld if he gets no land. . . . Icelanders have the rétt of a haulld while they are on trading journeys, until they have been here three winters and lived here. Then they have the rétt which witnesses prove. All other foreigners who come to this country have the rétt of a bondi unless they prove by witnesses that they have a higher rétt" (Gulath., 200).

The inhabitants of towns all enjoyed the same rétt, which was three *marks*.

"It is the law that all men have an equal rétt in the town (namely) the rétt of a baulld, 3 marks, the *lendrman* as well as the freedman who has made his freedom-ale" (Bjarkeyjar Law, 97).

The *lendir-menn* were regarded as a higher division of the haulld; and although the son of the *lendr-man*, as such, had most hopes of receiving such a dignity, and until his fortieth year enjoyed the same rétt as his father, yet, in case he had not before that time really received his appointment as *lendrman*, he belonged thenceforth only to the class of the haulld, and enjoyed only the rétt of the latter.

The king's *ármenn* enjoyed half a haulld's rétt, or the same as a bondi.

With the introduction of Christianity we find that the rétt of a bishop was equal to that of a jarl. The jarl and bishop had the double rétt of a *lendr-man*, 12 marks each; the *stallari* (marshal of the king) had the rétt of a *lendr-man*. The priest, the *skutilsvein* (page), the goldsmith of the king, and those who steered his trade-ships, had that of a haulld. In all these cases the children only inherited the rétt which belonged to their father at their birth.

Indemnity paid for wounds varied according to the rétt of the man who gave the wound.

For wounds in the face, or on places where hair or clothes did not hide the cicatrice, an additional indemnity was paid called *áljóseyrir* (indemnity for looking more ugly); for cutting and burning, an additional indemnity which was called *granbragds-eyrir* (*grön* = lip), which meant that the pain was so great that the lips of the man trembled under the operation.⁴

If the giver of the wound was outlawed on that account, and wanted to be released from the outlawry, he had to buy himself out for fifteen marks, to be paid to the king; and to the wounded man a sum according to his rétt.

"If a freedman wounds a man he shall pay 12 aurar as fine, and his son double, and a bondi triple; an odal-born man double the bondi, a *lendr-man* and a *stallari* double again, and a jarl double the amount they pay, the king

double the jarl. When a man wounds another he shall pay woundindemnities to the one whom he wounded, one eyrir for the wound, one eyrir where a muscle is cut, one eyrir when edge and leg meet, one eyrir for every bone that falls down if it makes a sound when thrown into the scales, one eyrir for every singeing, one eyrir for each cut in the clothes, one eyrir for every cut if it bleeds, half a mark for wounds in the vital parts, half a mark for marrow-wounds (piercing to the marrow). The wounder shall pay healing-fee and give to them both (physician and wounded) food for a month. If a muscle is cut off and falls on the ground the indemnity is six aurar, and as much if a sear is left in a man's head (a scar which causes pain when the head is combed). All breast-wounds shall be valued, but back-wounds receive double indemnity. If a man is present at a quarrel and does not part nor help either he shall pay a *slanbaug* (ring or indemnity of laziness) to the king 12 aurar" (Gulath., 185).

"There are bone-indemnities (*bein-gjöld*) wherever a bone is loosened from the wound of a man. . . . Then there is one eyrir to be paid and one eyrir for each little bone until they are six. But if so large a bone is loosened that six holes may be made in it six aurar shall be paid, but a bone-indemnity is never higher than six aurar" (Frostath., iv. 49).

"If a haulld wounds a man he is liable to pay six *baugar* (rings) to the king, and twelve aurar are in each ring. If an *árborinn-madr* wounds a man he has to pay three rings; and a *leysingi* (freedman) two, a *lendr-man* twelve, a jarl twentyfour, a king forty-eight, twelve aurar being in every ring, and the sum is to be paid to all to whom it is due by law. All this is valued in silver" (Frostath., iv. 53).

"If an *árman* (steward) is struck or slain at a church or at a feast or at a Thing the slayer is outlawed, as for the slaying of any man; but if anywhere else he shall pay fifteen marks, and the *árman* has half the *rétt* of a haulld" (Frostath., iv. 57).

"The king's *skutilsveins* (pages) shall have the *rétt* of a haulld in all greater and lesser things. But with regard to other servants of the king they shall have the *rett* of a haulld if they wear *ale-cloths* (aprons) on their necks, and also the one who steers his trading-ship between lands, and also his goldsmiths. *Stallaris* (marshals shall have the *rett* of a *lendr-man* in smaller and larger things" (Frostath., iv. 60).

If a man bit another man, his fore teeth were broken at the Thing by the king's tax-gatherer (*sýslu-man*), but no indemnity was paid. Wounds with knives were also punished at the Thing.

"It is unfitting that men should bite each other like horses or dogs. When a man bites another the *sýslumadr* (steward) shall have him taken and brought to the Thing and his teeth broken out of his mouth" (King Magnus' Laws).

