

LITERARY-LEGAL RELATIONS IN COMMONWEALTH-PERIOD  
ICELAND

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## ABSTRACT

This thesis examines Commonwealth-period Iceland's multifaceted literary-legal relations. It contributes a new, literary perspective to extant work in the field, providing an insight into the mentalities of medieval Icelanders: how they perceived their law and legal system; how, and why, they used them in their literature; and how they related them to their society. It is concerned with the communities who produced and received texts, who interacted with legal processes, and who debated their identity with the tools of law and literature.

Chapter 1 considers the juxtaposition of legal and literary in medieval Iceland's intellectual communities. It examines the association between lawspeakers and poetry from the oral period to the literate, and explores the development of textual culture, placing the law amongst other early vernacular writing and examining the motivations for and consequences of its codification. It reveals that it quickly becomes impossible to discern and extricate discrete 'legal' or 'literary' cultural spheres.

Chapter 2 is a case study focussing on lawspeakers. It interrogates a variety of texts, both 'historical' and 'literary', and traces both the underlying traditions remembered about individual lawspeakers and the perceptions held about the office itself. In doing so it presents the most comprehensive account of the medieval Icelandic lawspeaker yet to be written.

Chapter 3 provides an analysis of legally-themed components of *Íslendingasögur* narrative: character (lawyers and outlaws), scene (the *þing*), and narrative register (technical legal detail). At the same time as illuminating broad trends and characteristics, it challenges the received view that the sagas are obsessed with law, arguing for the necessity of a nuanced and idiosyncratic reading of the use of the legal in individual *Íslendingasögur*. It demonstrates that there were myriad and subtle ways in which authors manipulated legal subject matter, both to construct their stories and to debate social concerns.

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**ABBREVIATIONS**

**(i) SAGAS AND OTHER OLD NORSE WORKS**

<i>1GT</i>	<i>First Grammatical Treatise</i>
<i>3GT</i>	<i>Third Grammatical Treatise</i>
<i>4GT</i>	<i>Fourth Grammatical Treatise</i>
<i>Bdm</i>	<i>Bandamanna saga</i>
<i>BjH</i>	<i>Bjarnar saga Hitdælakappa</i>
<i>Drop</i>	<i>Droplaugarsona saga</i>
<i>Egil</i>	<i>Egils saga</i>
<i>Eyrb</i>	<i>Eyrbyggja saga</i>
<i>Finn</i>	<i>Finnboga saga</i>
<i>Fljót</i>	<i>Fljótsdæla saga</i>
<i>Flóam</i>	<i>Flóamanna saga</i>
<i>Fóst</i>	<i>Fóstbræðra saga</i>
<i>Gísl</i>	<i>Gísla saga</i>
<i>Grett</i>	<i>Grettis saga</i>
<i>Gullþ</i>	<i>Gull-Þóris saga (also known as Þorskfirðinga saga)</i>
<i>Gunnl</i>	<i>Gunnlaugs saga ormstungu</i>
<i>H</i>	<i>Hauksbók redaction of Landnámabók</i>
<i>Hallf</i>	<i>Hallfredar saga</i>
<i>Harð</i>	<i>Harðar saga ok Hólmverja</i>
<i>Háv</i>	<i>Hávarðar saga Ísfirðings</i>
<i>Hrafn</i>	<i>Hrafnkels saga</i>
<i>KLþ</i>	<i>'Kristinnalagapátr'</i>
<i>Kmk</i>	<i>Kormaks saga</i>
<i>KrÁ</i>	<i>Kristinréttir Árna biskups</i>
<i>Lax</i>	<i>Laxdæla saga</i>
<i>Ljós</i>	<i>Ljósvetninga saga</i>
<i>M</i>	<i>Melabók redaction of Landnámabók</i>
<i>Njál</i>	<i>(Brennu-)Njáls saga</i>
<i>Reyk</i>	<i>Reykðæla saga</i>
<i>S</i>	<i>Sturlubók redaction of Landnámabók</i>
<i>SK</i>	<i>Skáldatal (Kringla version)</i>
<i>SU</i>	<i>Skáldatal (Codex Upsaliensis version)</i>
<i>Svarf</i>	<i>Svarfdæla saga</i>
<i>Vápn</i>	<i>Vápnfirðinga saga</i>
<i>Vatn</i>	<i>Vatnsdæla saga</i>
<i>V-G</i>	<i>Víga-Glúms saga</i>
<i>V-L</i>	<i>Valla-Ljóts saga</i>
<i>ÞSH</i>	<i>Þorgils saga ok Hafliða</i>
<i>ÞorstSH</i>	<i>Þorsteins saga Síðu-Hallsonar</i>
<i>Þorstþst</i>	<i>Þorsteins þátr stangarhöggs</i>
<i>Þorstþux</i>	<i>Þorsteins þátr uxafóts</i>
<i>Qlk</i>	<i>Qlkofra þátr</i>

**(ii) GRÁGÁS MANUSCRIPTS**

The following two manuscripts are the sources for most of the *Grágás* quotations in this thesis and are referred to frequently in abbreviated form in the footnotes. Other manuscripts are cited conventionally in the text, with full sigla provided on first reference and shortened forms thereafter.

- K               Konungsbók: Reykjavík, Stofnun Árna Magnússonar, GKS 1157 fol.  
St               Staðarholsbók: Reykjavík: Stofnun Árna Magnússonar, AM 334 fol.

**(iii) EDITIONS**

- DI*               *Diplomatarium Islandicum* series  
*Gg Ia-Ib*       *Grágás*, ed. by Vilhjálmur Finsen, 1852 (see further Bibliography)  
*Gg II*           *Grágás*, ed. by Vilhjálmur Finsen, 1879 (see further Bibliography)  
*Gg III*         *Grágás*, ed. by Vilhjálmur Finsen, 1883 (see further Bibliography)  
*ÍF*               *Íslensk fornrit* series  
*Laws*          *Laws of Early Iceland: Grágás*, trans. by Andrew Dennis, Peter Foote and Richard Perkins, 2 vols. (see further Bibliography)  
*SS*             *Sturlunga saga*, ed. by Jón Jóhannesson, Magnús Finnbogason and Kristján Eldjárn, 2 vols. (see further Bibliography)

**(iv) OTHERS**

- ONP*            *Ordbog over det norrøne prosasprog*  
Pulsiano        *Medieval Scandinavia: An Encyclopedia*, ed. by Philip Pulsiano and others (see further Bibliography)

## CONVENTIONS

When quoting directly from editions of Old Norse works I have retained the spellings as normalised by the editors, even though practices vary (e.g. *q* and *ø* versus *ö*). In my own discussion, Old Icelandic personal and place names are normalised to early thirteenth-century standards and cited with nominative case inflection, in accordance with *ÍF* practices (e.g. the later form *Hörðr* is found in the edited text of *Harðar saga*, but I refer to *Hǫrðr* in the discussion, apart from in direct quotations; likewise, for example, the early form *Ulfljótr* in the text of *Íslendingabók*, but *Úlfljótr* in my discussion).

Translations from Old Norse are my own, with one notable area of exception: for the sake of consistency in legal terminology, I have adopted the translations of *Grágás* of Andrew Dennis, Peter Foote and Richard Perkins, *Laws of Early Iceland: Grágás*, 2 vols. (see Bibliography); abbreviated throughout as *Laws I* or *II*. Bynames or nicknames of persons are left untranslated unless the meaning is pertinent to the discussion.

Quotations from secondary literature in languages other than English are translated into English in the main text, and the original given in a footnote. Again, translations are my own, unless stated otherwise.

Modern scholarly terminology is used with modern orthography, e.g. *Íslendingasögur* rather than *Íslendingasogur*.

In accordance with Icelandic practice, modern Icelandic scholars are referred to by their first names, rather than patronymics, and listed accordingly in the Bibliography.

There are several terms relating to the social organisation of medieval Iceland which do not translate well into Modern English; therefore I employ the original Old Norse terms in my discussion and translation, as follows (further information about several of these institutions are given at the relevant points of this thesis):

Alþing:	annual two-week national General Assembly held at Þingvellir where the laws were recited and ratified and lawsuits brought before the courts
<i>bóndi</i> (pl. <i>bændr</i> )	free farmer, householder
<i>goði</i> (pl. <i>goðar</i> ):	chieftain, holder of a <i>goðorð</i>
<i>goðorð</i> (pl. <i>goðorð</i> ):	chieftaincy, area over which a <i>goði</i> had jurisdiction. There were originally nine in each Quarter, except the Northern Quarter, which had twelve. <i>Goðorð</i> were originally inherited but could be bought or traded; joint ownership was also possible

- hofðingi* (pl. *hofðingjar*): leader, chief, man of authority. Usually, although not exclusively, used of *goðar*
- þing* (pl. *þing*) assembly; used both of the Alþing and of smaller-scale district assemblies
- þingmaðr* (pl. *þingmenn*): *bóndi* or a member of his household attached to a *goði* (the relationship was a legal requirement). *Þingmenn* provided the *goði* with a body of men he could call upon when he needed to raise a force; in turn, he would support them in disputes

## INTRODUCTION

Varð, þá er víga Njörðu  
 vilja þraut at skilja,  
 lítt gekk skáld fyrir skjöldu,  
 Skapta mart at hapti,  
 er matsjóðar Móða  
 málmrógs flatan drógu,  
 slíkt er allt af æðru,  
 inn í búð at trúðar.<sup>1</sup>

With this stanza, Kári Sölmundarson begins, unwittingly, to expose the complex, multifaceted, instinctive and inescapable interrelationship which, as this thesis will demonstrate, existed between the legal and the literary in medieval Iceland. Kári's verse is a literary creation both composed about and recited in a legal setting: the Alþing, at which, in this particular instance, legal process has failed, resulting in a chaotic and bloody battle. The stanza is preserved in and forms part of another literary work, *Njáls saga*, often described as 'the legal saga *par excellence*' on account of its profusion of legal detail, abundant quotation of law, plethora of superlative lawyers and multiplicity of *þing*-scenes.<sup>2</sup> Kári refers to the serving lawspeaker, Skapti Þóroddsson – and refers to him as 'skáld', intimating a world in which legal communities and literary communities are one and the same; more than this, evoking a special affinity between law and poetry personified in this legal figurehead. Kári's derogatory tone, further, suggests a culture which used its literature to debate and critique its legal system; and in its mockery of Skapti, Kári's verse transgresses a law *about* literature: 'Scog gang varðar ef maðr yrkir vm man hálfá víso þa er löstr er í eða haþung'.<sup>3</sup> It is this intricacy and multi-layering of the medieval Icelandic literary-legal experience – layers of which but a few are revealed through Kári's verse – that the present thesis seeks to explore.

<sup>1</sup> *Njál* (ch. 145): *ÍF* XII, 410. 'Much by way of impediment came over Skapti, when they wished to separate the *Ñirðir* <gods> of battle [WARRIORS] from the struggle – the skald didn't go in front of the shields much – when the cooks dragged the *Móði* <god> of the metal-strife [BATTLE > WARRIOR] flat – all such is from fear – into the juggler's booth.'

<sup>2</sup> Judith Jesch, "'Good men" and Peace in *Njáls saga*', in *Introductory Essays on Egils saga and Njáls saga*, ed. by John Hines and Desmond Slay (London: Viking Society for Northern Research, 1992), pp. 64-82 (p. 68). *Njáls saga* and its exceptional application of the legal are discussed in Chapter 3 of the present thesis.

<sup>3</sup> K § 238, *Gg* Ib, 183. 'Full outlawry is the penalty if a man composes half a stanza on someone with defamation or mockery in it' (*Laws* II, 197).

In this study I will be concerned with questions such as the following: who made up medieval Iceland's legal and literary communities, and to what extent did they overlap? What was the impact of literacy in the legal field, and how did written law fit in to medieval Icelandic textual culture? Who was the lawspeaker, and what were his social and literary roles? How did *Íslendingasögur* authors use legal themes in the construction of saga narrative, and to debate social issues? In fact, how far can separate spheres of 'law' and 'literature' be discerned in Commonwealth-period Icelandic society? The approach and shape of the present thesis is detailed later in the Introduction, but first I wish to set its interest in exploring literary-legal relations within the context of a wider scholarly field of investigation into the intersection between law and literature.

### *Law and Literature*

A formal 'Law and Literature' movement was developed some decades ago by legal academics in the United States in response to concerns about the nature of legal education, which was felt to be too focussed on technical professional skills at the expense of law as an academic pursuit.<sup>4</sup> It is generally acknowledged to have been 'born' with the 1973 publication of James Boyd White's *The Legal Imagination*, a textbook for law students which 'asks, and is intended to help, them to become literary and cultural critics and to learn to apply their talents of analysis to the discourse of the law'.<sup>5</sup> While Maria Aristodemou describes early work in the area as 'hesitant' and 'self-justificatory',<sup>6</sup> the movement rapidly gained momentum and diversified from its original humanistic perspective, to the extent that in 1988 its founding father, White, published an essay entitled 'Law and Literature: No Manifesto', lamenting the multiplicity of directions into which it had expanded, by now encompassing

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<sup>4</sup> See e.g. Anthony Julius, 'Introduction' to *Law and Literature*, ed. by Michael Freeman and Andrew D. E. Lewis, *Current Legal Issues* 1999, 2 (Oxford: Oxford University Press, 1999), pp. xi-xxv (p. xi); John Morison and Christine Bell, 'Introduction' to *Tall Stories? Reading Law and Literature* (Aldershot: Dartmouth, 1996), pp. 1-10 (p. 2).

<sup>5</sup> James Boyd White, *The Legal Imagination (Abridged Edition)* (Chicago: University of Chicago Press, 1985), p. xi.

