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‘The Fleeing Foot is the Confessing Hand’: Proverbs in the Old Frisian Laws”

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LA TRADIZIONE GNOMICA NELLE LETTERATURE GERMANICHE MEDIEVALI

A cura di M. Cometta, E. Di Venosa, A. Meregalli, P. Spazzali



**LA TRADIZIONE GNOMICA
NELLE LETTERATURE
GERMANICHE MEDIEVALI**

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PREFAZIONE

Verio Santoro

UNIVERSITÀ DEGLI STUDI DI SALERNO

PRESIDENTE DELL'ASSOCIAZIONE ITALIANA DI FILOLOGIA GERMANICA

Il volume raccoglie la gran parte dei lavori del XLIII convegno dell'Associazione Italiana di Filologia Germanica ospitato dall'Università degli Studi di Milano nei giorni 30 maggio-1 giugno 2016 e dedicato alla tradizione gnomica nelle letterature germaniche medievali. L'ampia tematica del convegno è stata affrontata in saggi puntuali e specifici per quanto riguarda l'area linguistico-culturale (anglosassone, altotedesca, frisone, scozzese e fiamminga), il periodo (dall'alto al basso medioevo), l'approccio metodologico alle varie tipologie di testi oggetto di studio.

La serie dei contributi si apre con uno studio di Elena Di Venosa (*La fraseologia storica germanica: temi, strumenti, metodi*) dedicato all'incontro tra paremiologia e fraseologia storica, con un'ampia presentazione dei diversi filoni di ricerca, non sempre omogenei nell'ambito delle varie lingue germaniche e principalmente riconducibili alle scuole tedesca (più incline alla paremiologia) e inglese (che predilige invece la fraseologia in senso stretto). Il contributo offre una presentazione dei principali aspetti paremiologici e linguistici di questo ramo della linguistica storica, costituendo così un utile punto di partenza teorico in funzione dello studio dei successivi saggi raccolti nel volume.

Il secondo contributo di Marusca Francini (*Immagini letterarie della schiavitù negli indovinelli dell'Exeter Book*) si concentra sull'immagine della schiavitù che emerge da tre indovinelli tramandati dal celebre codice di Exeter; presente in modo particolare nella letteratura anglosassone, il genere poetico dei *Riddles* si dimostra adatto a veicolare riflessioni e contenuti di tipo gnomico. Dopo una generale presentazione della situazione relativa

alla schiavitù nella Britannia anglosassone dall'*adventus Saxonum* sino alla conquista normanna, il contributo focalizza la sua attenzione sulla terminologia della schiavitù e sull'evoluzione del termine *wealth* contenuto negli indovinelli 12, 52 e 72.

Nel successivo saggio (*Riflessioni gnomiche in The Wife's Lament*) Concetta Sipione propone una rilettura gnomica dei versi finali del componimento anglosassone noto come *The Wife's Lament*, da sempre al centro di un appassionato dibattito; sostenuta da una ricca analisi delle corrispondenze con il restante corpus poetico anglosassone, la rivisitazione gnomica dei versi finali del componimento permette all'autrice di ripianare alcune asperità e incongruenze del testo e di legare meglio i vv. 42-47a con i successivi vv. 47b-52.

Il contributo di Rolf H. Bremmer Jr (*"The Fleeing Foot is the Confessing Hand." Proverbs in the Old Frisian Laws*) propone un rapido panorama della letteratura d'argomento gnomico, e specificamente dell'elemento proverbiale, nelle diverse aree germaniche – anglosassone, scandinava (in particolare islandese) e tedesca – e un'utile ricostruzione degli orientamenti degli studi relativi ai proverbi antico-frisoni, a partire dal primo pionieristico lavoro dell'umanista George Burmania, attraverso il periodo romantico e sino al XX secolo. Sulla base di una puntuale analisi di alcuni passi di particolare interesse (principalmente dalla raccolta di testi giuridici conosciuta come *Jurisprudentia Frisica*, tardo sec. XV) e di nuovi traguardi della ricerca (gli studi di Klaus von See), lo studioso passa poi ad analizzare la natura, tipologia e funzione dei proverbi nei testi giuridici frisoni, distaccandosi dalla tradizionale interpretazione dei proverbi come relitti di un più antico e comune passato germanico.

Valeria Di Clemente (*Gli usi dell'elemento gnomico nel Bruce di John Barbour*) si occupa dell'uso funzionale dell'elemento gnomico da parte di John Barbour nel poema da lui dedicato alla vita e alle imprese di Robert Bruce, riprendendo, ma anche precisando e arricchendo, il precedente lavoro del filologo e paremiologo statunitense B.J. Whiting. L'indagine dell'autrice si sofferma sulla modalità di occorrenza di proverbi, massime e sentenze nel poema, sulla loro funzione e sulla presenza di temi e situazioni ricorrenti, analizzandone nell'economia della narrazione le modalità di inserzione nel testo (come rielaborazione o come citazione estesa); attenzione è anche dedicata a *loci* particolarmente strategici del componimento dove sono esaltati quei concetti morali e/o sociali che sostengono l'impianto propagandistico del poema.

Il contributo di Davide Bertagnolli (*Gli insegnamenti del Leken Spieghel di Jan van Boendale nel contesto cittadino brabantino del XIV secolo*) prende in esame un testo enciclopedico composto nel secondo decennio del XIV secolo da Jan van Boendale (il *Leken Spieghel*), in particolare concentrandosi su quei passi del terzo libro che possono essere ricondotti al contesto cittadino

e più in generale al Ducato di Brabante, in cui l'autore, poeta e segretario della città di Anversa, aveva operato. Il saggio vuole così favorire la comprensione di quegli insegnamenti che nel testo insistono sulla centralità del bene comune, contestualizzandoli dal punto di vista storico e riconoscendo l'influenza su di essi esercitata dall'analogo concetto di *communis utilitas*, già presente in uno scritto di Tommaso d'Aquino (noto come *De regimine Judaeorum, ad Ducissam Brabantiae*) indirizzato alla duchessa Aleidis di Borgogna, che all'Aquinate aveva richiesto consigli di natura politica dopo aver temporaneamente preso la reggenza del Ducato di Brabante alla morte del marito Hendrik III.

Dagmar Gottschall (*Ein meister sprichet. Dicta (Sprüche) come strumento didattico nella mistica tedesca del XIV secolo*) propone una, per molti versi originale, interpretazione del cosiddetto *dictum (Spruch)*, costituente vitale della predica e del trattato, che si fa strada a partire dal XIV secolo con la sempre maggiore diffusione della letteratura religiosa volgare in prosa. Il contributo si sofferma più precisamente sul detto mistico (*Mystikerspruch*), raramente oggetto in passato di specifica attenzione; concentrandosi sul contenuto dei detti, sulla loro funzione e sul loro possibile valore didattico, il saggio offre un'interpretazione del detto mistico nella prospettiva della letteratura gnomica.