To the wounded man himself, indemnity for wounds and fees for physicians were paid; the former varying according to the nature of the wounds, but otherwise equal for all without distinction of *rétt*. The fee paid to a physician was fixed according to the time taken in healing the wound.

"One eyrir shall be paid as healing-fee every month and two monthly allowances of meal and two of butter. Thus it shall be every month till . . . It shall be offered at the first Thing, and his farm and his loose property is taken until he has paid lawful fine to the king and wound-indemnities and healing-fee to the wounded. If he does not offer it at the first Thing he is outlawed and his property, except what he takes into the wood with him (is confiscated)" (Frostath., iv. 12).

"All have equal wound-indemnities (*sérbœtr*), thegn and thrall. If a man wounds a man's thrall he shall feed him while he lies wounded and pay his work to his master and his healing-fee" (Gulath., 215).

If any one killed his own thrall he was not punished, but had to declare it; and if he failed to do so, he was *mordingi* (murderer). If a man slew the thrall of another man, he had to pay the value of the naked thrall to the master, but nothing to the king. ⁶

Atli, a freeman working for Njal, was slain by a kinsman of Halgerd, the wife of Gunnar; when Gunnar, who was at the Althing, knew it, he went to Njal and wished him to arbitrate.

"Njal said: 'It was our intention not to disagree on this, and I will not make him a thrall.' Gunnar said he assented, and stretched forward his hand. Njal named witnesses, and they agreed on this. Skarphedin said: 'Halgerd does not allow our *húskarls* to die from old age.' Gunnar answered: 'It is thy mother's intention that the blows should be mutual in each other's farm.' Njal said: 'There will soon be too much of this.' He arbitrated that one hundred in silver should be paid, and Gunnar paid it at once" (Njala, c. 38).

In ch. 39 we are told that the man who slew Atli is slain by one of Bergthóra's men, and Gunnar pays back the weregild to Njal. Offence in word consisted in abuse or disgraceful similes, or in bringing an accusation of some disgraceful deeds.

In the first case the offended had to get witnesses to the offence, and must not return the abuse; if he did so, he was held to have avenged himself, when the two offences were balanced one against the other, and there was no indemnity. In the second case the offender could free himself by proving the truth of his accusation, or getting ten witnesses that the accusation was grounded on a report from the house of the offended. The offended person then had to deny this on oath, or in some cases by undergoing the burning iron ordeal; according to the result the offender had or had not to pay indemnity.

If a man was slandered behind his back to the king or a chief, the offender was liable to the punishment which the slandered would have had had he been guilty.

"No one of us shall slander another to the king, or to a more powerful man than himself. If he slanders away a man's life or property, he has slandered away his own property or life, if it is proved. If he denies it he shall do it with a *séttareid* (an oath). He shall have the same punishment which he meant for the man" (Gulath., 137). ⁷

"No man can take his rétt oftener than three times, ⁸ neither man nor woman, if he does not take revenge in the meantime" (Gulath., 186).

The weregild was not always paid in cash, but was sometimes given in kind.

Now the payment must be regulated. A cow shall be worth two aurar and a half. When a cow is paid it must not be older than eight winters, unless the receiver cares to take it. All paid cows must have good horns and tails, eyes and teats, and in every respect be good. Corn and oxen and all calfbearing cows may be paid as indemnities (*baug*). Gold or burnt (cleansed) silver may be paid if found. Horses, but not mares. A stallion, but not a gelding. It must not have faults. Sheep may be paid, but not goats. Odal-land, but not kaup-land. A ship, unless it is repaired or so old that the first oar-loops of it have been rown off, its stems are broken off, or it is repaired with planks which have not been put on while the ship stood on its stocks. Nothing worth less

than one eyrir shall be paid unless the indemnity is less. . . . Weapons which are unimpaired, hard and unbroken. Those with which the man was slain shall not be offered. A sword shall not be paid as indemnity unless it is ornamented with gold or silver. Vadmal and all new linen and all new and uncut cloth, unless the receiver wants to take new and cut cloth. Men's clothes and not women's may be paid, new and not old. New stuff not cut into a cloak. Blue cloaks and skrum,d (a kind of stuff) new and uncut. All boys brought up at home when not older than fifteen winters, unless the receiver assents, may be paid. Bondmaids shall not be paid as weregild" (Gulath., 223).

NOTES

- ¹ -Eight aurar made a mark.
- ² -Indemnity to be paid in metal rings of silver or gold.
- ³ -The reksthegn was a freeman descended from thrall kin, although his family might have been free for several generations. The rétt of the árborinnmadr was 12 aurar, that of the reksthegn one mark. The classes in the two other law districts were probably similar to those above, but it seems that the haulld and bondi were classified as one.
- ⁴ -The laws on wounds are so minute and numerous that it is not possible to give them 215; in full. Cf. also Gulath, 179215; Frostath., iv. 42-53.
- ⁵ -N. G. L., ii. 60.
- ⁶ -Frostath., v. 20.
- ⁷ -See oath, p. 558.
- ⁸ -It was thought unmanly to be disgraced three times and take no revenge. Cf. also Gulath., 196; Addition to Frostath. Law, 36.