<sup>6</sup> Maria Aristodemou, 'Studies in Law and Literature: Directions and Concerns', *Anglo-American Law Review*, 22:2 (1993), 157-93 (p. 157). Aristodemou's article provides a coherent introduction to some of the key themes and approaches of the movement.

contributors whose work combined the two spheres, but which he felt lacked coherence as a group and diverged from the movement's original aims.<sup>7</sup>

The study of 'Law and Literature' has traditionally been divided into two main branches: law *in* literature and law *as* literature.<sup>8</sup> The former looks at the portrayal of law and legal culture in literary works; Shakespeare, Dickens, Dostoevsky, Kafka and Camus are among the received canon of writers, although the abundance of literature with legal subject matter or content makes this a vast area of study.<sup>9</sup> This approach has been used by legal historians not only to study the development of laws but also to examine attitudes to legal issues and practitioners of law, and the impact of law in society.<sup>10</sup> The latter branch, law as literature, not only tackles stylistic aspects of legal documents and judicial decisions, and examines the use of rhetoric in law, but also envisages law as text and looks to literary criticism for new angles on tackling interpretative difficulties.<sup>11</sup>

Still further dimensions of study have grown out of the field, however, as the existence of White's 1988 article implies. Law *of* literature (or literature in law) examines laws which seek to regulate literary production, such as libel, censorship, copyright and intellectual law.<sup>12</sup> Anthony Julius posits the category of 'legal hermeneutics': 'the study of the methods of interpretation of legal and literary texts'.<sup>13</sup> Literature *as* law includes the study of non-Western legal traditions in which literature is used to 'illustrate the nature of legal theory':<sup>14</sup> native North American culture and

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<sup>7</sup> James Boyd White, 'Law and Literature: No Manifesto', *Mercer Law Review*, 39 (1988), 739-51.

<sup>8</sup> E.g. Aristodemou, 'Studies in Law and Literature', p. 189; Ian Ward, *Law and Literature: Possibilities and Perspectives* (Cambridge: Cambridge University Press, 1995), p. 3; Morison and Bell, 'Introduction', p. 2.

<sup>9</sup> For a general survey see Aristodemou, 'Studies in Law and Literature', pp. 166-71, and references therein.

<sup>10</sup> *Ibid.*

<sup>11</sup> E.g. Ward, *Law and Literature*, *passim*. Again, a survey and further references can be found in Aristodemou, 'Studies in Law and Literature', pp. 182-89.

<sup>12</sup> E.g. Anthony Bradney, 'Reading Blasphemy: The Necessity for Literary Analysis in Legal Scholarship', in Freeman and Lewis (eds.), *Law and Literature*, pp. 533-54; Eric Barendt, 'Defamation and Fiction', in *ibid.*, pp. 481-98.

<sup>13</sup> Julius, 'Introduction', p. xv.

<sup>14</sup> Ward, *Law and Literature*, p. 34.

Islamic and Jewish law, for instance, use parables and metaphors as the core of jurisprudence.<sup>15</sup> Furthermore, within these categories, different theories of criticism have been applied: feminist, Marxist, New Critical etc.<sup>16</sup>

Despite the seemingly inherent interdisciplinarity of its title, though, there has not been a great deal of collaboration between legal and literary scholars. Anthony Julius complains, 'Until Stanley Fish's contributions (and some would say, even after them) the principal law and literature writers have been lawyers rather than literary critics'.<sup>17</sup> However, Fish's provocative subjection of legal documentation, including the United States Constitution, to literary analysis,<sup>18</sup> was not welcomed in all quarters. Some prominent legal academics remained unconvinced of the merits of embracing the contribution of literary scholars, although the somewhat possessive essay by White and the dismissive work of Richard Posner (the latter almost universally vilified by adherents to the movement for his 'lack of sympathy for the whole project')<sup>19</sup> are perhaps overly unreceptive in their complaints of irrelevance and over-zealousness.<sup>20</sup>

Some of the more productive work outside legal academia, then, can be found in those who have recognised the boundaries of the law-school movement and sought to develop their own parameters for the study of the interrelationship between law and literature. Medievalists, in particular, have found this fruitful. Indeed, it has been said

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<sup>15</sup> Ibid, pp. 34-35.

<sup>16</sup> E.g. Aristodemou, *Law and Literature: Journeys from Her to Eternity* (Oxford: Oxford University Press, 2000); Michael Thomson, 'From Bette Davis to Mrs Whitehouse: Law and Literature – Theory and Practice', in Freeman and Lewis (eds.), *Law and Literature*, pp. 219-38; David Ray Papke, 'Neo-Marxists, Nietzscheans and New Critics: The Voices in the Law and Literature Discourse', *American Bar Foundation Research Journal*, 4 (1985), 883-97.

<sup>17</sup> Julius, 'Introduction', p. xvii.

<sup>18</sup> E.g. 'The Law Wishes to Have a Formal Existence', in *The Fate of Law*, ed. by Austin Sarat and Thomas R. Kearns (Ann Arbor: University of Michigan Press, 1991), pp. 159-208; 'There's No Such Thing as Free Speech, and It's a Good Thing, Too', in his *There's No Such Thing as Free Speech, and It's a Good Thing, Too* (Oxford: Oxford University Press, 1994), pp. 102-19 (rpt. from *Boston Review* (February 1992)).

<sup>19</sup> Julius, 'Introduction', p. xx.

<sup>20</sup> Richard A. Posner, *Law and Literature: A Misunderstood Relation* (Cambridge, MA: Harvard University Press, 1988). Posner's attack is not restricted to literary critics but is largely aimed at legal academics who, as he sees it, 'take the whole of literature as their subject, in the belief that a person with legal training and experience has a special insight into the act of reading, irrespective of subject matter', or 'borrow [...] techniques of literary interpretation (sometimes [...] with scant understanding of what the technique actually is)' (pp. 14, 17).

that 'medievalists [...] are enviably placed to make new inroads into the subject of law and literature, in part because of the interdisciplinary nature of medieval law'.<sup>21</sup> The interdisciplinary nature of medieval studies, also, perhaps makes medievalists more alert to and well-equipped for the consideration of different types of text (e.g. literary and legal) side-by-side and the testing of the boundaries of these categories.

Research into the relationship between law and literature in the medieval period has a long and diverse history, beginning long before the inception of the 'Law and Literature' movement. Jacob Grimm's 'Von der Poesie im Recht', published in 1816,<sup>22</sup> is considered by some to be 'the true fount of most subsequent scholarship on the topic'.<sup>23</sup> An indication of the vast size and scope of the field can be gained from Alford and Seniff's *Literature and Law in the Middle Ages: A Bibliography of Scholarship*.<sup>24</sup> The bibliography, now more than twenty years old, reviews 915 entries of work on Latin, Old and Middle English, German, Icelandic, French and Provençal, Italian, and Hispanic, covering the period c.800-c.1400. This represents, in fact, just a fraction of research in the field: the bibliography restricts itself to work which attempts to add to the understanding of medieval literature, and therefore excludes most socio- and legal-historical and linguistic approaches.<sup>25</sup>

Investigations into medieval law and literature can be said to fall into broadly similar categories to those used by legal academics: Richard Firth Green, in his essay for *The Cambridge History of Medieval English Literature*, identifies the two traditional divisions of law-as and law-in.<sup>26</sup> However, he describes much of the work as 'restricted' and 'belle-lettristic', and even states that 'only one legal treatise, the much maligned, late thirteenth-century *Mirror of Justices*, might conceivably repay serious literary

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<sup>21</sup> Emily Steiner and Candace Barrington, 'Introduction' to *The Letter of the Law: Legal Practice and Literary Production in Medieval England* (Ithaca: Cornell University Press, 2002), pp. 1-11 (p. 2).

<sup>22</sup> Jacob Grimm, 'Von der Poesie im Recht', *Zeitschrift für geschichtliche Rechtswissenschaft*, 2 (1816), 25-99.

<sup>23</sup> John A. Alford and Dennis P. Seniff, 'Introduction' to *Literature and Law in the Middle Ages: A Bibliography of Scholarship* (New York: Garland, 1984), pp. ix-xiv (p. ix).

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*, p. xi.

<sup>26</sup> Richard Firth Green, 'Medieval Literature and Law', in *The Cambridge History of Medieval English Literature*, ed. by David Wallace (Cambridge: Cambridge University Press, 1999), pp. 407-31 (p. 407).

analysis'.<sup>27</sup> Green does not discuss the earlier medieval period, though, where the exploration of law as literature, albeit independently of the concerns of the 'Law and Literature' movement, has proved crucial. Studies of the alliterative quality of early Germanic and Scandinavian law, for example, have probed the relationship between law and poetry, raising issues of oral-period memory and transmission, the effects of literacy, and the influences of classical rhetoric.<sup>28</sup> The study of such stylistic features of law has also attributed authors and dates – sometimes unexpected ones – to law-texts of previously uncertain genesis, notably Dorothy Whitelock's work on Wulfstan.<sup>29</sup>

Furthermore, a reassessment of written law in literary terms has revolutionised the understanding of Anglo-Saxon legislation, kingship and government, in the landmark research of the historian Patrick Wormald.<sup>30</sup> Again independently of the 'Law and Literature' school, Wormald argued that the primary function of much Anglo-Saxon written law was ideological: it expressed the aspirations of kings and allowed them to portray themselves and their government in the light in which they wished to be seen. Of Alfredian legislation, for example, Wormald explains: 'Alfred wrote other books. It is *a priori* plausible that his law-book should be understandable as a literary exercise, whatever its viability as a legal tool.'<sup>31</sup> By reconsidering 'legislative mentalities', then, Wormald has demonstrated the indivisibility of the experience of the legal and the literary in early medieval culture.<sup>32</sup>

To turn to the study of law *in* literature: this is especially well documented for the medieval period, particularly the later middle ages, given the 'omnipresence' of

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<sup>27</sup> *Ibid.*, pp. 407, 410.

<sup>28</sup> E.g. Winfred P. Lehmann, 'On Reflections of Germanic Legal Terminology and Situations in the *Edda*', in *Old Norse Literature and Mythology: A Symposium*, ed. by Edgar C. Polomé (Austin: University of Texas Press, 1969), pp. 227-43; John Alford, *Piers Plowman: A Glossary of Legal Diction* (Cambridge: D.S. Brewer, 1988), p. ix. I will discuss this in more detail in Chapter 1; further references will be given there.

<sup>29</sup> Dorothy Whitelock, 'Wulfstan and the So-Called Laws of Edward and Guthrum', *English Historical Review*, 56 (1941), 1-21; 'Archbishop Wulfstan, Homilist and Statesman', *Transactions of the Royal Historical Society* series IV, 24 (1942), 25-45; also Dorothy Bethurum, 'Six Anonymous Old English Codes', *Journal of English and Germanic Philology*, 49 (1950), 449-63.

<sup>30</sup> In particular, his collection of essays *Legal Culture in the Early Medieval West: Law as Text, Image and Experience* (London: Hambledon, 1999); and his monumental *The Making of English Law: King Alfred to the Twelfth Century* (Oxford: Blackwell, 1999).

<sup>31</sup> *The Making of English Law*, p. 416.

<sup>32</sup> Title of ch. 7 of *The Making of English Law*.

legal subject matter in late medieval literature.<sup>33</sup> As Green notes, ‘an enormous number of medieval works take the form of legal disputes, couch their allegories as legal proceedings, exploit the dramatic situation of a fictional courtroom, masquerade as actual legal documents, or lean heavily on the lawyer’s art for their imagery and diction.’<sup>34</sup> Green highlights, in particular, a perceived ‘yawning gap between law and justice’ in fourteenth-century England which had been exposed by lawyerly wrangling over obscure legal language, and explains how this discontent found literary manifestation in one of three ways: satire, ‘romanticiz[ation of] opposition to the law in the person of the outlaw’, and ‘a nostalgia for the old folklaw and its ways’.<sup>35</sup> A proficient, though now outdated, survey of the law-in field is contained in an article by John Alford, whose rationalisation for the study of the interaction between law and literature, particularly by medievalists, merits quoting at length:

The precise and self-conscious use of words that characterizes both law and literature is amplified in their larger concern for created order. Perhaps no other human endeavors have set out so deliberately to structure our world. It is a shallow writer indeed who tries to consider, in its public aspect, the relation of man to society without venturing into law, for that relation is hedged all about by law, and society itself is in large measure a legal concept.<sup>36</sup>

The present thesis will relate to ways in which medieval Icelanders used law and literature to ‘structure their world’ and conceptualise their society.

Recent work in the field has explicitly taken up Green’s challenge of considering law and literature as ‘parallel forms of discourse’.<sup>37</sup> For the contributors to Steiner and Barrington’s recent collection of essays, *The Letter of the Law*, for example, ‘Middle English literature [...] developed in dialogue with legal discourse, practices, and material culture [...] Insular law and English literature were bound up together in

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<sup>33</sup> Steiner and Barrington, ‘Introduction’, p. 1.

<sup>34</sup> ‘Medieval Literature and Law’, p. 410.

<sup>35</sup> *Ibid.*, pp. 414, 418.

<sup>36</sup> John A. Alford, ‘Literature and Law in Medieval England’, *Publications of the Modern Language Association*, 92 (1977), 941-51 (p. 941).

<sup>37</sup> Green, ‘Medieval Literature and Law’, p. 407.

larger processes of institutional, linguistic, and social change.<sup>38</sup> Again, these ideas are transferable to my own study, although I wish too to extend them and demonstrate that in Iceland, the legal and the literary not only developed in parallel to each other but often intertwined to the extent of inseparability.

### *Law and Literature in Medieval Iceland*

In the introduction to their *Bibliography*, Alford and Seniff observe that ‘no literature is more saturated [than Old Icelandic] with legal themes’: not a comment to be taken lightly considering the vast experience and expertise of the authors.<sup>39</sup> Consequently, a great deal of work on medieval Iceland, from various disciplinary backgrounds, engages to a greater or lesser extent with the relationship between law and literature,<sup>40</sup> once again almost entirely away from the self-conscious theoretical approaches of the ‘Law and Literature’ movement. It is not possible to review the scholarship comprehensively, but in addition to the references to be found in Alford and Seniff’s *Bibliography*, I wish to highlight here some of the work most pertinent to this thesis.