Chiude il volume il saggio di Elisabeth De Felip-Jaud (*Die Sprichwörter in Hans Vintlers Blumen der Tugend*) dedicato allo studio dell'elemento proverbiale nell'opera dello scrittore Hans Vintler *Blumen der Tugend*, il più ampio componimento poetico in lingua tedesca del tardomedioevo tirolese, basato sull'opera in prosa *Fiore di virtù* dell'italiano Tommaso Gozzadini. L'elemento proverbiale presente nell'opera di Vintler è attentamente analizzato nel suo rapporto con il modello italiano (prendendo come base di confronto l'edizione a stampa di Giovanni Bottari del 1740), sia dove esso più fedelmente sembra seguire il testo di partenza (come nella prima parte), sia dove esso sembra con più decisione progressivamente distaccarsene (come nella seconda parte).

Come il lettore potrà osservare, gli argomenti e i testi trattati ribadiscono l'ampiezza e la vitalità della ricerca e degli interessi scientifici della comunità dei filologi germanici italiani e confermano il convegno annuale della loro associazione – con il contributo da tempo consolidato di importanti specialisti stranieri – come fondamentale luogo di confronto sui diversi aspetti della cultura germanica medievale.

“THE FLEEING FOOT IS THE CONFESSING HAND.”
PROVERBS IN THE OLD FRISIAN LAWS

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0. INTRODUCTION*

Proverbs are very much a component of traditional culture; often used and patterned for “retention and ready recall” by balance, rhythm, alliteration, assonance, or rhyme, they have become a constituent part of common memory (Ong 2012, 34). They are “storehouses of wisdom” and in themselves often resemble legal rules (Brink 2005, 96-97); note, for example, the use of the compelling auxiliary verb *mot* (‘must’) in *morth mot ma mith morth kela* (“murder must be cooled [i.e., placated] with murder”). Proverbs also transmit communal norms and values to posterity, they give advice or warn, articulate desired behaviour or unwanted conduct (Brink 2005, 91; Sumner 1999, 22). Their presence in medieval Frisian laws has long been recognized, and they were gratefully collected and included in the first collection of German/Germanic legal proverbs.¹ Conrad Borchling (1908, 32) praised the “beautiful, old, alliterative formulas” in which proverbs had frequently been cast. Sympathetic, yet romantic, is a brief discussion by Manfred Szadowsky (1959-61, 155-56), who qualified the Frisian proverbs as

* Versions of this paper were also read at the 50th International Congress on Medieval Studies, Kalamazoo, May 2015, and as a guest lecture at the Deutsches Seminar, Universität Zürich, December 2015. I have profited from the ensuing discussions. My gratitude is furthermore due to Oebele Vries for critically reading a draft of this paper and to Jenneka Janzen for improving the text stylistically.

¹ For example, *morth mot ma mith morth kela* is discussed in the section on “Talion” (“Retaliation”) in Graf and Dietherr 1864, 336-40, no. 311.

“urgermanisch” in nature. Wybren Jan Buma (1961, 74-83) also devoted due attention to their occurrence in the First Rūstring Manuscript (Oldenburg, Niedersächsisches Staatsarchiv, Bestand 24-1, Ab. Nr. 1), but his treatment is little more than an enumeration and lacks any contextualization. More recently, critics have been less generous with praise. Klaus von See (1967, 1), for example, opined that alliterative legal verse, especially in the Frisian legal texts, and alliterative proverbs should not be completely neglected in a study of Germanic poetics, but in view of the continuing presence of alliteration in proverbs and formulas one should be careful not to assume Germanic, pre-Christian traditional matter whenever alliteration emerges in a text. With the above in mind, this paper begins with a brief survey of proverbial literature in the various Germanic languages so as to provide a proper backdrop against which to view the medieval Frisian tradition. Next, the nature of proverbs and their function in Old Frisian legal texts will be subjected to a close consideration in the light of recent scholarship.²

I. PROVERBIAL LITERATURES IN MEDIEVAL ENGLAND, SCANDINAVIA, AND GERMANY

Proverbs are collectables and have been so for a long time. My first experience with a collection of proverbs no doubt was the Old Testament Proverbs of Solomon, itself an assemblage made up from six smaller collections. Pericopes of Solomon’s proverbs regularly concluded an evening meal in my parental home, as was the tradition, thus passing onto yet another generation wisdom from over three thousand years ago. And when as kids we were lying in too long in my father’s opinion, he would wake us up by loudly quoting Proverbs 26:16, saying: “As the door turneth upon his hinges, so doth the slothful upon his bed” (in Dutch, of course).³ In the course of his life, my father had gathered his own florilegium from Solomon’s proverbs, from which he could quote at will, and always pertinent to the situation.

An interest in proverbial wisdom, similar to that of the Old Testament Israelites, is also attested for the various medieval Germanic peoples. Collections of proverbs and sentential sayings, often cast in verse, were written down with an eye to the propagation and furtherance of traditional lore. The poet of the Old English *Maxims I*, for example, invites his audience to exchange wise sayings with him:

Frige mec frodum wordum. Ne læt þinne ferð onhælna,
degol þæt þu deopost cunne. Nelle ic þe min dyrne gesecgan

² This paragraph is much indebted to an earlier published study of mine (Bremmer 2014, 31).

³ “Een deur keert om op haar herre, alzo de luiard op zijn bed.”

gif þu me þinne hygecræft hylest ond þine heortan geþohtas.
 Gleawe men sceolon gieddum wrixlan.
 (*Maxims I* 1-4a; Shippey 1976, 64)⁴

Wise sayings, according to the poet, should not be kept to oneself, but must be shared. They should be communal. Communality is indeed an important aspect of the power of proverbs and one of their side effects in pre-literate cultures is that they promote social cohesion (Honeck 1997, 120).

Less artful than *Maxims I* and *II* are the *Durham Proverbs* (Arngart 1981), an anthology of some forty proverbs in prose, copied within a collection of Latin liturgical hymns and a copy of Ælfric's Latin-Old English *Grammar* and *Colloquy*. Such a location suggests that proverbs were also taught and discussed in the classroom.⁵ Proverbs, after all, convey knowledge acquired through generations of experience. Probably the most popular collection of proverbial sayings throughout the Western world at the time were the late antique *Dicts of Cato*. Five manuscripts with Cato's distichs have survived from Anglo-Saxon England, including one with an Old English translation (Gneuss and Lapidge 2014: nos. 12, 182 [in Old English], 190, 389, 664). An indication of the interrelatedness of these texts is that the *Durham Proverbs* and the *Dicts of Cato* have one proverb in common, which also testifies to their function as vehicles of social mores and wisdom (Treharne 2003).

For the early Middle English period *The Proverbs of Alfred* and *The Proverbs of Hendyng* can be mentioned as suitable representatives of proverb collections. Both of these compilations are named after persons to whom wisdom was popularly attributed, much like the Old Testament Proverbs were ascribed to King Solomon (Louis 1998). Alfred, of course, is King Alfred the Great (849-99), but Hendyng has remained unidentified thus far, although in the poem he is introduced as the son of Marcolf. Of Marcolf we know that he figures in Middle High German wisdom literature, if not very positively (Griese 1999). Again, the two collections have a number of proverbs in common and, remarkably, because reaching back to pre-Conquest times, *The Proverbs of Hendyng* includes two proverbs that are also found in the Durham collection. Apparently, anyone fishing in the pool of English proverbs at the time would catch the same fish, every now and then. Both texts are indebted, too, to the *Dicts of Cato*, a text that remained popular also in the Middle English period and, as testimony to its being in high demand, was printed four times by William Caxton (Brunner 1968).