A substantial amount of work on Icelandic and other early Germanic law and legal process, laying the foundations for all subsequent scholarship, was undertaken in the late nineteenth and early twentieth centuries. This saw, among other things, the publications of Vilhjálmur Finsen’s editions of the Commonwealth-period law-text *Grágás*,<sup>41</sup> Konrad Maurer’s five-volume *Vorlesungen über altnordische Rechtsgeschichte*,<sup>42</sup> and Andreas Heusler’s pioneering work on law and feud in the *Íslendingasögur*.<sup>43</sup> Finsen was defensive of *Grágás* as being representative of the law as practiced during the thirteenth century, while Maurer considered the text to also include

<sup>38</sup> Steiner and Barrington, ‘Introduction’, p. 4.

<sup>39</sup> *Bibliography*, p. x.

<sup>40</sup> A notable recent example is Patricia Pires Boulhosa, *Icelanders and the Kings of Norway: Medieval Sagas and Legal Texts*, The Northern World, 17 (Leiden: Brill, 2005).

<sup>41</sup> Gg I-III.

<sup>42</sup> 5 vols. in 7 (Leipzig: Deichert, 1907-38).

<sup>43</sup> *Das Strafrecht der Isländersagas* (Leipzig: Duncker & Humblot, 1911); *Zum isländischen Fehdewesen in der Sturlungzeit* (Berlin: Königl. Akademie der Wissenschaften, 1912).

other, unofficial legal material such as customs and opinions, not all of which could therefore be treated as accepted law. Heusler, too, felt that *Grágás* was more ‘the theoretical organ of Iceland’s thirteenth century legal academicians’ and argued that the *Íslendingasögur* could be used as accurate sources to reconstruct earlier legal practice.<sup>44</sup>

As Heusler’s theory indicates, the question of the reliability of the laws as sources for actual legal practice was affected not only by disagreements as to the nature of *Grágás* itself but by the cyclic debate veering between unquestioning acceptance and absolute refutation of the historicity of the sagas, and the *Íslendingasögur* in particular; for at points on which laws and sagas disagreed, if the sagas were accurate, the laws could not reflect practice, at least ‘Saga Age’ practice, whereas if the sagas were products of thirteenth-century authors’ imaginations, the laws could be preferred as factual sources of information.<sup>45</sup> In recent times, though, the view has been brought to bear that the sagas are literary products which ‘reveal more about the time of composition and about their authors’ view of the past than they do about the past which is narrated, and that what can be discovered is less to do with “facts” and more to do with attitudes, “mentality” and social structures’.<sup>46</sup> Reception theory holds that individual episodes might be fictional but that the acceptance of the audience provides a control making them at least plausible: ‘not history as it happened, but [...] history as it could have happened’.<sup>47</sup> Thus law and literature have been used not as polar opposites, one to contest the other, but as tandem sources for the understanding of medieval Icelandic society and culture, albeit – inevitably – still along a scale of preference for laws or sagas as being more historically accurate.<sup>48</sup>

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<sup>44</sup> Theodore M. Andersson, *The Problem of Icelandic Saga Origins: A Historical Survey* (New Haven: Yale University Press, 1964), p. 44.

<sup>45</sup> After some centuries the debate, at least at its extremes, has apparently petered out, but a review can be found in Andersson, *The Problem, passim*.

<sup>46</sup> Diana Whaley, ‘A Useful Past: Historical Writing in Medieval Iceland’, in *Old Icelandic Literature and Society*, ed. by Margaret Clunies Ross, Cambridge Studies in Medieval Literature, 42 (Cambridge: Cambridge University Press, 2000), pp. 161-202 (p. 166).

<sup>47</sup> Carol J. Clover, ‘Introduction’ to *Scandinavian Studies*, 58:2 (1986), 97-100 (p.100).

<sup>48</sup> To name but a few examples of this approach applied to particular aspects of medieval Icelandic society: Marlene Ciklamini, ‘The Old Icelandic Duel’, *Scandinavian Studies*, 35 (1963), 175-94; Roberta Frank, ‘Marriage in Twelfth- and Thirteenth-Century Iceland’, *Viator*, 4 (1973), 473-84; Kari Ellen Gade, ‘Homosexuality and the Rape of Males in Old Norse Law and Literature’, *Scandinavian Studies*, 58 (1986), 121-41; Jenny Jochens, *Women in Old Norse Society* (Ithaca: Cornell University Press, 1995).

This approach has produced important social histories of medieval Iceland from two scholars in particular: Jesse Byock and William Ian Miller. Byock's work developed from his earlier, literary-analytical *Feud in the Icelandic Saga*, which took as its premise the axiom that 'the subject of the tales [...] is Icelandic feud'.<sup>49</sup> Byock identified three central elements of feud – conflict, advocacy, and resolution – around which he contended that all saga narratives were built, through the combination of these elements, or 'feudemes', in no fixed sequential order, forming 'clusters' and 'feud chains', to which other pieces of description could be added. Byock's terminology and method of structural analysis did not attain much scholarly currency, but in the process of undertaking his study he realised that 'relatively little analysis has been directed toward determining how medieval Iceland functioned as a social entity. As the task grew larger, the book became a study of how feud worked in the society and in the literature.'<sup>50</sup> Byock expanded the socio-historical side of his research into his 1988 *Medieval Iceland: Society, Sagas, and Power*,<sup>51</sup> focussing mainly on *goðar* and the acquisition and distribution of social and political power, and the more comprehensive reworking *Viking Age Iceland* in 2001.<sup>52</sup> Byock's works are cogent and undoubtedly valuable introductions to medieval Icelandic society, but can be frustrating to the specialist for his frequent failure to cite primary sources for the specifics of his reconstructions, or to qualify his surmises with reference to them.

William Ian Miller – a legal academic with literary training – also focuses on dispute processing in his own social- and legal-historical work.<sup>53</sup> He explicates his methodology thus:

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<sup>49</sup> *Feud in the Icelandic Saga* (Berkeley, University of California Press, 1982), p. ix. The general acceptance of this view is discussed in Chapter 3 of the present thesis.

<sup>50</sup> *Ibid.*, p. 205.

<sup>51</sup> *Medieval Iceland: Society, Sagas, and Power* (Berkeley: University of California Press, 1988).

<sup>52</sup> *Viking Age Iceland* (London: Penguin, 2001).

<sup>53</sup> I refer here primarily to Miller's book-length study: *Bloodtaking and Peacemaking: Feud, Law, and Society in Saga Iceland* (Chicago: University of Chicago Press, 1990). However, see also e.g. 'Avoiding Legal Judgement: 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; 'Of Outlaws, Christians, Horsemeat, and Writing: Uniform Laws and Saga Iceland', *Michigan Law Review*, 89 (1991), 2081-95, etc.

Each broad class of source – law code and saga – gives us some control on the other, but the test is ultimately one of plausibility. If my accounts of Icelandic households and kinship, feud, law, and exchange make sense of the data – all the data, both legal and narrative – if they accord with the known ranges of human experience in reasonably similar situations and tell a fairly consistent tale, we have indeed constructed a social history.<sup>54</sup>

Miller's study is wide-ranging and extremely well-informed, but its broad purpose and intended audience, including – perhaps primarily – ‘social historians in general, [...] law and society scholars, even an occasional jurist and political scientist’,<sup>55</sup> as well as Icelandic specialists, prove occasionally problematic. Despite his frequent acknowledgement of the potential biases of his material (and a chapter devoted to source criticism), his definition of ‘Saga Iceland’ is, in particular, rather hard to pin down. Nonetheless, it is difficult to see how some degree of generalisation could be avoided in such a work, and Miller is both bolder than many in his willingness to accept the sagas as accurate sources for cultural norms if not actual events, and persuasive in his justification for doing so. His work is saturated with illustrations from both the *Íslendingasögur* and *samtíðarsögur* – as he puts it, ‘I am also in search of the sensibilities of the people who populate the sources’ – allowing for a close, vivid and idiosyncratic engagement with medieval Icelandic culture.<sup>56</sup>

### *Aim and Shape of the Present Thesis*

My own work takes a different approach and has different aims to those just expounded. It does not treat laws and sagas as parallel but discrete sources to be contrasted, compared, or conflated in order to critique one or the other or to explicate a particular social process. It is primarily a work of literary analysis, though it also advances a cultural history of the interaction between the literary and the legal. It seeks to explore the mentalities of medieval Icelanders: how they perceived their law and legal system; how, and why, they used them in their literature; and how they related them to their society, their past and their present. It is concerned with the communities

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<sup>54</sup> *Bloodtaking*, p. 48.

<sup>55</sup> *Ibid.*, p. 8.

<sup>56</sup> *Ibid.*, p. 6.

who produced and received texts; who told stories; who interacted with legal processes; and who debated their identity with the tools of law and literature.

Steiner and Barrington claim that the contributors to their volume ‘ask what might be particularly medieval or, perhaps more contentiously, what might be perceived as being distinctly English about the relationship between law and literature’.<sup>57</sup> My thesis explores what is particularly Icelandic about the interrelationship of the literary and the legal, and shows how medieval Icelanders did the same.

In Chapter 1 I consider the juxtaposition of the legal and the literary in medieval Iceland’s intellectual communities. The chapter is framed by an examination of a multi-dimensional and shifting connection between law and poetry, as peculiarly brought to realisation by six lawspeaker-poets; a connection which grows ever more intricate in its persistence from the oral period to the literate. In the interim I examine the development of textual culture in medieval Iceland, in particular the law’s place among early vernacular writing and the motivations for and consequences of its transition into the literate domain. I also provide a thorough account of the major manuscripts of *Grágás* and demonstrate, in a discussion of the circumstances of their production, the inextricable interconnections between legal and literary textual communities.

Chapter 2 picks up the curious embodiment of literary-legal relations in the figure of the lawspeaker, making the office and its holders the focus. In this chapter I interrogate a wide range of texts – historical works such as *Íslendingabók* and *Landnámabók*; the *Íslendingasögur*; and the *samtíðarsögur* – to consider how medieval Icelanders perceived the lawspeaker, who could be said to be emblematic of their law and, by extension, of Icelandic society itself. I explore the nature of the underlying traditions about lawspeakers which circulated in cultural memory, and the ways in which these were drawn upon in different types of writing, to serve particular narrative functions and as a medium to debate concerns about the law and its role in society. In doing so I present the most exhaustive account of the medieval Icelandic lawspeaker yet to be written.

In Chapter 3 I extend and focus the methodology of literary analysis employed in Chapter 2 to the use of the legal in the pre-1300 *Íslendingasögur*, those produced in

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<sup>57</sup> ‘Introduction’, p. 4.

or immediately after the Commonwealth period. The chapter is divided into three sections to comprehensively examine legally-related building blocks of saga narrative: character, scene and narrative register. At the same time as illuminating broad trends and characteristics, it challenges the received view that the sagas are obsessed with law, arguing for the necessity of a nuanced and idiosyncratic reading of the use of the legal in individual *Íslendingasögur*.

### *Commonwealth-period Iceland*

As a context for my study, I will sketch here some brief introductory details on the circumstances of Commonwealth-period Iceland; fuller accounts will be given where necessary in the relevant sections of the thesis.

The term ‘Commonwealth’ is commonly and conveniently used of medieval Iceland to refer to the period between the settlement, c.870-c.930, and the country’s acceptance of Norwegian sovereignty in 1262-64. During the Commonwealth period, there was no head of state or official governmental infrastructure; a native system of administration was developed which operated on local, Quarter and national levels, culminating in the annual general assembly, or Alþing. At the Alþing legal cases were heard, the law was recited by the *lǫgsögumaðr*, ‘lawspeaker’, and legislative issues were decided by the *lǫgrétta*, ‘Law Council’, which was composed of the holders of the traditional regional *goðorð*.

The eleventh-century scholar Adam of Bremen marvelled of the Icelanders: ‘Apud illos non est rex, nisi tantum lex’.<sup>58</sup> While much of Adam’s short account of Iceland is fanciful, this seems to have been an acute observation. Ari Þorgilsson, in his *Íslendingabók*, relates the establishment of law as if it were the foremost priority for the newly-arrived population of the fledgling country. Iceland was discovered, he tells us, and then there was a great movement there from Norway; he gives us the four chief settlers, one in each Quarter of the country, ‘en þá es Ísland vas víða byggt orðit, þá

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<sup>58</sup> *Gesta Hammaburgensis Ecclesiae Pontificum: Hamburgische Kirchengeschichte*, ed. by Bernhard Schmeidler, 3rd ed. (Hanover: Hahnsche Buchhandlung, 1917), p. 273. ‘Among them there is no king, save law alone.’

hafði maðr austroenn fyrst lög út hingat ýr Norvegi, sá es Úlfljótr hét'.<sup>59</sup> A continued interest in setting and developing law has been described as something of a national pastime: Miller speaks of a 'distinctly oversanctioned society', a 'cultural predisposition for law and lawmaking', and the Icelanders' 'will to Law'.<sup>60</sup>

Commonwealth-period Icelanders referred to their body of formal law as 'vár lög', 'our laws'.<sup>61</sup> The extant collection is now known as *Grágás* – 'conveniently but erroneously', as Peter Foote puts it.<sup>62</sup> In the absence of a centralised executive power of enforcement, '*Grágás* was not a set code that everyone was expected to obey, but a group of rules that individuals could use to their advantage or turn to the disadvantage of others.'<sup>63</sup> Likewise, the major manuscript witnesses to *Grágás* – which will be described in detail in Chapter 1 – are not official records, but, apparently, private compilations. The laws they contain, therefore, while wide-ranging, detailed and sophisticated, are not completely comprehensive, cohesive, or chronologically consistent, making up 'more an antiquarian anthology than a workable reference book'.<sup>64</sup> As has been briefly demonstrated, the use of *Grágás* as a historical source is therefore problematic and has proved contentious.

The Commonwealth came to an end following a period of intense political rivalry and strife, during which time there was a growing disregard for the laws and legal system.<sup>65</sup> The king of Norway, Hákon Hákonarson, came to be increasingly involved in the disputes between the most powerful chieftains, which, together with his

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<sup>59</sup> *ÍF* I, 7. 'And when Iceland had become widely settled, then a Norwegian man called Úlfljótr first brought laws out here from Norway.'

<sup>60</sup> *Bloodtaking* pp. 223-25.

<sup>61</sup> E.g. K § 1: Gg Ia, 3; *Íslendingabók* ch. 10: *ÍF* I, 23.

<sup>62</sup> *The Early Christian Laws of Iceland: Some Observations*, H.M. Chadwick Memorial Lectures 15 (University of Cambridge: Department of Anglo-Saxon, Norse and Celtic, 2005), p. 1.

<sup>63</sup> Byock, *Viking Age Iceland*, p.308.

<sup>64</sup> Heather O'Donoghue, *Old Norse-Icelandic Literature: A Short Introduction* (Oxford: Blackwell, 2004), p. 32. See also e.g. *Laws* I, 9-10, 13-16.

<sup>65</sup> As well as the evidence of the *samtíðarsögur*, SS I-II, *passim*, see e.g. Jón Viðar Sigurðsson, *Chieftains and Power in the Icelandic Commonwealth*, trans. by Jean Lundskær-Nielsen, The Viking Collection, 12 (Odense: Odense University Press, 1999), pp. 71-83 and *passim*; Stephen Norman Tranter, *Sturlunga Saga: The Role of the Creative Compiler* (Frankfurt: Peter Lang, 1987), *passim*. The political situation in the late Commonwealth period will be discussed further at several points throughout the present thesis. Full details of post-Commonwealth arrangements are superfluous to this thesis; for a fuller account than the brief outline provided here please see references provided.

own programme of expansion and repeated attempts to annex Iceland, led, at the Alþing of 1262, to the agreement of representatives of the Northern and parts of the Southern Quarters to swear allegiance to King Hákon and his son Magnús and recognise the sovereignty of the Norwegian Crown. The rest of the country followed over the next two years.<sup>66</sup> After Hákon's death in 1263, King Magnús, known as *lagabætir*, 'Law-Amender', already in the process of law-reform in Norway, sent a new law code, *Járnsíða*, to Iceland, which was based on the new Norwegian laws. This proved to be unpopular among the Icelanders, not least because of its unsuitability to Icelandic conditions, but it was accepted gradually at the Alþing between 1271-73. Under *Járnsíða* the *logréttu* became primarily a court of appeal and was to be composed of *bændr* appointed by the king's representative, rather than *goðar*, and the office of lawspeaker was replaced by the royally-appointed *Loqmaðr*, of which (after 1283) there were two for the country at a time.<sup>67</sup>

In 1280 Magnús sent a revised law code to Iceland, known as *Jónsbók*. Although based on *Járnsíða*, *Jónsbók* incorporated many more of *Grágás*' provisions, and despite initial unpopularity was accepted at the Alþing of 1281. *Jónsbók* demonstrated that Iceland was clearly separate from the now legally-unified Norway: Norwegian law did not automatically apply in Iceland, and both the king and the Alþing appear to have been able to amend legislation, although the documentary evidence is patchy.<sup>68</sup> *Jónsbók* proved extremely enduring, remaining at the core of Icelandic legislation for 400 years, and surviving in more medieval manuscripts than any other Icelandic text.<sup>69</sup>

The present thesis focuses on the Commonwealth period, before the introduction of Norwegian royally-engendered law and administration.

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<sup>66</sup> See further e.g. Gunnar Karlsson, *Iceland's 1100 Years: The History of a Marginal Society* (London: Hurst & Co., 2000), pp. 79-86.

<sup>67</sup> *Ibid.*, pp. 89-90, and references therein.

<sup>68</sup> *Ibid.*, pp. 90-95.

<sup>69</sup> Halldór Hermannsson, *Illuminated Manuscripts of the Jónsbók*, *Islandica*, 28 (Ithaca: Cornell University Press, 1940), p. 7.

## CHAPTER 1:

### LAW, LITERACY AND LITERARY COMMUNITIES

Skáld eru höfundar allrar rýnni eða málsgreinar, sem smíðir [smíðar] eða lögmennt laga.<sup>1</sup>

In drawing upon skaldic poets as authorities in his discussion of sounds and pronunciation, the author of the so-called *First Grammatical Treatise (IGT)*, writing as literacy became increasingly widespread during the twelfth century in Iceland, distinguishes certain groups – perhaps communities – of skilled persons. It is particularly telling, though, that he draws upon *lögmennt* for one of his comparisons with skalds. In fact, the First Grammarian's observation is particularly apt to the fabric of this chapter. In it, I will examine aspects of the legal community in medieval Iceland, and argue that it is inextricably intertwined with the literary community – with skalds and *lögmennt* providing a particularly fruitful demonstration of these multifaceted connections, in both oral and literate spheres. I will introduce here the figure of the lawspeaker, the focus of the next chapter, who encapsulates particularly neatly the overlaps and interconnections of the intellectual communities in medieval Iceland: six of the holders of the office, spanning three centuries of the Icelandic Commonwealth, have extant skaldic poetry attributed to them. I will thus use these figures to frame this chapter, examining first the two oral-period lawspeaker-poets, Skapti Þóroddsson and Markús Skeggjason, and their activities within the legal and skaldic spheres.

Like the First Grammarian, however, this chapter is also concerned with the advent and impact of literacy in Iceland and the subsequently-emerging textual culture, with a focus on the codification of the laws in 1117. I will thus explore the motivations and the consequences of this event for different parties and social groups, and will then look more closely at the resultant legal textual culture, providing a description and analysis of the extant manuscripts which preserve provisions of apparent Commonwealth-period law. This, in turn, will prompt a discussion of the intellectual

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<sup>1</sup> *First Grammatical Treatise: The Earliest Germanic Phonology. An Edition, Translation and Commentary*, ed. by Einar Haugen, 2nd, rev. ed. (London: Longman, 1972), p. 20. 'Skalds are the arbiters of all matters of grammar or diction, as craftsmen of crafts, or lawyers of laws.'

communities involved in legal and literary production, which will lead, full-circle, to a return to lawspeakers; this time those active in the literate period – Styrkárr Oddason, Snorri Sturluson, and Sturla and Óláfr Þórðarson – whom I will use to investigate the development of literary-legal relations into the thirteenth century.

## LAWSPEAKER-POETS I: THE ORAL PERIOD

Before discussing the early lawspeaker-poets individually, it will be useful to review what has been construed about the nature of oral-period law and legal practices. Such information is, rather by definition, to some extent irrecoverable, and there has been much discussion – and disagreement – among Scandinavian scholars on matters such as the style, age and models of Nordic law, a debate which has been conveniently summarised by Per Norseng.<sup>2</sup> In English, the work of Stefan Brink and Peter Foote, in particular, has contributed much to our understanding of oral-period law in Scandinavia,<sup>3</sup> while Patrick Wormald and Michael Clanchy provide the counterparts for Anglo-Saxon- and post-Conquest England respectively.<sup>4</sup> I will return to aspects of these debates in what follows.

*Íslendingabók* tells us that law was brought to the newly-settled Iceland thus (ch. 2):

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<sup>2</sup> ‘Law Codes as a Source for Nordic History in the Early Middle Ages’, *Scandinavian Journal of History*, 16:3 (1991), 137-66.

<sup>3</sup> Brink: ‘Law and Legal Customs in Viking Age Scandinavia’ in *The Scandinavians from the Vendel Period to the Tenth Century: An Ethnographic Perspective*, ed. by Judith Jesch (Woodbridge: Boydell, 2002), pp. 87-127; ‘Verba Volant, Scripta Manent? Aspects of Early Scandinavian Oral Society’ in *Literacy in Medieval and Early Modern Scandinavian Culture*, ed. by Pernille Hermann, The Viking Collection, 16 (Odense: University Press of Southern Denmark, 2005), pp. 77-135; Foote: ‘Oral and Literary Tradition in Early Scandinavian Law: Aspects of a Problem’, in *Oral Tradition, Literary Tradition: A Symposium. Proceedings of the First International Symposium organized by the Centre for the Study of Vernacular Literature in the Middle Ages, Odense University, 22-23 November 1976*, ed. by Hans Bekker-Nielsen and others (Odense: Odense University Press, 1977), pp. 47-55; ‘Reflections on “Landabrigðisþátr” and “Rekþátr” in Grágás’, *Acta Jutlandica*, 63:2 (1987), 53-64; 1117 in *Iceland and England: The Dorothea Coke Memorial Lecture in Northern Studies, delivered at University College London, 14<sup>th</sup> March 2002* (London: Viking Society for Northern Research, 2002).

<sup>4</sup> Wormald, *Legal Culture; The Making of English Law*; M. T. Clanchy, *From Memory to Written Record: England 1066-1307*, 2nd ed. (Oxford: Blackwell, 1993).

Þá es Ísland vas víða byggt orðit, þá hafði maðr austroenn fyrst lög út hingat ýr Norvegi, sá es Úlfljótr hét; [...] ok váru þá Úlfljótslög kǫlluð [...] en þau váru flest sett at því sem þá váru Golapingslög eða ráð Þorleifs ens spaka Hǫrða-Kárasonar váru til, hvar við skyldi auka eða af nema eða annan veg setja.<sup>5</sup>

For the Gulapíng laws, like *Grágás*, the earliest fairly comprehensive manuscript witnesses date from the second half of the thirteenth century.<sup>6</sup> Three-and-a-half centuries of development, adaptation, changing and diverging conditions and, for *Grágás* at least, the potential of around 150 years' worth of literary editing, means that there is little on which to base a confident reconstruction of what the laws collected by Úlfljótr in around the year 930 might have been like; length, scope and style are lost to us.<sup>7</sup> To give just one example of the problem: the extant text of the Swedish *Dalalagen* (laws of the Dalarna region), whose earliest manuscript dates from c.1340, has been thought to preserve closely archaic, oral laws, because they are full of apparently mnemonic features: 'alliteration, assonance, rhythmic construction with syntactic parallelism, effects of climax, vivid description, swift narrative, brisk dialogue, and concrete, palpable images'.<sup>8</sup> Indeed, there are traces of such features in parts of *Grágás*, too: most notably the truce and peace speeches. The prosaic nature of most of the rest of *Grágás* is attributed to the fact that its codification was so much earlier than that of the *Dalalagen*, supposedly allowing for more editorial revisions, imposing a more literary style. On the other hand, though, it has been argued that some of the supposedly oral features, notably alliteration, are actually learned, Latinate characteristics, and may thus indicate a 'consciously archaic literary style, perhaps used deliberately [in the

<sup>5</sup> *ÍF* I, 6-7. 'When Iceland had become widely settled, a Norwegian man called Úlfljótr first brought the laws out here from Norway [...] and they were then called *Úlfljótslög* [Úlfljótr's laws] [...] and they were mostly established according to what were then the *Gulapingslög* [laws of the Gulapíng district in western Norway], or on the advice of Þorleifr *enn spaki* ('the wise') Hǫrða-Kárason as to what should be added, or taken out, or arranged another way.'

<sup>6</sup> Norseng, 'Law Codes', pp. 138-39. *Grágás* manuscripts are discussed in detail later in this chapter.

<sup>7</sup> A short passage in the early fourteenth-century Hauksbók redaction of *Landnámabók* (H268) purports to preserve the 'upphaf hinna heiðnu laga' (*ÍF* I, 313). ('Beginning of the heathen laws [i.e. *Úlfljótslög*].') However, the text is generally thought to be a learned construct of c.1200 reflecting concerns prevailing at the time (Olaf Olsen, 'Hǫrg, hov og kirke: Historiske og arkæologiske vikingestudier', *Aarbøger for nordisk oldkyndighed og historie* 1965 (1966), 5-307 (p. 49); Torfi Tulinius, 'Political Echoes: Reading *Eyrbyggja saga* in Light of Contemporary Conflicts', in *Learning and Understanding in the Old Norse World: Essays in Honour of Margaret Clunies Ross*, ed. by Judy Quinn, Kate Heslop and Tarrin Wills (Turnhout: Brepols, 2007), pp. 49-62 (p. 60)).

<sup>8</sup> Foote, 'Oral and Literary Tradition', p. 49.

*Dalalagen*] in order to convey an impression of antiquity'.<sup>9</sup> For *Grágás*, Foote points out that even if those involved in the official codification in 1117 made a conscious effort to adopt a learned written style, it is unlikely that all subsequent, independent recorders of Icelandic law were 'so deeply affected by editing and framing principles [...] that they comprehensively excised all manner of colourful and forceful expression from the major part [...] of their material'.<sup>10</sup> He further notes that the occasional sections of *Grágás* which appear to stem from direct dictation – those, for example, which use the first person pronoun – are otherwise in the same prosaic style and with no more 'archaic' features than the rest, while the truce and peace speeches and other parts which employ stylised rhetorical language are those intended to be performed by participants in lawsuits, not recited by the lawspeaker. Foote concludes: 'By and large it seems a safe conclusion that the plain, accumulatory style of the Icelandic laws as we know them is after all close to the general style of the laws in their oral existence'.<sup>11</sup>

Whatever form the earliest laws took, we know from *Grágás* itself that it was the task of the lawspeaker to recite them at the Alþing: 'lög þátto alla a þrimr sumrom hueriom. en þingscop huert sumar', and 'at engi vite eina miclogi gøR'.<sup>12</sup> Although, somewhat paradoxically, our knowledge of the prescriptions relating to the duties of the lawspeaker is thanks to their written existence in a manuscript from the second half of the thirteenth century, where they sit side-by-side with a claim unequivocally from literate culture – 'þat scolo lög vera alanðe her sem áscrám standa' – they do appear to point to predominantly oral practices.<sup>13</sup> The laws state further that if the lawspeaker was concerned that his knowledge of the law was inadequate, he was to arrange a consultation with five or more legal experts, 'þa er hann ma hellzt geta', in the twenty-four hours before the recital was due to take place;<sup>14</sup> and it was the responsibility of the

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<sup>9</sup> Norseng, 'Law Codes', p. 159. See the same article for further details and the contributors to the debate. Cf. also e.g. Whitelock, 'Wulfstan and the So-Called Laws'.

<sup>10</sup> Foote, 'Oral and Literary Tradition', p. 54.

<sup>11</sup> Ibid.

<sup>12</sup> K § 116: *Gg* Ia, 209. 'All the sections of the law over three summers and the assembly procedure every summer'; 'so extensively that no one knows them much more extensively' (*Laws* I, 187-88). The other duties of the lawspeaker are discussed in Chapter 2 of this thesis.