In Scandinavia, particularly in Iceland, the Eddic *Hávamál* is exemplary

4 "Question me with wise words. Do not let your mind remain hidden or keep secret what you know most profoundly. I will not tell you my secret [knowledge], if you hide the power of your mind and your heart's thoughts from me. Wise men must exchange wise sayings/proverbs/gnomes." All translations are mine, unless stated otherwise.

5 On the role of Cato's *Distichs* in the monastic classroom, see, e.g., O'Brien O'Keefe 2012, 123-28.

of the well-nigh irrepressibly medieval tendency to collect proverbial wisdom. The link between this Eddic poem and *Hugsvinnsmál* has been hotly debated, the latter being a free translation of the *Disticha Catonis* (von See 1981). Quite differently, the unknown poet of the *Málsháttakvæði* applied his vast knowledge of proverbs to turn it into a medicine for easing the pain of his lovesickness (Frank 2004).

Finally, in the German-speaking world, there was a similar interest, if not often given shape in new, original compositions. The *Dicts of Cato*, for example, were translated for the first time into German in the middle of the thirteenth century and enjoyed a wide circulation thereafter (Baldzuhn 2007, 137-41, and *passim*). Another example, closely related to the wisdom genre, is Freidank's *Bescheidenheit*, a long thirteenth-century composition of sentential sayings in verse amounting to about 4,700 lines, which enjoyed a wide popularity throughout the later Middle Ages into the Early Modern period (Heiser 2006).

Turning to medieval Frisia, the cultural space of this paper, there is nothing like the rich English or Scandinavian proverb literary tradition, neither as far as primary nor as secondary literature is concerned. Even the relatively poor medieval German tradition is rich in comparison to what has come down to us from Frisia. Moreover, hardly any attention has been paid to the proverbs that are scattered throughout the corpus of Old Frisian texts, which is a good reason to subject them to renewed discussion. In itself, this poor attention need not be surprising, because the field of Old Frisian studies is not by half as crowded with scholars as are those of medieval English, Scandinavian, or German studies. Consequently, what I present here is more of an exploration than a definitive treatment. For a better contextual understanding of my subject, I think it proves helpful first to offer a short historical survey of the study of Frisian proverbs; next I zoom in on the form and content of Old Frisian proverbs, to end with a discussion of a select number of pertinent cases.

2. COLLECTING AND STUDYING FRISIAN PROVERBS

The first to occupy himself with Frisian proverbs was the humanist George Burmania (ca. 1570-1634). In true Renaissance fashion, he completed an alphabetically arranged handwritten collection of about 1,400 proverbs, which was published posthumously in 1641. The alphabetical order of the *Burmania Proverbs* is indicative of the purpose of this collection. It demonstrates a nascent awareness of the need for codifying the Frisian language (van der Kuip 2006). But interest in Frisian proverbs really took off only around 1800, when the Romantic period kindled a vivid interest in folk wisdom. An early sign of curiosity was given by the professor of Greek at

the University of Franeker, Everwinus Wassenbergh, who published a series of studies on the Frisian language, including a commentary on the *Burmania Proverbs*, in 1774 (Wassenbergh 1774). In 1812, the same proverbs received an edition with a philological commentary, independently from that by Wassenbergh, by the classicist Jacob Hoeffft, and was soon after reprinted with an extended index (cf. Hoeffft [1812] 1815). Meanwhile, the Frisian notary Jacobus Scheltema had collected no fewer than 4,000 proverbs, as he proudly reported in 1815 (Breuker 2014, 223). Selections of these were published in the years to follow, no doubt inspired by similar activities in Germany. Among the propagators of collecting proverbs at the time, the Brothers Grimm figured prominently (Mieder 1986; Bluhm 1991). Jacob Grimm himself had demonstrated a lively interest in proverbs, including medieval Frisian legal proverbs, even in his early publications, such as in *Von der Poesie im Recht*, published in 1816 (cf. von See 1964, 1). Hoeffft's edition of Frisian proverbs had been sent to Grimm from Friesland by Hendrik Tydeman in 1812, together with an eighteenth-century edition of Old Frisian laws (Breuker 2014, 101; Martin 1884, 172). Grimm was also convinced that there was much more proverbial material available than he was aware of, so in 1815, while he was attending the Congress of Vienna as a secretary of Hesse's Minister of War, he published an open letter ("Zirkular wegen Aufsammlung der Volkspoesie"). In it he called upon friends and colleagues from all over Europe to, amongst other things, start assembling from past and present: "Rechtsgewohnheiten, sonderbare Zinsen, Abgaben, Landeserwerb, Grenzberichtigung [...]. Sprichwörter, auffallende Redensarten, Gleichnisse, Wortzusammensetzungen" (Grimm and Grimm 1985, 44-47; cf. Breuker 1999, 156, 160-61; van der Zijpe 1968). Grimm did not make his appeal in vain, and from all corners of Germanic-speaking Europe he received exciting and useful material. His call was typically a case of scholarly crowd-sourcing *avant la lettre*, which proved to be a very successful initiative.

His brother Wilhelm was as much charmed by proverbs as was Jacob. Wilhelm's interest appears, for example, from a collection he made of Middle High German proverbs; he was also the first to publish a modern edition of the previously mentioned Freidank's *Bescheidenheit* (Wilcke and Bluhm 1987). Wilhelm saw proverbs as expressions of popular wisdom or even popular philosophy. His love of proverbs also emerges in *Deutsche Kinder- und Hausmärchen*; at each reprint, Wilhelm enriched the text with rhymes, alliterative phrases, and proverbs to make them look even folksier (Mieder 1988).

Specialization in collecting and studying proverbs in Germany soon followed the example set by the Grimm Brothers, and in 1864 Eduard Graf and Mathias Dietherr published a hefty volume of *Deutsche Rechtssprichwörter*, which also included a fair number of medieval Frisian items. Their col-

lection was plundered in turn by Karl Wander for the compilation of his five-volume *Deutsches Sprichwörter-Lexicon* (1867-80). Since Wander's collection is digitized, we can conveniently establish that Wander included over two hundred quotations from the Old Frisian laws. All of them, it turns out upon inspection, are also to be found in Graf and Dietherr's collection, which therefore in all likelihood served as his immediate source. Finally, to round off this survey, the most recent collection, Ruth Schmidt-Wiegand's *Deutsche Rechtsregeln und Rechtssprichwörter. Ein Lexikon* (1996) appears to have relied almost entirely on Graf and Dietherr and Wander, respectively, at least when it comes to references to the Frisian laws. Nowhere does she show her having consulted the Frisian primary sources herself in order to verify whether what her predecessors had qualified as Frisian proverbs could really be considered as such. By way of an analogue, anyone working with, for example, etymologies has to rely to a certain extent on the work of others without having the time and expertise to check how trustworthy a word or a form is. The same apparently goes for editors of collections of proverbs. They rely on older such lexicons, but do not always appear to have the knowledge to ascertain the correctness of their sources. As a result of such uncritically assembled compilations, the medieval Frisians have been attributed with far more proverbs than is actually warranted.