<sup>13</sup> K § 117: *Gg* Ia, 213. 'In this country what is found in books is to be law' (*Laws* I, 190). This clause is discussed in detail later in this chapter.

<sup>14</sup> K § 116: *Gg* Ia, 209. 'Those from whom he can learn most' (*Laws* I, 188).

members of the *logrétta* to be present for the recital, or to send two deputies in their place,<sup>15</sup> a requirement which, as Judy Quinn notes, would seem to be ‘aimed at ensuring the preservation of the laws in a sizeable number of memories’.<sup>16</sup> The tension between the oral and the literate in legal practice will be explored extensively throughout this chapter.

There is little direct evidence for exactly how lawspeakers and other legal experts were trained in the oral period, but knowledge of the law is likely to have been passed down within families, and indeed there are several instances of holders of the lawspeakership coming from the same family.<sup>17</sup> Others apparently learnt through apprenticeships, being fostered in the household of a legal expert, as is suggested by *Gunnlaugs saga*: ‘Þorsteinn bað [Gunnlaugr] þar vera þeim stundum, sem hann vildi, ok þar var hann þau missari ok nam lögspeki at Þorsteini’ (ch. 4).<sup>18</sup> This method of learning was presumably similar to the method of training of skalds, a subject on which the sources are famously – and frustratingly – silent.<sup>19</sup> However, as Gísli Sigurðsson notes, ‘it is not improbable that oral knowledge of the law went hand in hand with other kinds of oral learning and the rhetorical use of language implicit in oral poetry’.<sup>20</sup> And

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<sup>15</sup> K § 117: *Gg* Ia, 216.

<sup>16</sup> ‘From Orality to Literacy in Medieval Iceland’, in Clunies Ross (ed.), *Old Icelandic Literature and Society*, pp. 30-60 (p. 32).

<sup>17</sup> E.g. Grímr Svertingsson (1002-03) and his nephew Skapti Þóróddsson (1004-30); Kolbeinn Flosason (1066-71) and his nephew Sighvatr Surtsson (1076-83); Gunnarr Þorgrímsson (1063-65 and 1075), his son Úlfheðinn (1108-16), and Úlfheðinn’s two sons Hrafn (1135-38) and Gunnarr (1146-55); Ketill Þorláksson (1259-62) and his son Þorleifr (1263-66, 1268 and 1271).

<sup>18</sup> *ÍF* III, 60. ‘Þorsteinn offered that Gunnlaugr stay for a while, if he wished, and he was there for a season and learned law from Þorsteinn.’

<sup>19</sup> Elena Gurevich, ‘“Ok varð it mesta skáld”: Some Observations on the Problem of Skaldic Training’, *Collegium Medievale*, 9:1-2 (1996), 57-71 (p. 64); Matthew Townend, ‘Whatever Happened to York Viking Poetry? Memory, Tradition and the Transmission of Skaldic Verse’, *Saga-Book*, 27 (2003), 48-90 (p. 64); Stephen Tranter, ‘Medieval Icelandic *artes poeticae*’, in Clunies Ross (ed.), *Old Icelandic Literature*, pp. 140-60 (p. 140).

<sup>20</sup> *The Medieval Icelandic Saga and Oral Tradition: A Discourse on Method*, trans. by Nicholas Jones (Cambridge, MA: Harvard University Press, 2004), pp. 117, 91. A close connection between law, poetry and other types of learning, including history and prophecy, was also a feature of early Ireland and other early Celtic societies, although there it was professionalised and institutionalised within a complex caste system not applicable in the Icelandic context. The different roles devolved into separate specialisations over time. See further e.g. T. M. Charles-Edwards, *Early Christian Ireland* (Cambridge: Cambridge University Press, 2000), esp. pp. 124-36, 185-202; M. T. Clanchy, ‘Remembering the Past and the Good Old Law’, *History*, 55 (1970), 165-76 (p. 169); Seán MacAirt, ‘Filidecht and Coimgne’, *Ériu*, 18 (1958), 139-52, *passim*.

this is brought to its fullest realisation in the careers of the six lawspeaker-poets to be discussed in this chapter, the first two of whom I now turn to.<sup>21</sup>

*Skapti Þóróddsson (1004-30)*

Skapti is the longest-serving of all the Commonwealth-period lawspeakers. As will be discussed in the following chapter, he is relatively well-known to the *Íslendingasögur*, and is the Saga-Age lawspeaker whose identity is most tied up with his legal ability and lawspeakership in the traditions preserved about him. A single fragment of a verse, on a religious theme, is attributed to Skapti in *Skáldskaparmál*; this is the only known example of his poetry. This *helmingr* occurs in the section containing kennings for Christ:

Mátt er munka dróttins  
mestr; aflar guð flestu.  
Kristr skóp ríkr ok reisti  
Rúms höll veröld alla.<sup>22</sup>

Skapti began his term as lawspeaker in 1004, just four years after the conversion, and seems to have embraced the new legally-adopted religion wholeheartedly. His dedication to Christianity is suggested in other sources: *Flóamanna saga* shows him building a church on his land (ch. 35), while the author of *Gunnlaugs saga* lists Skapti and his father among important men who were living at the time that ‘urðu þau tíðendi, er bezt hafa orðit hér á Íslandi, at landit varð allt kristit, ok allt fólk hafnaði fornum átrúnáði’ (ch. 5).<sup>23</sup> *Óláfs saga helga*, in *Heimskringla*, states that Skapti was involved in the prohibition of the pagan aspects remaining in Icelandic law after the conversion (ch. 60). Moreover, he was the maternal uncle of Iceland’s first native bishop, Ísleifr Gizurarson. Therefore it is unsurprising that Skapti should compose on a Christian theme. It is, further, interesting to note that in Skapti we have a lawspeaker

<sup>21</sup> Appendix 1.1, at the end of this chapter, gives details of all extant poetry assigned to lawspeakers.

<sup>22</sup> Snorri Sturluson, *Edda: Skáldskaparmál*, ed. by Anthony Faulkes, 2 vols (London: Viking Society for Northern Research, 1998), I, 77. ‘The might of the lord of monks [GOD] is greatest. God brings about everything. Powerful Christ created all the world and raised the hall of Rome.’

<sup>23</sup> *ÍF* III, 62. ‘Those things took place, which were the best to have happened here in Iceland: that the country became entirely Christian, and all the people abandoned the old beliefs.’

with close connections within the literate society of the Church from the very outset of Christianity in Iceland.

Jakob Benediktsson notes that ‘the determinant *munka* is very rarely used in ON [*sic*] poetry’, citing a total of only three examples, including Skapti’s.<sup>24</sup> That Skapti’s verse consists of different ways of referring to God suggests an attempt to explore possibilities of using the kenning in a Christian context, reflecting the reaction of a newly Christianised community steadfastly avoiding reference to the pagan myths which had been the traditional subject matter of skaldic poetry.<sup>25</sup>

Jakob questions Skapti’s authorship of this verse on the grounds that ‘[he] is nowhere else referred to as a poet’.<sup>26</sup> This is not, however, in fact the case, and there seems no good reason to doubt Snorri’s attribution. Indeed, as we saw in the Introduction, in a particularly intricate juxtaposition of the legal and the poetic a verse said to have been composed by Kári Sölmundarson at the battle at the Alþing in *Njáls saga* refers to Skapti as ‘skáld’ (ch. 145).<sup>27</sup> Elsewhere, Skapti’s poetic career does not seem to have been widely celebrated, but he does feature in the medieval list of court poets known as *Skáldatal*, which has come down to us in two versions. In the version (hereafter *SK*) of the now-lost Kringla manuscript,<sup>28</sup> Skapti is named as poet to Jarl Hákon *inn ríki* Sigurðarson (r. c.970-95), and King Óláfr *inn helgi* Haraldsson (r. 1015-28).<sup>29</sup> The version (hereafter *SU*) in the Codex Upsaliensis manuscript<sup>30</sup> gives his patrons as Jarl Hákon and King Magnús *inn góði* Ólafsson (r. 1035-47),<sup>31</sup> although this

<sup>24</sup> ‘Hafgerðingadrápa’, in *Speculum Norroenum: Norse Studies in Memory of Gabriel Turville-Petre*, ed. by Ursula Dronke and others (Odense: Odense University Press, 1981), pp. 27-32 (p. 30).

<sup>25</sup> See further Katrina Attwood, ‘Christian Poetry’, in *A Companion to Old Norse – Icelandic Literature and Culture*, ed. by Rory McTurk (Oxford: Blackwell, 2004), pp. 43-63 (esp. p. 46); E. O. G. Turville-Petre, *Scaldic Poetry* (Oxford: Clarendon, 1976), p. lix.

<sup>26</sup> ‘Hafgerðingadrápa’, p. 31.

<sup>27</sup> *ÍF* XII, 145.

<sup>28</sup> The sole remaining leaf is Reykjavík, Landsbókasafn Íslands, Lbs fragm. 82 (formerly Stockholm, Kungl. Biblioteket, KBS Perg. fol. nr 9, I).

<sup>29</sup> *Edda Snorra Sturlusonar: Edda Snorronis Sturlaei*, ed. by Jón Sigurðsson and others, 3 vols. (Copenhagen: Legatum Arnemagnaeum, 1848-87), III, 253, 256.

<sup>30</sup> Uppsala, University Library, DG 11.

<sup>31</sup> Jón Sigurðsson and others (eds.), *Edda Snorra Sturlusonar*, III, 262, 266. A detailed discussion of *Skáldatal* and its two versions is provided in Guðrún Nordal, *Tools of Literacy: The Role of Skaldic*

latter reference must be erroneous as Skapti died in office in 1030.<sup>32</sup> Furthermore, in *Óláfs saga helga* (*Heimskringla* version), Skapti is said to have composed a *drápa* about King Óláfr and taught it to his son, Steinn, in order that the latter recite the poem at Óláfr's court (ch. 138). However, Steinn (who is himself described as 'skáld gott', demonstrating the tendency for skaldic activity to run in families),<sup>33</sup> is not given the chance to perform the recital, and nothing of this *drápa* is preserved, either here or elsewhere.<sup>34</sup> Less prestigiously, one of the taunts thrown at Skapti in the flyting scene in *Ólkofra þáttur* is an accusation of his having composed a love-poem about the wife of a kinsman (ch. 3).

There is, therefore, substantial source material to suggest that Skapti was involved in skaldic activity. It is interesting, however, that the one piece of anecdotal evidence we have about his endeavours as a court poet shows him sending his son to deliver his poetry, rather than going to court himself. Significantly, Skapti held the lawspeakership for the entirety of King Óláfr's reign. Could it be that he felt unable to leave Iceland at this time, because of the responsibilities of his position? In order to visit the Norwegian court, Skapti would have to have been away from Iceland for a considerable amount of time, and therefore would have been likely to miss at least one Alþing. Admittedly, as I shall demonstrate in the next chapter, non-attendance at the Alþing does not seem to have caused a great deal of concern to some thirteenth-century lawspeakers; but replacements must have been far easier to come by in the later period, when written texts of the law were available and a relatively high percentage of the population could read. We do not know whether, at this stage, the lawspeaker's recital was indeed read aloud from a manuscript, and as he would also have been expected to be available for consultation on disputed matters and to sit on the *lögretta*, a thorough knowledge of the law would still have been necessary; but this knowledge would have been easier to gain and more widely available with the accessibility of written texts from which to study. However, despite Skapti's early connections with the literate

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*Verse in Icelandic Textual Culture of the Twelfth and Thirteenth Centuries* (Toronto: University of Toronto Press, 2001), pp. 120-30.

<sup>32</sup> *Íslendingabók* ch. 8.

<sup>33</sup> 'A good skald.' On skaldship running in the family see Guðrún Nordal, *Tools of Literacy*, pp. 139-41; Townend, 'Whatever Happened', pp. 64-65.

<sup>34</sup> There is, similarly, no extant verse attributed to Steinn, although he is listed in both versions of *Skáldatal* as court poet to King Knútr *inn ríki* Sveinsson (Jón Sigurðsson and others (eds.), *Edda Snorra Sturlusonar*, III, 258, 267).

sphere, he and his contemporaries had no choice but to learn the laws orally, and to recite them from memory, requiring a more specialised form of training. It seems a reasonable assumption that lawspeakers were more indispensable in the pre-literate age, and Skapti's sending of his son to the Norwegian court in his place perhaps reflects the greater responsibility he felt towards his duties than did some later lawspeakers.

If Skapti's poetic career was indeed as long and as eminent as the sources suggest, it may seem rather surprising that there is not stronger evidence for it in terms of what is remembered about Skapti himself, and in the survival of his poetry. However, given that Skapti lived during the *söguöld*, 'Saga Age', traditions about him are preserved primarily in the *Íslendingasögur*, and their subject matter dictates the nature of these memories. There is no *\*Skapta saga*, recounting the details of his life; as will be demonstrated in the following chapter, he appears in the sagas as an incidental character, a token legal expert, if and when he is needed. His fundamental role is as a Saga-Age lawspeaker, in narratives focussed on the law, and on Iceland. In this context, any poetic ability he may also have had, particularly that used in service of foreign rulers, is simply irrelevant. In fact, *Olkofra þáttr* hints that there may indeed have been a tradition in which Skapti got into trouble with a kinsman for his verse-making within Iceland – breaking the law against the composition of romantic poetry at the same time – but this would have somewhat undermined his status as a wise and upstanding lawspeaker and would thus have been actively avoided by saga authors wishing to draw upon this side of his identity.<sup>35</sup>

It is, though, impossible to say why more of Skapti's poetry has not survived, if not in the *Íslendingasögur*, then in the *konungasögur* about his patrons or in the poetical treatises such as the *Edda*. In the case of his *drápa* for King Óláfr, it is said that Steinn's rudeness about the king prevents him being granted a hearing, and so in this instance the poem does not enter into circulation at court. Skapti's earliest patron, however, Jarl Hákon, is said in *Skáldatal* to have had nine court poets; of these, only one other than Skapti, Þorfinnr *munnr*, has no surviving poetry about the Jarl.<sup>36</sup> Hákon was staunchly pro-heathen, and it is perhaps possible that Skapti's later commitment to Christianity

<sup>35</sup> For the laws against the composition of love poetry see K § 238: *Gg* lb, 184.

<sup>36</sup> On praise-poetry about Jarl Hákon see further Folke Ström, 'Poetry as an Instrument of Propaganda: Jarl Hákon and his Poets', in Dronke and others (eds.), *Speculum Norroenum*, pp. 440-58. Two of Þorfinnr's *lausavísur* survive in the various versions of *Óláfs saga helga*.

caused his earlier pagan poetry to be suppressed and so not transmitted further. Perhaps the later authors of the sagas about these rulers did not consider Skapti's poetry to contribute to the corpus of surviving verse about them. Or perhaps Skapti's identity as lawspeaker became so dominant in tradition that it was not only his role as poet but his poetry itself that was forgotten.<sup>37</sup>

*Markús Skeggjason (1084-1107)*

In contrast to Skapti, the skaldic ability of the next lawspeaker-poet, Markús Skeggjason, seems to have been widely celebrated in medieval Iceland. Both versions of *Skáldatal* name Markús as skald to King Ingi Steinkelsson of Sweden (r. 1079-84 and 1087-1105) and the Danish kings Knútr *inn helgi* Sveinsson (r. 1080-86) and Eiríkr *eygóðr* Sveinsson (r. 1095-1103). Significantly, Markús is named as 'løgsgomaðr [*sic*]' on his first appearance in *SK*, the only lawspeaker to be identified thus in either version of *Skáldatal*.<sup>38</sup> Interestingly, this is a reversal of the circumstances of his presentation in the *biskupa saga Hungrvaka*, where he is identified as 'skáld' although he appears in the text because of his role as lawspeaker (ch. 4).<sup>39</sup> Markús thus seems to have been well known as both lawspeaker and skald, and these roles were viewed as equally important parts of his collectively-commemorated identity.

Markús' work is preserved in several medieval sources, perhaps most importantly *Knýtlinga saga*, where twenty-eight verses of his *Eiríksdrápa* form the basis for the account of Eiríkr's life. *Eiríksdrápa*, composed c.1104, is Markús' most significant extant work, and a further four stanzas of the poem survive in *Skáldskaparmál* (although intriguingly, none of the verses appear in both texts). Nothing of his poetry for Ingi survives, however, and only one *helmingr*, preserved in *Skáldskaparmál*, is apparently from a \**Knútsdrápa*. *Skáldskaparmál* also cites a further four verses attributed to Markús: two *lausavísur* (one of which also appears in the so-called *Third Grammatical Treatise*), and two verses from an otherwise lost poem about Christ. The contexts of the preservation of his work place him among the received

<sup>37</sup> On the transmission or non-transmission of skaldic verse see further Townend, 'Whatever Happened', *passim*.

<sup>38</sup> Jón Sigurðsson and others (eds.), *Edda Snorra Sturlusonar*, III, 252.

<sup>39</sup> *ÍF* XVI, 17. This is discussed further in Chapter 2 of this thesis.

canon of major poets, cited as exemplary by the poetic experts of the thirteenth century, and as trustworthy by the authors of historical works. (Note too that his reputation for reliability was also observed by his contemporaries: he is one of Ari's sources for *Íslendingabók*, and 'at hans sögu es skrifuð ævi allri lögsögumanna á bók þessi').<sup>40</sup>

Markús' place in the canon was certainly richly deserved: he is at ease with the traditions and conventions of skaldic verse and clearly familiar with the work of other great poets, yet his own work establishes new parameters in the composition of praise-poetry and would provide inspiration for later generations of skalds.<sup>41</sup> Judith Jesch has analysed the innovations of *Eiríksdrápa*, citing, for example, its use of the *hrynhent* metre – the first known poem after Arnórr Þórðarson *jarlaskáld's Hrynhenda* (c.1045) to do so – and its combination of the traditional skaldic imagery of a warrior-king with new ideals of kingship in a Christian model.<sup>42</sup>

In 1921 Magnus Olsen suggested that *Eiríksdrápa* may have been conceived with the intention of its delivery in both written and oral form by the Icelandic bishop Jón of Hólar during his consecration ceremony at the Scandinavian archbishopric of Lund in 1105, in front of King Níkulás Sveinsson, Eiríkr's brother and successor.<sup>43</sup> On the basis of this, Jesch posits a further pioneering role for *Eiríksdrápa*: that it 'may [...] have been the first long skaldic poem to be composed in written rather than oral form'.<sup>44</sup> Although both of these claims are based on conjecture rather than source evidence, they could have crucial implications for the development of the role of literacy in the skaldic milieu, and for Markús' own involvement in literate culture; it is therefore worth speculating further, in terms directly relating to Markús' circumstances, on the likelihood of such possibilities.

<sup>40</sup> *ÍF* I, 22. 'On his account are the lives of all the lawspeakers in this book written.'

<sup>41</sup> See e.g. Margaret Clunies Ross, *A History of Old Norse Poetry and Poetics* (Cambridge: D.S. Brewer, 2005), pp. 129-30; Guðrún Nordal, *Tools of Literacy*, p. 168.

<sup>42</sup> Judith Jesch, 'Old and New in Markús Skeggjason's *Eiríksdrápa*', in *Scandinavia and Christian Europe in the Middle Ages: Papers of the Twelfth International Saga Conference, Bonn, Germany, 28 July – 2 August 2003*, ed. by Rudolf Simek and Judith Meurer (Bonn: Hausdruckerei der Universität Bonn, 2003), pp. 268-74.

<sup>43</sup> 'Lovsigemanden Markus Skeggesøns arvekvæde over Kong Erik Eiegod', *Edda*, 15 (1921), 161-69.

<sup>44</sup> Jesch, 'Old and New', p. 273.

If Skapti did not travel to deliver his court poetry himself because of his responsibilities as lawspeaker at home in Iceland, the same restrictions could have troubled Markús. Only his first patron, Ingi of Sweden, reigned early enough for Markús to have visited his court before taking up the lawspeakership, but as none of Markús' poetry about Ingi survives it is impossible to determine the circumstances in which it was produced. However, perhaps the precise reason for its non-transmission is because it was delivered by its author, not taught to someone else, at a foreign court with few Icelandic witnesses to remember it (unlike in Norway, where more Icelanders were likely to have been present), and never written down. Markús could thus have established his reputation as a court skald before taking up the lawspeakership, so that when the circumstances which precipitated *Eiríksdrápa* arose – a momentous occasion requiring a politically and ecclesiastically important poem – Markús, as both skald and lawspeaker, was an established and prestigious choice to be commissioned to compose it. The content and tone of the poem – in Jesch's words, 'no doubt intended to edify the new king and to encourage him in [...] Christian practices and, especially, in supporting the Church', whilst at the same time 'packaged [...] in the conventions and traditional forms of praise poetry'<sup>45</sup> – do not require the author's first-hand observation of his royal subject, but merely his acquaintance with Eiríkr's major triumphs and the ability to manipulate skaldic conventions to serve a Christian agenda.

Markús seems to have had close connections with the Church – *Íslendingabók* and several other sources state that the tithe law of 1096 was instituted on his advice, together with that of Bishop Gizurr and Sæmundr *inn fróði* Sigfússon.<sup>46</sup> Indeed, the religious language and themes of *Eiríksdrápa* and the existence of his poetry on Christ are witnesses to his religious concerns – and he thus had, like Skapti, connections to a literate culture. Indeed, some scholars have connected Markús to early innovations in literacy in the legal sphere also: there is widespread acceptance (though tangible evidence is lacking) that the tithe law was committed to writing as soon as it was established – almost twenty years earlier than the formal codification of the secular law in 1117.<sup>47</sup> Moreover, Jón Jóhannesson claims it 'doubtless' that the so-called 'treaty' on

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<sup>45</sup> Ibid.

<sup>46</sup> *Íslendingabók* ch. 10; *Hungrvaka* ch. 4; *Jóns saga ins helga* ch. 6.

<sup>47</sup> E.g. Foote, 1117, p. 14; Jón Viðar Sigurðsson, *Chieftains and Power*, p. 42; Ólafur Lárusson, 'On Grágás – the Oldest Icelandic Code of Law', in *Proceedings of the Third Viking Congress, Reykjavík, 1956*, ed. by Kristján Eldjárn. *Árbók hins íslenska fornleifafélags* (1958), 77-89 (p. 79). For a conflicting

the rights of Icelanders in Norway granted by King Óláfr *inn helgi* Haraldsson (r. 1014-30), dated by Jón Sigurðsson to 1022 and preserved in the *Konungsbók* and *Skinnastaðabók* manuscripts of *Grágás*, was written down c. 1083, when its validity was attested by several prominent Icelanders including Markús and Bishop Gizurr Ísleifsson.<sup>48</sup>

There is no evidence that Markús himself was an ordained cleric, although this is not to say that he could not have received an education: medieval Iceland seems to have had a significant number of schools relative to the size of the population, and although these were initially set up in order to instruct potential members of the clergy in the foundations of Christianity and the teachings of the Church, in the twelfth and thirteenth centuries a relatively high number of the laity from the upper layers of society were educated whether or not they were intended for the priesthood.<sup>49</sup> On the other hand, Markús' pedigree, enumerated in *Landnámabók* (S355, H313), roots him in traditional, oral culture: it connects him to two earlier lawspeakers, Þorkell *máni* and Þorgeirr *at Ljósavatni*, and according to it, his great-grandfather, Þorsteinn, was a *goði*, and his grandfather Bjarni had the nickname *enn spaki*, 'the wise'. Markús was thus known to be of an old and respected family, with a particular trait for wisdom, and the law; further, Markús' oral training is attested in *Íslendingabók* (ch. 10):

[Markús] sagði Þórarinn bróðir hans ok Skeggi faðir þeira ok fleiri spakir menn til þeira ævi, es fyrir hans minni váru, at því es Bjarni enn spaki hafði sagt, fǫðurfaðir þeira, es mundi Þórarin lǫgsögumann ok sex aðra síðan.<sup>50</sup>

It is perhaps most plausible to conclude, then, that Markús' own training and practices derived from oral culture, but that, like Skapti, his close connections with the Church

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view, see Jón Jóhannesson, *A History*, pp. 170-71. I will discuss the codification in detail later in this chapter.

<sup>48</sup> Jón Jóhannesson, *A History of the Old Icelandic Commonwealth: Íslendinga saga*, trans. by Haraldur Bessason, University of Manitoba Icelandic Studies, 2 (Winnipeg: University of Manitoba Press, 1974), p. 110. For the text of the treaty see K § 248, *Gg* Ib, 195-97. For discussion see Boulhosa, *Icelanders and the Kings of Norway*, especially ch. 2, 'The law of Óláfr inn helgi', pp. 43-86. I discuss the extant *Grágás* manuscripts later in the present chapter.

<sup>49</sup> Clunies Ross, *Poetry and Poetics*, pp. 142-43.

<sup>50</sup> *ÍF* I, 22. 'His brother Þórarinn, and Skeggi their father, and other wise men, told Markús about the lives of those [lawspeakers] who came before his memory, according to what Bjarni *enn spaki*, their paternal grandfather, had said, who remembered Þórarinn the lawspeaker and the six others after him.'

brought him into contact with the literate world and placed him in a strong position to utilise its innovations.

It is thus impossible to say whether literacy had any effect on Markús' method of composing *Eiríksdrápa*, but it seems possible that it was indeed created and written down in Iceland and delivered to its recipient by someone else. Markús lived at the pivotal point between orality and literacy in Iceland, and through him we may be seeing the beginnings of an interest in the new technology of writing, not only in the sphere of skaldic poetry but also in the field of law. In the following section, therefore, I will examine this awakening textual culture and, in particular, the codification of the laws, instigated just a decade after Markús' death.

### 1117: 'LÖG ÓR SKYLDI SKRIFA Á BÓK'<sup>51</sup>

Amidst the manifold and notorious uncertainties encountered in trying to chart Iceland's transition from an oral society to a literate one, and parallel to this, the development of its literature, the committal of the laws to writing stands out as an unusually concrete milestone. Ari Þorgilsson, in *Íslendingabók*, describes the event thus (ch. 10):

Et fyrsta sumar, es Bergþórr sagði lög upp, vas nýmæli þat gørt, at lög ór skyldi skrifa á bók at Hafliða Mássonar of vetrinn eptir at søgu ok umbráði þeira Bergþórs ok annarra spakra manna, þeira es til þess vǫru teknir. Skyldu þeir gørva nýmæli þau öll í lögum, es þeim litisk þau betri en en fornu lög. Skyldi þau segja upp et næst sumar eptir í lögrettu ok þau öll halda, es enn meiri hlutr manna mælti þá eigi gegn. En þat varð at framfara, at þá vas skrifaðr Víglóði ok margt annat í lögum ok sagt upp í lögrettu af kennimönnum of sumarit eptir. En þat líkaði öllum vel, ok mælti því manngi í gegn.<sup>52</sup>

<sup>51</sup> *ÍF* I, 23. 'Our laws should be written down in a book.'

<sup>52</sup> *ÍF* I, 23-24. 'The first summer that Bergþórr recited the laws, that innovation was made, that our laws should be written down in a book at Hafliði Másson's during the next winter at the dictation and supervision of Bergþórr and of other wise men, those who were appointed to this. They were to make all those revisions to the laws which seemed to them to be better than in the old laws. They [i.e. the newly-written laws] were to be recited the next summer in the *lögretta* and everything which the greater part of the men there did not object to, be put into force. And it came about from this that 'Víglóði' [the manslaughter section] was written down, and much else in the laws, and recited by clerics in the *lögretta* the next summer. And it was greatly pleasing to all, and no man spoke against it.'