3. THE STUDY OF OLD FRISIAN PROVERBS IN THE TWENTIETH CENTURY

This is not to say, though, that the study of Old Frisian proverbs was completely neglected in the twentieth century.⁶ One of the very few scholars – perhaps the only one – to have paid some detailed attention to the presence of proverbs in the Frisian laws in more recent years was my teacher Wybren Jan Buma. In several of his diplomatic text editions of manuscripts with Frisian law texts he listed what he took for proverbs. What is striking in his treatment is the absence of any definition of what a proverb is. Actually, Buma, it seemed, employed two criteria for including a phrase as a proverb into his lists: if Graf and Dietherr had included a sententious phrase in their 1864 collection of *Deutsche Rechtssprichwörter*, he would usually follow their authority.⁷ A second criterion that Buma applied was that, if a sententious phrase was introduced by a conjunction of reason, such as 'because' or 'for', he deemed it to be almost certainly a proverb (e.g., Buma 1961, 76-81).

Buma's approach, rooted in a late nineteenth-century theoretical paradigm, appears most clearly in his discussion in the introductory matter to his edition of the First Rüsting Manuscript. Scholars have in the past quite

⁶ Brouwer (1964), in a popular survey of Frisian proverbs, only briefly touches upon Old Frisian proverbs.

⁷ But also see Buma 1961, 81-83, for a more critical stance *vis-à-vis* Graf and Dietherr.

rightly drawn attention to the use of legal proverbs, Buma stated, because proverbs clearly reflect the legal life of the people of Rüstingen, who often had the knack of phrasing their juridical opinions concisely and to the point. In this respect, according to Buma, Frisian law was no different from the other Germanic legal codes. Indeed, Buma (1961, 76) claimed, the custom to summarize legal stipulations in proverbs or verses is very ancient and their form facilitated easy memorization. At the same time as when Buma phrased his opinions, the Swiss Manfred Szadowsky published a long, two-part article on the style and syntax of Old Frisian legal language in the prestigious journal *Beiträge zur Geschichte der deutschen Sprache und Literatur*. Szadowsky (1959-61, 158), in agreement with earlier scholars such as Borchling (1908, 32), mentions proverbs particularly in connection with alliteration: “Altererbte Zwillingsformeln, stabende besonders dauerhaft neben stablosen, wie auch landläufige Sprichwörter mit Rhythmus, Stab, Endreim, wuchsen ins Rechtsleben hinein, in die Rechtsprechung und Rechtssprache [...]”. Elsewhere in his essay, Szadowsky (155) comments: “Der Art nach ist [das Sprichwort] urgermanisches oder noch älteres Erbe, wohl auch ein Einzelspruch aus Urtümlichem ererbt, anderes den Vorbildern nachgebildet, frisch geschaffen aus Freude an Bildkraft, Knappheit, Wucht.” Both Buma and Szadowsky stress the Germanic origin of the Frisian legal proverbs and their antiquity: the older they can make them, it would seem, the better they are.

4. A NEW ANALYSIS

Since Buma and other scholars of Old Frisian proverbs in the past did not deem it necessary to explicitize what they understood by the term ‘proverb’, this is where my analysis must begin. However, providing a definition of a proverb has proven to be particularly difficult, and many attempts have been made.⁸ A simple solution was offered by the American proverb scholar B.J. Whiting (1952, 331), who in an article on the nature of the proverb concluded: “Happily, no definition is really necessary, since all of us know what a proverb is.” Still, further attempts can be made and I here give one definition, provided by Susanne Schmarje (1973, 31): “Das Sprichwort ist ein kurzer, volkstümlicher, grammatikalisch in sich geschlossener und sinngemäß unabhängiger Satz oder Satzkomplex, der eine Lehre ausspricht, welche aus sich heraus den Anspruch auf absolute Gültigkeit erhebt.” However, the following definition presented by Wolfgang Mieder (2008, 11) is just as viable: “A proverb is a short, generally known sentence of the folk which contains wisdom, truth, morals, and traditional views in a metaphorical,

⁸ For a discussion of the problem of definition with an extensive bibliography, see, most recently, Norrick 2014.

fixed, and memorizable form and which is handed down from generation to generation.” This definition could be preferred to that presented by Schmarje because it foregrounds the didactic element, gives credit to tradition, and signals the metaphorical aspect of proverbs. Ruth Schmidt-Wiegand has frequently published on legal proverbs, an activity that culminated in her compiling a lexicon of such proverbs (1996; cf. Schmidt-Wiegand 2003). She would have it that legal proverbs are different from common proverbs to the extent that the latter are *volksl ufig*, i.e., they circulate among the people in general. Legal proverbs, on the other hand, are confined to a narrower group of specialists who have occupied themselves on a regular basis with the law.

When it comes to formulating essential criteria by which the subcategory of legal proverbs can be isolated, Schmidt-Wiegand (1993, 264) lists the following: they should be unambiguous and complete. To give an Old Frisian example: *thio nede brecht tha ewa*, “necessity breaks the law”; that is, when in need, laws lose their power and can be transgressed. Furthermore, as Schmidt-Wiegand (261) stipulates, proverbs usually follow at the end of a sometimes complex legal rule and once more summarize its essence. The following passage may serve to illustrate her stipulation: *Theth is londriucht: Sa huetsa thi mon otherum a hond rekth, thet [hi’t] him witherieue, huande hond scel hond wera* (Buma and Ebel 1967, V.5).⁹ Sometimes, according to Schmidt-Wiegand (261), a proverb opens a legal rule, after which an explanation follows, but to date I have not found any such examples in the Frisian corpus. Schmidt-Wiegand (261) also points out that proverbs frequently contain a modal auxiliary, such as ‘shall’, ‘must’, ‘may’, and ‘can’, often in conjunction with the indefinite pronoun ‘one’ (261). The proverb *hond scel hond wera* nicely illustrates this modal auxiliary condition; at the same time it exhibits other features of proverbs. First of all there is alliteration, if only here as the result of repeating the same word, viz. *hond*. Alliteration, as shall be seen, is a commonly acknowledged characteristic of proverbs, and like rhyme, supports memorization. It should be noted, moreover, that alliteration as the result of repetition is avoided in alliterative poetry, so the conclusion that proverbs are poetic on this account appears to be unwarranted (cf. Sonderegger 1962-63, 267; Bremmer 2011). Furthermore, the proverb is not meant to be taken literally but must be understood metonymically. The two hands refer to the two parties involved in the act of handing over and receiving a moveable good. The proverb signifies that only the two parties involved in the temporary shift of ownership are accountable. If, for example, the property entrusted had moved on to a third party, still only the receiver of the article could be held accountable; this rests in opposition to Roman law which allowed a man to demand his property from a third man

⁹ “This is landlaw: whatever one man hands over to another man [i.e., to keep in custody], he must give it back, for hand must guard hand”; cf. Graf and Dietherr 1864, 114.