For this landmark of literacy and literary activity, Ari thus gives us a ‘when’ – Bergþórr Hrafnsson’s first year as lawspeaker, namely 1117; a ‘where’ – the chieftain Hafliði Másson’s house at Breiðabólstaðr in Vestrhóp, northern Iceland; and at least parts of a ‘who’ (Bergþórr and ‘other wise men’), a ‘how’ (at their dictation and supervision, with emendations and improvements as they saw fit; to be approved by the *logrétta* at the following Alþing), and a ‘what’ (the manslaughter section, and ‘margt annat í lögum’). Despite this relative glut of information, however, Ari’s account still raises more questions than it answers – most importantly, perhaps, simply: ‘why?’. Why, in 1117, was it thought necessary, or at least prudent, to write down what had traditionally been preserved through the memory and recitation of the lawspeakers?

There are many other questions, of course, intensified by the fact that the original text, known as *Haflíðaskrá*, no longer exists. Why did the event take place at Hafliði Másson’s? Who were the ‘aðrir spakir menn’? Why was the manslaughter section an apparent priority? What else was included in the ‘much else of the laws’, and what was omitted at this time? Did the codification process continue the following winter? With the necessity of clerics to read the manuscript the following summer, what was the role of the Church? What effect did this innovation have on the lawspeaker’s role?

These, and other questions, have of course been raised before, and while various theories have been proposed, many remain largely unanswerable. The official codification of the law, however, seems to me to be such a significant event in medieval Iceland’s legal and literary developments that it is worth collating and exploring the details to be gleaned from the sources which may go some way towards understanding the implications of the Alþing’s decision of 1117.

It cannot be overemphasised that in terms of writing anything down in medieval Iceland, 1117 is early. It is particularly early for a text which is secular, and in the vernacular. Although Christianity had brought with it the technology of the written word at the turn of the millennium, it seems that very little existed in the way of written texts for a century, beyond, presumably, imported religious texts (in Latin) which then began to be copied in Iceland’s own religious establishments.<sup>53</sup> The bishoprics,

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<sup>53</sup> See e.g. Jónas Kristjánsson, ‘Vellum and Literature’, trans. by Peter Cahill and Pétur Kidson Karlsson, in his *Skarðsbók: Codex Scardensis AM 350 fol* (Reykjavík: Sverrir Kristinsson, 1981), pp. 39-40.

however, were not established until 1056 in Skálholt and 1106 in Hólar, while the first monastery, at Þingeyrar, was founded in 1133 – namely *after* the codification of the law and the production of texts such as *Íslendingabók*. Nevertheless, ‘so far as we know, no secular books at all were written in Iceland in the first century of Christianity’.<sup>54</sup>

The twelfth century, however, has been described as a ‘renaissance’ in Iceland as elsewhere.<sup>55</sup> It saw translations into Old Norse of Latin religious, theological and encyclopaedic works such as the *Elucidarius*, *Physiologus*, the *Visio Pauli*, Gregory’s *Dialogues*, and various homilies, and the compilation from Latin sources of *Veraldar saga* and *Rómverja saga*, all evidenced by fragmentary remains in some of Iceland’s oldest extant manuscripts.<sup>56</sup> It also saw much that was new: as I have already shown, Markús was at the forefront of a new development of Christian skaldic poetics, clearly influenced in diction and metre by medieval Latin literature, which escalated rapidly in the twelfth century – though more work is needed to explore the effects of literacy on the methods of composition of twelfth-century skaldic verse.<sup>57</sup> Also around this time, the priest Sæmundr fróði Sigfússon (d. 1133) composed a now-lost history of the kings of Norway, presumed to have been in Latin; by the end of the century the first full-length kings’ sagas had begun to appear: the Latin *Óláfs saga Tryggvasonar*, by Oddr Snorrason, monk at Þingeyrar, written c.1180-90, though now only surviving in Icelandic translations of perhaps c.1200; and the anonymous so-called *Oldest Saga of St Óláfr*, which survives only in fragmentary form. In addition, the Icelander Karl Jónsson, abbot of Þingeyrar, wrote at least the first part of *Sverris saga* in c.1185 under King Sverrir’s own supervision in Norway.<sup>58</sup>

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<sup>54</sup> Gísli Sigurðsson, *The Medieval Icelandic Saga*, p. 55.

<sup>55</sup> E.g. Hreinn Benediktsson, ‘Introduction’ to *The First Grammatical Treatise* (Reykjavík: Institute of Nordic Linguistics, 1972), p. 33; see also e.g. Charles Homer Haskins, *The Renaissance of the Twelfth Century* (New York: Meridian Books, 1927).

<sup>56</sup> See e.g. Margaret Clunies Ross and Rudolf Simek, ‘Encyclopedic Literature’, in *Medieval Scandinavia: An Encyclopedia*, ed. by Philip Pulsiano and others (New York: Garland, 1993), pp. 164-66; Peter Dinzelbacher, ‘Visionary Literature’, in *ibid.*, pp. 706-07.

<sup>57</sup> See further Clunies Ross, *Poetry and Poetics*, esp. ch. 6, ‘The Impact of Christianity on Old Norse Poetry’. For the impact of literacy and increasingly literary modes of skaldic composition in the thirteenth and fourteenth centuries, see Judy Quinn, ‘Eddu list: The Emergence of Skaldic Pedagogy in Medieval Iceland’, *Alvissmál*, 4 (1994 [1995]), 69-92.

<sup>58</sup> See further Theodore M. Andersson, *The Growth of the Medieval Icelandic Sagas (1180-1280)* (Ithaca: Cornell University Press, 2006), *passim*; Anne Heinrichs, ‘Óláfs saga helga’ in Pulsiano, pp. 447-48; Ólafur Halldórsson, ‘Óláfs saga Tryggvasonar’, in *ibid.*, pp. 448-49.

It must be stressed, though, that by the time of the writing of these sagas, laws had already existed in writing for at least fifty or sixty years. Moreover, the codification occurred at around the same time as the production of a small but significant group of texts which reveal an awakening interest in the creation of a native Icelandic textual culture. Although we should of course be wary of back-projecting modern ideas of nationalism onto the medieval period, it cannot be denied that the texts produced at this time share a distinctly Icelandic stamp. Ari's own *Íslendingabók*, on the history of Iceland, was written in the period 1122-33, and according to his own Prologue specifically omitted Norwegian material from an earlier draft.<sup>59</sup> An early version of *Landnámabók*, about the country's settlement and the origins of its important families, also seems to have been initiated at this time, and worked on by Ari and his contemporary Kolskeggr *inn vitri*.<sup>60</sup> The *IGT*, dated to the period 1125-75, itself sets up the authority and feasibility of Icelandic as a written language, while at the same time providing our best evidence as to what already existed in writing at this time: 'bæði lög ok áttvísi eða þýðingar helgar, eða svá þau in spakligu fræði, er Ari þorgilsson hefir á bœkr sett af skynsamligu viti'.<sup>61</sup>

I would suggest, then, that the writing down of the country's laws was certainly a part of this apparent impulse to record material of national interest. After all, the laws above all else represent the social organisation, which, in the absence of a king, feudal system or any other kind of state infrastructure, made Iceland unique. I do not think, however, that this rather noble and ideological aspiration was by any means the only impetus behind the codification. I will thus examine here the other factors in play in 1117 which culminated in the Alþing's resolution to set down the laws into writing.

I begin with the chieftain Hafliði Másson, whose reasons for involvement in the project have been little studied, despite the fact that he does appear to have been the driving force, and not merely the host: *Grágás* itself refers to 'scrö þeirre er hafliðe let

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<sup>59</sup> 'Íslendingabók gørða ek fyrst byskupum órum [...] þá skrifaða ek þessa of et sama far, fyr utan áttartölu ok konunga ævi' (*ÍF* I, 3). ('I first made *Íslendingabók* for our bishops [...] then I wrote this covering the same material, except for the genealogies and kings' lives.')

<sup>60</sup> Jakob Benediktsson, 'Landnámabók', in Pulsiano, pp. 373-74. *Landnámabók* will be discussed in more detail in the following chapter.

<sup>61</sup> Haugen (ed.), *First Grammatical Treatise*, p. 12. 'Both laws and genealogies and sacred writings, and also that learned lore which Ari Þorgilsson has set down in books from his knowledgeable understanding.'

gera'.<sup>62</sup> Hafliði's farmstead, and the setting for the codification, was at Breiðabólstaðr in Vestrhóp, north-west Iceland. He was indisputably one of the most powerful chieftains in the country at the time – for instance, during a dispute at the Alþing of 1121 he was able to muster 'tólf hundruð manna' in support.<sup>63</sup> His role in the codification is far from his only claim to fame in Old Norse literature: his dispute with the chieftain Þorgils Oddason is the subject of *Þorgils saga ok Hafliða*, one of the components of the *Sturlunga saga* compilation. Interestingly, this saga does not mention the writing down of the law, although its action is contemporaneous;<sup>64</sup> it does however describe Hafliði as 'bæði forvitri ok góðgjarn ok inn mesti höfðingi' (ch. 1).<sup>65</sup> Hafliði was undoubtedly one of the leading figures behind the establishment of the northern bishopric at Hólar in 1106, an account of which is given in *Jóns saga* (ch. 7):

Þá báðu Norðlendingar Gizurr byskup at hann mundi vilja setja byskupsstól í Norðlendingafjórðungi, fyrir því at þeir þóttusk fjarlægir, en fjórðungrinn sá fjölmennstr ok mestr, ok þyrfti þar fyrir því mest byskupligrar yfirferðar [...] En til þessa vanda ok virðingar [...] kaus Gizurr byskup Jón prest Ögmundarson með samþykki allra lærðra manna ok ólærðra í Norðlendingafjórðungi [...] Nú váru opt síðan stefnur at áttur um þetta mál, ok rézk þat af stóll Norðlendingabyskups mundi vera settr [...] á bæ þeim er at Hólum heitir. Þar bjó virðuligr prestr, sá er Hilarius hét ok Illugi öðru nafni ok var Bjarnarson. Hann einn varð til þess búinn af virðuligum mönnum í Norðlendingafjórðungi at rísa upp af sinni fðurleifð fyrir Guðs sakir ok nauðsynja heilagrar kirkju, því at áðr höfðu verit langar þæfur höfðingja í milli hverr upp skyldi rísa af sinni fðurleifð ok staðfestu.<sup>66</sup>

<sup>62</sup> K § 117: *Gg* Ia, 213. 'The book which Hafliði had made' (*Laws* I, 191). The passage from which this quotation is taken will be discussed in detail below.

<sup>63</sup> *ÞSH* ch. 22: *SS* I, 40. 'Twelve hundred men.'

<sup>64</sup> This point is explored further below.

<sup>65</sup> *SS* I, 12. 'Both very wise and well-intentioned, and the greatest *höfðingi*.'

<sup>66</sup> *ÍF* XV(2), 193-95. 'Then the Northerners asked Bishop Gizurr if he might wish to establish the bishopric in the Northern Quarter, because they thought themselves distant, but the Quarter most populated and biggest, and therefore most in need of episcopal visitations [...] And to this duty and honour Bishop Gizurr chose the priest Jón Ögmundarson with the consent of all the clerics and laymen in the Northern Quarter [...] Then meetings were often held about this matter, and it was resolved that the seat of the Northern Quarter bishop would be established at that farmstead which is called Hólar. There lived there a worthy priest, he who was called Hilarius, or Illugi by another name, and was the son of Björn. He alone of the worthy men in the Northern Quarter was prepared to give up his patrimony for the sake of God and the holy Church, because previously there had been long quarrels between the *höfðingjar* over who should give up their patrimony and home.'

Having ‘given up his patrimony and his home’, *Lárentius saga* adds the important detail that Illugi went to Breiðabólstaðr (version A ch. 2; B ch. 3). Hafliði, while not about to give up his own ancestral possessions, is thus able to demonstrate his magnanimity by providing the incentive for someone else to do so, a gesture he need not have made were he not keen for the establishment of the northern bishopric in the first place, and one which doubtless bought him extra favour at the new see. In fact, when the time came to appoint Bishop Jón’s successor, Hafliði seems to have had total control, as he himself is quoted as saying in *Þorgils saga ok Hafliða* (ch. 30):

‘Þat mál hefir hér verit at ræða á þinginu, er mikils er um vert, ok hvern vér Norðlendingar skulum til biskups kjósa í stað Jóns biskups, – en til míns kjörs hafa flestir vikit.’<sup>67</sup>

It is worth making clear that, although *Kristni saga* claims that ‘Þá [i.e. in the days of bishop Gizurr, d. 1118] váru flestir virðingamenn lærðir ok vígðir ok lærðir til presta þó at hofðingjar væri’ (ch. 17),<sup>68</sup> no source associates Hafliði with clerical rank or training, and in fact *Kristni saga* itself lists Hafliði among ‘þessir mestir hofðingjar á Íslandi’ (ch. 18),<sup>69</sup> but does *not* include him in its list of ordained chieftains. As has been demonstrated, though, he clearly had close ties with the see of Hólar, and thus had access to literate culture and the resources necessary for the venture of writing down the laws.<sup>70</sup> There were in addition several other circumstances which made him ideally placed to patronise the project. First, of course, was his own knowledge of the law. As a *goði*, he would have sat on the *logréttu*, and been expected to act in law cases on behalf of his *þingmenn*. Indeed, his feud with Þorgils Oddason originates not with any wrong done to (or by) Hafliði himself, but because both chieftains are responsible for taking on the cases of others. *Þorgils saga ok Hafliða* does not explicitly state him to be a great lawyer; neither is his lawyerly proficiency particularly demonstrated in the court scenes,

<sup>67</sup> *SS* I, 48. “That matter has been discussed here at the *þing*, which is of great significance: who we Northerners should chose as bishop to succeed Bishop Jón. And most have turned to my choice.”

<sup>68</sup> *ÍF* XV(2), 42. ‘At that time most distinguished men were educated and consecrated and trained as priests, even if they were *hofðingjar*.’

<sup>69</sup> *Ibid.*, p. 44. ‘The greatest *hofðingjar* in Iceland.’