(Schmidt-Wiegand 1996, s.v. “Hand”, “Glaube”). As a matter of fact, the proverb “hand must guard hand” is not confined to the Frisian laws but can be found throughout the area of Northern Germany (Korte 1981; Annens 1952).

While with *hond scel hond wera* the figure of speech called metonymy can be seen in action, my next example offers an instance of metaphor. The proverb in question concludes a long rule stating that all Frisians have the right to compensate a violent deed with money. In no way should they be subjected to corporal punishments or even capital punishment, unless a man is caught red-handed committing nightly arson or another heinous secret deed. However, execution of a perpetrator is permitted if he has no money to pay the compensation, for *morth mot ma mith morthē kela* (Buma and Ebel 1963, III.16). First of all, it must be noted that alliteration is in operation again, while the proverb also contains both a modal auxiliary and an indefinite pronoun. The metaphor is contained in the verb *kela* ‘to cool’. Cooling presupposes heat and hence it should be asked where the heat is. The answer must be that the heat is generated by anger (cf. Lakoff 1987, 381). In other words, the aggrieved party has become angry because their honour is being injured as long as compensation has not been delivered. The only way open to satisfaction, and thus to cooling down the anger, is the activation of the law of retaliation. This proverb furthermore demonstrates another characteristic, viz. that of minor variation. The following variants are all couched in depending clauses and hence somewhat lack the straightforwardness typical of proverbs:

... and ach ma thet morth mith morthē to ieldane;
 ... sa skel ma thet morth mith morthē ielda;
 ... sa skel ma thet morth efter morthē felle.
 (Buma and Ebel 1967, A VIII.11, A VIII.35, C II.2)¹⁰

No doubt the audience of these variants will have caught the allusion to the proverb. Evidence for my assumption is a regulation included in a rather late medieval collection of legal texts. The largest of these is known as the *Jurisprudentia Frisica*, a kind of *summa* or systematic exposition, written in Frisian, of canon law, Roman law, and native customary law, assembled and ordered by an unknown lawyer in the last quarter of the fifteenth century (cf. Gerbenzon 1989). Its learned character appears not only from the many quotations from Roman and canon law in Latin, but also from the mise-en-page of the manuscript: in true scholastic fashion, the Frisian main text is placed at the centre, surrounded by commentary in both Frisian and Latin,

¹⁰ “Murder must be compensated with murder”, “murder must be paid according to murder”; cf. Graf and Dietherr 1864, 337, no. 310.

for which the scribe carefully designed the necessary spaces (see Fig. 1).¹¹ In *Titulus* 59, called *De restitucione spoliatorum* (“On the restoration of stolen property”), the following rule is given:

Dat riucht spreckt aldus: Hweerso een man syn gued naet crygya mey myt riucht, so mey hy’t myt oerleff dis riuchtis aldeer om strida jeffta tijefflick nyma. Hwant ma sey to een byspil-wird: “Moerd schelma mey moerd kela” ende “graet onriucht moetma mey macht kera” ende “hwaso dat riucht wrsmayt ende breckt, dam so aegh dat riucht naet to helpen” (Hetteema 1834-35, II, 176, Tit. 59.8).¹²

Quite strikingly, this probably unwanted situation of a man being forced to resort to violence now that the peaceful road appears to be blocked requires not just the support of tradition in the jurist-author’s eyes, but also a further back-up of a second and a third proverb. That the author is conscious of what he is doing appears from his using the term *byspil-wird* ‘proverb’. It is the only occurrence of this term in the Old Frisian corpus. The proverbial force of the second statement is expressed in the modal auxiliary and the indefinite pronoun. The modal auxiliary *aegh* also features in the third sententious saying, the proverbial character of which can be supported by referring to similar German proverbs, such as “He who does not want to grant justice to another should not enjoy justice” or “He who does not want to undergo justice, should not complain about violence” (Schmidt-Wiegand 1996, 271).

Why would a man steeped in both university-taught legal systems, Roman and canon law, have invoked traditional wisdom to legitimize the rule that justice may be obtained violently if attempts to solve the problem peacefully have foundered? Is it because he felt uneasy with this violent aspect of Frisian society? Until the close of the Middle Ages, in the absence of princely rulers who, more or less successfully, had elsewhere monopolized legal violence, the Frisians continued the right to feuding. Any Frisian who went abroad to study law, and there were many, must have become aware of this exceptional situation.¹³ Perhaps the author was just showing off the vast repertory of proverbs he had collected over the years. More likely, though, he was imitating, consciously or unconsciously, a typical trait in discussions of Roman and

¹¹ This paper manuscript is digitally available at Leeuwarden, Tresoar, Codex Roorda, von Richthofen-collectie, nr. 6, <http://digicollectie.tresoar.nl/object.php?object=271> (accessed October 2, 2017).

¹² “The law speaks as follows: if a man cannot get [back] his property legally, he can, with the judge’s permission, fight a duel for it or take it furtively. For it is proverbially said that ‘murder must be cooled with murder’ and ‘great injustice must be averted with force’ and ‘whoever despises the law and breaks it, him the law must not help’”; for the second and third proverbs, see Graf and Dietherr 1864, 338, nos. 328 and 338, respectively.

¹³ The first of these was Emo of Huizinge (ca. 1175-1233), who, together with his brother, for about ten years studied law at the universities of Paris, Orléans, and Oxford. On Emo, see, e.g., Rieken 2007.

canon law to support legal provisions with sententious sayings and axioms, known alternatively as *regulae iuris*, maxims or *brocards* (cf. Hyams 2011, 55-56). Originally, they were a kind of summaries of Roman law, collected in the *Digest* as a compendium to the *Corpus iuris civilis*, the corpus of civil law issued under Emperor Justinian (530-33 AD). With the flourishing of the study and composition of canon law in the twelfth century, they attracted renewed attention. Eleven such maxims were added by Pope Gregory IX (1227-41) at the end of *Liber Extra* or Book V of the *Decretals*, while Boniface VIII (1294-1303) concluded *Liber Sextus* with a collection of no fewer than eighty-eight *regulae* (Stein 1966). Some of these maxims are still current as proverbs today, such as Boniface's rule 43: *Qui tacet consentire videtur*.¹⁴ If my hypothesis is right, the author's generous use of proverbs in the *Jurisprudencia Frisica* would be a sign of his applying Latinate legal learning rather than tapping into popular proverbial wisdom. Unfortunately, Hettema only published the Frisian part of the *Jurisprudencia* from Codex Roorda, ignoring the many Latin comments and quotations from Roman and canon law surrounding it in the manuscript (see Fig. 1). A check of a new transcript made of Codex Roorda by Dr Bram Jagersma, which he kindly placed at my disposal, revealed that the author refers more than seventy times to the last chapter of *Liber Sextus*, *De regulis iuris*. For example, rule 43, cited above, is referred to five times.¹⁵ On one such occasion the Frisian paraphrase is given too: *Hwaso swiget, dam is't byhaeglyk, ende mitter swigha consenteert hy* (Hettema 1834-35, I, 74, Tit.12.24). A thorough analysis of all such references to the *regulae* would be rewarding, but exceeds the frame of this article.

We have already seen that previous generations of critics praised the Frisian proverbs for their antiquity. They were held to date back to the truly Germanic period or even beyond. Few scholars today would endorse this opinion, which started to crumble when Klaus von See, now more than fifty years ago, published an important and influential book on Old Norse legal words with the subtitle *Philologische Studien zur Rechtsauffassung und Rechtsgesinnung der Germanen* (von See 1964). In it, von See made short shrift with many of the theories, ideas, and interpretations of the then academic establishment of the discipline. His book is therefore an eloquent and perfect example of *Entmythologisierung*, the epistemological trend that also dominated German theology in the first decades after World War II. An important and almost sacrosanct idea that von See attacked was the assumption that the Nordic laws were almost purely Germanic. One of the arguments that previous generations had adduced to underscore this opinion was the presence of proverbs. Proverbs, it was held, belonged to the people and were precious remainders of the time when the laws were passed on orally. Their being truly

¹⁴ "He who is silent is assumed to agree", or, more currently today, "silence gives consent".

¹⁵ In the comments following Tit. 2.30 [p. 27], Tit. 12.24 [p. 52], Tit. 12.26 (2 x) [p. 53], Tit. 31.5 [p. 141].

Germanic was often measured by the presence of alliteration and metre (e.g., Seiler 1922, 67). A proverb was considered truly Germanic, not only when it featured alliteration, but when it also formed a complete long verse-line with four lifts. If we apply this opinion to Frisian proverbs, very few will pass this test of ‘Germanicness’. *Morth mot ma mith morthē kela*, despite its use of alliteration, would not qualify because it has only three lifts. On the other hand, the following phrase would conform to this condition:

/ x / x x x x x / x x / x
 Lif and lemethe skel ma mith londe bisetta.¹⁶

The phrase has four lifts (indicated by ‘/’), the first three of which alliterate. However, there are a fair number of unstressed syllables (indicated by ‘x’) which prevent it from turning into a proper verse line. But are we dealing here with a proverb in the first place, as Graf and Dietherr (1864, 300) and other scholars (e.g., Buma 1949, 82*, 86*) up to and including Schmidt-Wiegand (1996, 226) in their footsteps have claimed? Let us take a closer look at the context in which it occurs:

Alla inruesza deda, thet is breynsima and lungensyma, ther invrne wach kemen send, tha skel ma biweria mit'tha redia, ther thenna weldech is, and skel ma bisetta etta mena scrifta and stonda ier and dei and talia fon tha dei, ther thiu dede erist den is; nirth ma tha bota, sa skarie ma se anda thet ield, and tha lamethe skel ma ac bisetta, wara thi redia ne thur naut reda. Lif and lemethe skel ma mith londe bisetta (Buma and Ebel 1965, §216).¹⁷

The problem regulated here concerns the paying of compensations for serious wounds that might even prove lethal in the end. The culprit was given a year and a day to pay the compensation that had been fixed by the judge. If the compensation was for a wound that afterwards proved to be mortal, the guilty party did not have to pay for the wound first and for the life later, but the compensation for the wound was to be deducted from the full wergild. To make sure that the compensation would be paid for such deeds, the culprit had to pledge a surety. The entire regulation is then summed up with the

¹⁶ “Life and laming shall one with land beset”, i.e., “wergeld and (fines for) mutilation must be given security with land”.

¹⁷ “All penetrating wounds that have pierced the wall [of the body], that have resulted in discharge from the brain and discharge from the lungs, must be proven with the judge who is then in office, and they [i.e., the wounds] must be recorded in the common register [of wounds], and they may remain unpaid for a year and a day, to be counted from the day that the wound was first inflicted; if the compensation is accepted, it must be passed on in the wergild [to be paid if the wounded man dies]; and the fine for mutilation must also be secured with a pawn, but the judge need not give a declaration. Wergild and (fines for) mutilation must be given security with land”; cf. Graf and Dietherr 1864, 300, nos. 118 and 305.

phrase “Wergild and fines for mutilation must be given security with land”. In favour of taking this phrase as a proverb are the following elements: it functions as a conclusion of a regulation, it features formal aspects such as alliteration and rhythm, and it has the presence of an indefinite pronoun and a modal auxiliary expressing obligation. Against interpreting the phrase as a proverb is the lack of metaphor or metonymy. Most importantly, however, the phrase lacks a figurative and, consequently, a generalizing aspect that would make it applicable outside its specific situation. In so far as I can see, the phrase can only be taken literally. Schmidt-Wiegand (1996, 226) also explains this proverb literally: “Bei kleineren Verbrechen konnte der Straftäter sich in der Regel von der Haft befreien, indem er einen Bürgen stellte. Bei schweren Verbrechen (Körperverletzungen etc.) forderte man Bürgschaften oftmals in Form von liegendem Gut”. Let me clarify what I mean. When saying: “Do not look a gift horse in the mouth”, very few, if anyone at all, would be referring to an actual horse. Instead, the statement would be decoded as advice not to criticize presents that one receives. Now, such metaphorical encoding is missing from the Frisian phrase in question. Admittedly, the alliteration and rhythm employed may in effect have turned the phrase into metrical line according to Germanic poetic principles, but this does not in turn make it a proverb. At best, the way the conclusion is phrased morphed it into a useful mnemonic device that helped legal experts memorize the principle that wergild and fines for mutilations required a surety in land until they had been paid.

Returning to von See (1964), he also exposed the way scholars had previously explained the scarcity of proverbs in Anglo-Saxon laws, even though these are the oldest vernacular Germanic laws we have and should therefore have abounded with proverbial sayings.¹⁸ The few proverbs present, it was claimed, were the last traces of what once must have been a much richer tradition. Von See, however, showed that likewise proverbs are completely absent from the oldest of Icelandic law books, the *Grágás*. Rather, the reverse applied: proverbs were especially to be found in the late medieval Scandinavian legal texts. Moreover, von See pointed out that the nature of the proverbs in these late laws rather reflected the daily experiences of rural life than those of legal practice. As a consequence, he denied the existence of a special category of legal proverbs for medieval Scandinavia (von See 1964, 87-90).

Von See’s observations also seem to be largely applicable to the Old Frisian legal texts. No text contains more proverbs than the late fifteenth-century *Jurisprudentia Frisica* from which I have already quoted a number of times. The anonymous lawyer who compiled this learned text cast his net widely when it came to proverbs. Sometimes the Bible is his source, as is the case when he enumerates the rules concerning slander, gossip, false rumour, and insult (cf. Bremmer 1998, 96). If a man brings forward convincing evidence that his reputation has been wrongfully damaged, he may himself set the

¹⁸ On proverbs in Anglo-Saxon laws, see most recently Bremmer forthcoming.

amount of compensation to be paid, a rule which is underpinned with the conclusion: *Hwant een gued nama is bettera dan goud ende seluir* (Hetteema 1834-35, II, 202, Tit. 63.1), which neatly summarizes the wisdom held up in Proverbs 22:1.¹⁹ Another proverb, which at first sight refers to what must have been a not uncommon event in a peasant's life, turns out to be problematic: *Hweerso een man een misdeda deth so schel hy anderde fander misdeda inda selle riucht deer hy da misdeda deen haet, hwant "deer dy baem falt, aldeer schel me'n weer opriuchta"* (Hetteema 1834-35, I, 150, Tit. 20.7).²⁰ The usual characteristics for a proverb are present: a conjunction of reason ('for, because'), a modal auxiliary expressing obligation, and a metaphorical way of comparison: the tree represents the crime. However, the wisdom expressed by the Frisian proverb also alludes to the superior wisdom of Ecclesiastes (11:3), where it is claimed that in whatever place a tree falls, there it will remain. How can this be? Almost certainly, at least some among the intended audience of *Jurisprudencia Frisica* would immediately have thought of the biblical text, if only based on my own gut reaction when I read the passage for the first time. In other words, is the author of our text pulling his colleagues' proverbial legs? For how can a tree that has been felled be erected again? So far I have not found any other attestation or analogue of this proverb, which causes me to think that we are indeed dealing here with a witty allusion to the Bible.

Sometimes the Bible and Roman law come together in a proverb, as Clausdieter Schott (1977) has shown. According to Mosaic Law (Deut. 19:15) and repeated in both the Gospels (Matt. 18:16) and in the Apostolic epistles (2 Cor. 13:1), in order to bring forward a valid testimony at least two witnesses must have been present at the occasion. A similar notion was expressed in a maxim in Roman law: *vox unius, vox nullius* ("the voice [i.e., testimony] of one person is the voice of no one"). Now, the author of the *Jurisprudencia Frisica* has placed the two notions together here to give weight to the rule he has just given, concerning issuing summonses: *Hweersoma een man noeglick laya schel, so schelma hem laya jn gueder lyoda andert to da riucht, hwant "een man steet neen wird to lyowen" ende "een stemme is so folle so neen", al weer hy al swern riuchter* (Hetteema 1834-35, I, 28, Tit. 3.9).²¹ Not even the single voice of a judge

19 "For a good name is better than gold and silver"; cf. Graf and Dietherr 1864, 351, no. 401. Cf. Prov. 22:1: *Melius est nomen bonum quam divitiae multae; super argentum et aurum gratia bona* (Weber 1975; all further references to the Vulgate, with some punctuation added, are from this edition).

20 "If a man commits a crime, he must respond to an accusation of the crime in the court of the same district as where he has committed the crime, for 'where the tree falls down, there it must be erected'; cf. Graf and Dietherr 1864, 437, no. 312. Cf. Eccles. 11:3b: *si ceciderit lignum ad austrum aut ad aquilonem, in quocumque loco ceciderit, ibi erit* ("If the tree fall to the south, or to the north, in what place soever it shall fall, there shall it be"; trans. Douay-Rheims, online version at <http://www.drbo.org/>. Accessed March 18, 2018).

21 "If a man must be properly summoned [before the court], he must be summoned to the court in the presence of good [i.e., honourable] people, for 'one need not believe the truth [on account of the witness] of one man' and 'one voice is as much as none', even though he were a fully sworn judge." The former was apparently overlooked by Graf and Dietherr 1864, for the latter see 455, no. 487.

solemnly sworn into office could annul the rule summed up in the proverb. That people of authority have to give way to this wisdom is also expressed elsewhere in the *Jurisprudentia Frisica*: “*Aenis mannis orkenscip dagh naet*”, *al weer hit een biscop* (Hetteema 1834-35, I, 114, Tit. 15.50).²² The same wisdom is expressed with explicit reference to the Bible in a Frisian adaptation of the treatise *Processus iudicii*, composed by Johannes Andreae (Giovanni d’Andrea, 1270/75-1348), one of the most famous canonists of the period: *Dit is gastlic riucht, detter noech is in twam nogelika thiugum, als det evangelium seit: “In ore duorum vel trium stat omne verbum”; in da werda twira iefta thrira so steeth alle thiu werde, hwant ‘enes monnis thiuch daecht naet’*” (Buma and Ebel 1967, D 29a).²³ All these variants are indicative of how a biblical injunction was adopted and fashioned into a proverb to function in the procedure of law.

I have come to my last point. Proverbs, to be effective, should have a wide circulation, and even though the Old Frisian text corpus is rather limited, it is possible to find evidence of this aspect. Consider the following two regulations, which both deal with succession:

Ic forbonne alle falsche wilkeren, ther thet sibbiste lif vnerwiat fon then goude, hwant thi wilkere sprecht ien tha ewa ende ien alle gastlike riucht, warvm “dat neste blod is sibbiste ende nest to then gode”, also fir thet hi se freybern ... (Buma and Ebel 1972, XIX.14).²⁴

Thi fiarda dom is, thet alle lawa agen fort to gungane, also se deden fon Abraham and fon Ysaac and fon alle hiara iungerum alhvnt in thine hiudelika dey: “thet sibbiste blod js sibbiste and nest tho then goud” (Buma and Ebel 1972, VII.4).²⁵

In the former regulation a proverb is invoked to support the rule that forbids the validity of statutes – that is, recent, written legal decisions – when they run counter to secular and ecclesiastical tradition. The same proverb

²² “One man’s witness does not avail’, even though he were a bishop”; cf. Graf and Dietherr 1864, 455, no. 486.

²³ “This is spiritual [i.e. canon] law, that two witnesses suffice, as the Gospel [Matt. 18:16] says: ‘In ore duorum vel trium stat omne verbum’; in the word of two or three all truth may stand, for ‘one man’s witness does not avail’”; cf. Graf and Dietherr 1864, no. 484. The Frisian adaptation of Johannes Andreae’s treatise survives in five manuscripts, thus testifying to its popularity.

²⁴ “I forbid all false statutes that deprive the next of kin of their hereditary title to a property, because such a statute contradicts the [traditional, secular] law and all spiritual [i.e., canon] law, because ‘the nearest blood is nearest of kin and nearest to the estate’, in so far as he [the claimant] is a freeborn man”; cf. Graf and Dietherr 1864, 200, no. 110. On the legal concept of ‘closer, near’, see *Deutsches Rechtswörterbuch*, s.v. *näher*, <https://www.rzuser.uni-heidelberg.de/~cd2/drw/e/na/naher.htm> (accessed October 2, 2017).

²⁵ “The fourth doom is that all estates must be divided as they have been since Abraham and Isaac and all their progeny until the present day, [for] ‘the closest blood is nearest of kin and nearest to the estate.’” For variants of this proverb, cf. Hetteema 1834-35, II, 102, Tit. 50.3; II, 112, Tit. 50.21; II, 154, Tit. 57.3.

is used in a similar case concerning succession, but now the rule is stated assertively and the proverb only follows a respectable appeal to the tradition that reaches back as far as the primeval patriarchs. In other words, the rule is backed up by a double certificate of validity: the one branded with sacred authority, the other with popular wisdom.

To illustrate the occurrence of rhyme in Frisian proverbs, finally, I have chosen two examples, one with end rhyme and one, much rarer, with internal rhyme. The former is found in a treaty concluded in 1449, which intended to establish a permanent peace between feuding factions within the land of Westergo. In the final part of the document a long list of stipulations and conditions are enumerated for both parties, which concludes with a stiff warning: *Item, hwa disse fors[riouwen] punten naet bitallie mitta guede, dy schil bitallie mitta bloede* (Sipma 1927-41, II.27.33/21-2).²⁶ A proverb with internal rhyme is the following: *Item: Dy flechtiga foet is dyo jechtiga hand* (Hettema 1834-35, I, 74, Tit. 12.23).²⁷ This practical wisdom makes up a separate entry in the *Jurisprudentia Frisica* in a long list of regulations concerning possible ways of confessing guilt or asserting innocence. In addition to internal rhyme, further stylistic aspects attest to its being a proverb: it is balanced, features alliteration, employs the rhetorical figure of synecdoche (also known as *pars pro toto*), and, of course, it is not meant to be taken literally. The proverb succinctly says that “he who runs away from the crime scene confesses guilt (i.e., as though he testifies to it with his hands on the relics in court)”. Popular experience has turned here into a binding rule of law (cf. Bremmer 2014, 32). As if to make sure the appropriateness of the proverb, the author added in the right-hand margin: “*Qui male agit odit lucem’ juxta ewangelium*” (“He that doth evil hateth the light’, according to the Gospel”; cf. John 3:20). Again, two worlds meet here within the space of one line: a proverb that is form-wise rooted in traditional, communal wisdom, buttressed by an apodictic statement that derives its authority from Christ himself as recorded in the Vulgate.

5. CONCLUSION

I hope to have shown that a closer investigation into the nature and function of the proverb in the medieval Frisian laws has proved to be fruitful.

²⁶ “Also: whoever will not pay with property, he must pay with blood.” It was a popular proverb frequently used in similar peace settlements, cf. Sipma 1927-41, II, nos. 41, 45, 46, 67, 73, 91, and III, no. 8. Compare the Dutch and German proverbs: “Wie niet horen wil, moet voelen” / “Wer nicht hören will, muß fühlen” (Wander 1867-80, II, 779).

²⁷ “Furthermore: The fleeing foot is the confessing hand.” The alliterative combination of *flechtige foet* occurs elsewhere in Frisian laws and is an example of aggregation in Ong’s terminology (cf. Bremmer 2014, 9). It makes one wonder whether the collocation elsewhere alludes to the proverb, or whether the proverbial saying in *Jurisprudentia Frisica* was coined with the help of an existing idiom; see Buma and Ebel 1975, XVIII.12c; Buma, Gerbenzon and Tragter-Schubert 1993, I.25.

Much better than previous generations of scholars of Frisian law, we can now equip ourselves with the results of similar investigations in adjacent fields and disciplines and pose new questions to the old and familiar laws. For one, it has appeared that the proverb is not a precious Germanic relic that has survived into the laws of the thirteenth-century Frisians, as was commonly held. Nevertheless, proverbs do belong to a method of thinking and arguing that is typical for oral and semi-literate cultures. Remarkably, the legal text in which proverbs most often occur is *Jurisprudentia Frisica*, composed by a lawyer who was as comfortable in Latin as in his own vernacular and perfectly at home in both Roman and canon law, in the Bible as well as in his native Frisian traditions. Seemingly without effort he has succeeded in bringing all these four different authorities together in an organic handbook for late medieval Frisian lawyers.

New research questions require new methods, or to sum up this requirement with yet another proverb: *Hwant hwerso nye ponten op riset, deerma eer naet fan weet, so aeghma dat nyes to foerandrien. Ende eelck man is dyr oen byhaldene riuchtis. Reden: "hwant nye syuckten byhowet nye ersedie"* (Hetteema 1834-35, I, 256, Tit. 32.25).²⁸ Perhaps, the applicability of the proverb in this context is somewhat forced, for if anything, I would be the last to compare the study of proverbs in Old Frisian law texts to a new malady. But beware, studying proverbs in these laws is an intellectual activity that may prove contagious, nonetheless!

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²⁸ "For where new issues emerge, of which people formerly did not know, then they must be accounted for over and again. And each man is legally obliged to comply with this. The reason why: 'new diseases require new medicines'; cf. Graf and Dietherr 1864, 445, no. 405.

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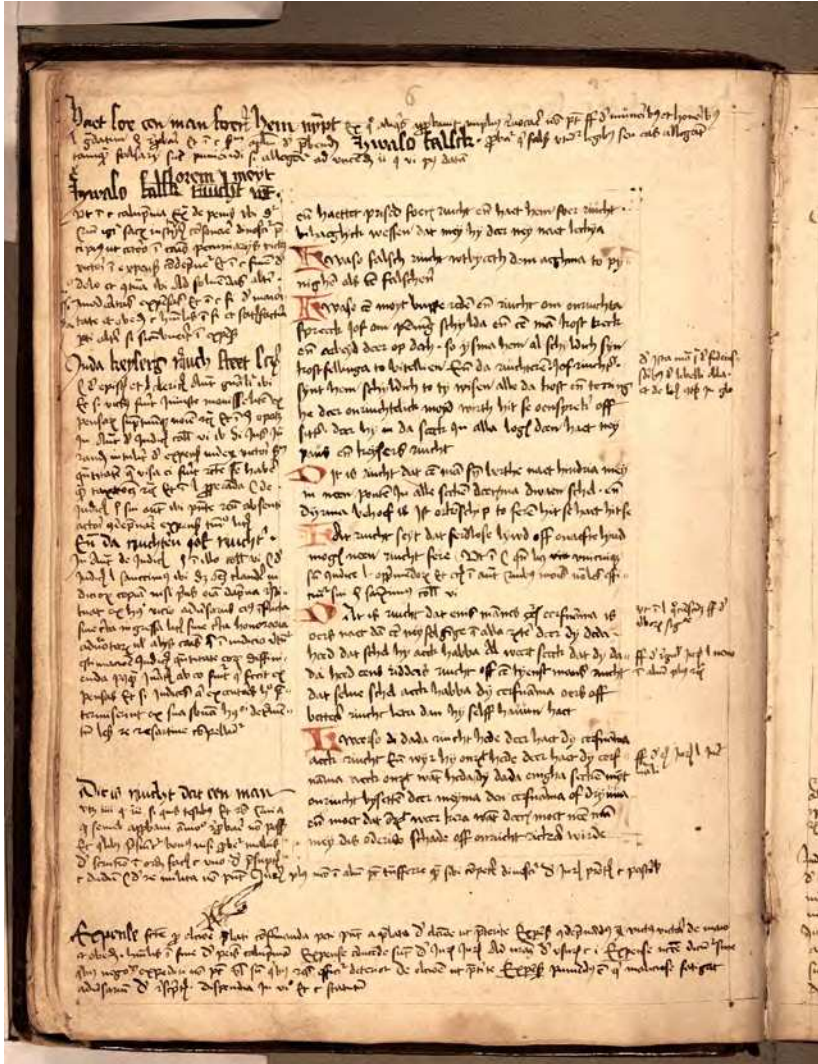


Fig. 1. Leeuwarden, Tresoar, Codex Roorda, von Richthofen-collectie, nr. 6, p. 18 (p. 6 in old numbering). Reproduced with kind permission from Tresoar.