<sup>70</sup> Hafliði later consolidated his ties to the Church hierarchy by marrying Rannveig Teitsdóttir, granddaughter of Ísleifr Gizurarson, Iceland’s first native bishop, and father of Bishop Gizurr, while Rannveig’s father, Teitr, and brother, Hallr, were also influential figures in Skálaholt. At the time of the codification, however, Hafliði was married to Þuríðr Þórðardóttir (see *BSH* ch. 1).

although he does make some use of legal technicalities when preparing his cases.<sup>71</sup> Rather, he is shown to rely more upon his support group and on physical violence, than on legal skill.<sup>72</sup>

This does not mean, however, that Hafliði did not have a reputation for legal expertise, or even that the author did not know of it. In her edition, Ursula Brown (now Dronke) points out several instances where versions of events given in the saga omit or even contradict accounts in other sources. She does not feel that this is necessarily due to ignorance on the part of the author, however, but rather that the opposing traditions ‘were irrelevant to his story and would even have been misplaced in it’.<sup>73</sup> Steven Tranter takes into account *Þorgils saga*’s role within *Sturlunga saga* as a whole, where Hafliði’s and Þorgils’ recourse to their respective support bases over law marks the beginning of the end for the Alþing as a successful tool for dispute resolution, and the start of the rise of the all-powerful chieftain figure.<sup>74</sup> The author and/or compiler are more interested in focussing on and engaging with issues of violence and the eroding of the legal system than in admiring individual legal skill, which anyway becomes irrelevant in the dispute process. This perhaps also accounts for the omission of any details of the codification: to remind the audience of Hafliði’s strong and positive connection with the law would weaken the effect of the disrespect and cynicism he is later shown to display towards it. Tranter suggests that omitting mention of Hafliði’s legal pre-eminence ‘make[s] the portrayal of the conflict more balanced’.<sup>75</sup>

It would be dangerous to take the negative evidence of *Þorgils saga ok Hafliða*, therefore, to conclude that Hafliði was not a particular expert in the law; it is reasonable to assume that the saga downplays his legal knowledge for literary reasons. In fact, in *Sturlu saga*, Hvamm-Sturla Þórðarson is shown to draw on Hafliði’s reputation as justification for awarding himself an (in this case unreasonably) large sum in the terms of a settlement: “‘Hvat munum vér breyta um at gera eftir ins vitrasta manns dæmum,

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<sup>71</sup> E.g. chs. 15, 19.

<sup>72</sup> E.g. chs. 16, 18, 22.

<sup>73</sup> *Þorgils saga ok Hafliða* (London: Oxford University Press, 1952), pp. xxx-xxxiii.

<sup>74</sup> *Sturlunga Saga*, esp. pp. 59-62. This issue is discussed further in Chapter 3 of the present thesis.

<sup>75</sup> *Ibid.*, p. 56.

Hafliða Mássonar” (ch. 32).<sup>76</sup> Although Sturla is twisting the details of Hafliði’s case to suit his own ends (he is clearly acting unreasonably, whereas Hafliði was not considered to have done so), his feigned innocence would not work unless Hafliði’s reputation for wisdom was genuine and generally known. Together with the fact that Ari tells us Hafliði was one of those ‘spakir menn’ dictating the laws, it may safely be assumed that Hafliði was an acknowledged legal expert.

Hafliði also had other legal experts in his close circle. His niece, Halldís, was married to Finn Hallsson, whom Hafliði drew on for support in 1120 during his feud with Þorgils; Finn was a priest and became lawspeaker in 1139. Gísli Sigurðsson makes the not improbable suggestion that he ‘was in on the first writing of the laws’.<sup>77</sup> According to the Þórðarbók version of *Landnámabók*, Hafliði’s cousin was married to Gunnarr *inn spaki* Þorgrímsson, lawspeaker 1063-65 and 1075; although the dates of Gunnarr’s terms of office would make him considerably older than Hafliði, it is conceivable that they knew each other in the latter’s youth. Such a kinship connection could only enhance Hafliði’s reputation in the legal sphere. Gunnarr’s son, Úlfheðinn, also became lawspeaker (in 1108), and died in office in 1116, the year before the codification. He could, therefore, have been involved in the planning of the project. Úlfheðinn’s own sons, Hrafn and Gunnarr, both held the office during the first half of the twelfth century; it is not impossible that they too could have been part of the codification in 1117.

There was doubtless a great deal of prestige to be gained by hosting such a project: after all, other patrons of written laws were kings in Norway and England. Moreover, Hafliði’s Church connections gave him access to a world in which the written word carried ultimate authority. That this was a concept that caught on quickly is suggested in *Jóns saga*, which states that when Gísli Finnason, the priest and tutor at Hólar at the beginning of the twelfth century, was preaching to the people, ‘þá lét hann liggja bók fyrir sér ok tók þar af slíkt er hann talaði fyrir fólkinu, ok gerði hann þetta mest af forsjá ok líttillæti; at þar hann var ungr at aldri þótti þeim meira um vert er til hlýddu at þeir sæi þat at hann tók sínar kenningar af helgum bókum en eigi af einu

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<sup>76</sup> SS I, 111. “Why should we do otherwise than to follow the example of the wisest of men, Hafliði Másson?”

<sup>77</sup> *The Medieval Icelandic Saga*, p. 80.

saman brjóstviti' (ch. 8).<sup>78</sup> For Hafliði to commission an authoritative text, therefore, made or confirmed *him* an ultimate legal authority.

Hafliði was thus ideally situated to be the driving force behind the codification of the laws: he was an extremely prominent and influential public figure, who stood to enhance his reputation still further; he was an expert and active member of the legal community, and could draw on a tradition of legal expertise within his family and close associates; he had access to and a good deal of power within the literate culture of the Church. Personal gain is, however, too narrow a motivation for such a project, and however well-placed Hafliði Másson was, it was not an undertaking that could purely have come from private initiative. Having focussed on the figure of Hafliði, I now wish to consider the possible motivations of other parties, and to examine the longer-term consequences for these of the law's entry into the literate sphere.

It will become clear in the following discussion that there are several intertwining issues at stake here. As these are interdependent, this makes them easily confused, and it is therefore worth pausing to identify three strands to which I wish to give particular consideration. The first is the figure of the lawspeaker, and the second the institution of the Church. For these I will examine their involvement at the 'moment' of the codification in 1117, and explore the repercussions for each over time. The third strand is of a different nature, yet is still very much tied up with the others: this is the question of the production of written law texts after *Haflíðaskrá*. It is important to recognise the distinct concerns belonging to each strand, and so I shall at first discuss them in turn; yet they are inevitably interconnected, each affecting and being affected by the others – thus I shall also demonstrate how they weave together, the situation growing increasingly complex with the passage of time beyond 1117.

I will begin, then, with the lawspeaker, and here I wish to borrow an image from Gísli Sigurðsson, who portrays the events of 1117 with an ominous cloud hanging over the figure of a 'bewilder[ed]' Bergþórr, looking on as clerics read out the law and suddenly realising he has compromised his own authority as lawspeaker by 'giv[ing]

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<sup>78</sup> *ÍF XV*(2), 205-206. 'Then he had a book lie in front of him and took from it that which he preached before the people, and he did this from great foresight and humility; so that – because he was young in years – it would seem to them to be of more merit to listen to, if they could see that he took his learning from holy books and not from his own wit.'

away his knowledge to a book'.<sup>79</sup> Gísli is doubtless correct to identify the codification with a gradual waning in the importance of the office of lawspeaker. In the oral period, comprehensiveness of legal knowledge was exclusive to him – to the extent that, in *Njáls saga*, Skapti Þóroddson can claim, ““ætlaða ek, at ek einn munda nú kunna þessa lagaréttning, nú er Njáll er dauða, því at hann einn vissa ek kunna”” – but after the codification, all this information was now in the public domain, available to anyone who could access a manuscript, and read or have it read to them.<sup>80</sup> Once the law was written down, it was not only the annual recital at the Alþing that became a function performable by anyone who could read; the lawspeaker's other, and possibly more esteemed role, of giving definitive legal advice on what was and was not law, was now also under threat of redundancy when parties merely needed to consult a manuscript to verify their arguments.

However, this eroding of the power of the office could hardly have happened immediately, and it is simply not credible to imagine that Bergþórr was somehow shepherded into being involved with the project without consideration of its consequences. He, too, doubtless saw the advantages and benefits to be gained. Like Hafliði, he must have gained a substantial amount of personal prestige from his role: as the serving lawspeaker, it was his version of the law which became fixed in writing. Moreover, we have already seen, from the passage from *Jóns saga* quoted above, that the written word was quickly considered authoritative. And while, in an oral culture, people had had no choice but to accept the lawspeaker's word as law, it is unlikely that they always did so unquestioningly. One can just as easily, therefore, envisage a harassed Bergþórr as a bewildered one, grateful to be able to call on an external, independent source backing up his decision when confronted by a disgruntled litigant.

Besides, although previous commentators have assumed that the 'kennimenn' replaced Bergþórr in 1118,<sup>81</sup> if we pay attention to Ari's detail, he tells us that they in fact read the law in the *lqgrétta*, the Law Council; not at *Lqgberg*, the Law Rock, where the lawspeaker's recital took place. It was one of the major functions of the *lqgrétta* to

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<sup>79</sup> *The Medieval Icelandic Saga*, p. 57.

<sup>80</sup> *ÍF* XII, 389-90. “I thought that I alone could know this article of law, now that Njáll is dead, because he was the only one I was aware of who knew it.”

<sup>81</sup> E.g. Brink, 'Verba Volant', pp. 97-98; Gísli Sigurðsson, *The Medieval Icelandic saga*, p. 57; Quinn, 'From Orality', p. 34.

ratify new laws,<sup>82</sup> and those *goðar* who had not been able to be present at the codification would naturally have wanted a chance to approve what had been recorded, while those who did participate in the venture would have wanted it validated by all; hence the official reading. I would suggest, then, that meanwhile, Bergþórr's traditional public recital at *Logberg* in fact continued that year as usual: the clerics read the law for the approval of the legal community, but did not supplant the lawspeaker's formal recitation of the laws.

Of course, as Ari points out, the whole of the law was not written down in the winter of 1117, and we know nothing of when and how the rest of the secular law was recorded. Peter Foote has suggested that Hafliði's conflict with Þorgils interrupted the project,<sup>83</sup> in any case there would not immediately have been a comprehensive text to be read out in place of the traditional recital. Bergþórr retained the lawspeakership after 1118, and there is no indication that the following two lawspeakers were literate either; it is not until the priest Finnr Hallsson took office in 1139, more than two decades after the initiation of the codification, that we can be sure that the serving lawspeaker would have been able to read.<sup>84</sup> Whether or not this was actually a factor in Finnr's appointment, however, is unclear: as has already been mentioned, he was a relative of Hafliði Másson, and may even have been present at the codification. There is no reason to suppose that his legal competence was inferior to that of his predecessors, and he may have performed his duties from memory, like them. His appointment, therefore, may well have come about for the traditional reasons of acknowledged legal expertise and advantageous connections; the fact that he could read may have been incidental.

Finnr's successor, Gunnarr Úlfheðinsson, certainly seems to have been elected for his impeccable traditional legal pedigree: he followed his grandfather, father, and brother into the role. It is true that the priest Snorri Húnbogason appears to be 'of a

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<sup>82</sup> K § 117: *Gg* Ia, 211-17.

<sup>83</sup> 'Some Lines in *logréttubáttir*: A Comparison and Some Conclusions', in *Sjötíu ritgerðir helgaðar Jakobi Benediktssyni. 20 júlí 1977*, ed. by Einar G. Pétursson and Jónas Kristjánsson, 2 vols. (Reykjavík: Stofnun Árna Magnússonar, 1977), I, 198-207 (p. 203).

<sup>84</sup> The interim lawspeakers were Guðmundr Þorgeirsson (1123-34) and Hrafn Úlfheðinsson (1135-38). It could be argued that Guðmundr, at least, was appointed for political reasons: he seems to have been a kinsman of Hafliði's enemy Þorgils Oddason, and it has been suggested that his election was part of the agreement reached between them in counterbalance to Hafliði's having control over the election of Ketill to the bishopric of Hólar (Gísli Sigurðsson, *The Medieval Icelandic Saga*, p. 79). Hrafn, on the other hand, was a third generation lawspeaker, and his pedigree seems to have been considered a more important qualification for the post than the ability to read.

fairly humble background', suggesting that his literacy and/or Church connections may have been instrumental in his election,<sup>85</sup> this argument is weakened somewhat, however, in light of the fact that we know nothing of the family of the secular lawspeaker Styrkárr Oddason either. In other words, although it cannot of course be said for certain that either Gunnarr or Styrkárr were *not* literate, there is no definite evidence, as late as 1180, sixty years after the first movement to write down the law, that literacy had become a requirement for the role of lawspeaker.<sup>86</sup>

The claim can be made, therefore, that not only could advantages to the codification have been easily found by the serving lawspeaker in 1117, the introduction of literacy to the legal sphere could in fact have had little impact for some decades on the nature – and power – of the office of lawspeaker overall. Finnr's status as priest, however, has other implications than the fact that he would have been able to read and write. While it is possible to find reasons to discount his literacy as playing a part in his election, it is important to remember that he was a member of the Church hierarchy. My strands have already begun to intertwine. I will take a step back, then, and return once again to 1117, to add another thread to the web of motivations behind the codification: that pertaining to the second factor I identified for discussion – the role of the Church.

It is true that much of the early writing previously mentioned in this chapter was under Church patronage: to take just one example, Ari himself was a priest, and explicitly states in the Prologue to *Íslendingabók* that the work was commissioned by Bishops Þorlákr [Runólfsson of Skálaholt] and Ketill [Þorsteinsson of Hólar]. Beyond pointing out that the newly-codified laws were read out by clerics, though, there is little in his account of the Alþing of 1117 to connect the codification of the laws with the Church. In fact, *Íslendingabók* actually tells us that the then bishop of Skálaholt, Gizurr Ísleifsson, was not even present at the Alþing when the decision was taken, owing to illness (ch. 10). Moreover, *Hungrvaka* states that the Christian Law section was *not* recorded at this time: it is said to have been 'settr ok ritaðr' under the advice of Bishop

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<sup>85</sup> Gísli Sigurðsson, *The Medieval Icelandic Saga*, p. 84.

<sup>86</sup> Between Gunnarr and Styrkárr was Snorri Húnbogason (1156-70), a priest; Styrkárr was succeeded by Gizurr Hallsson, after whom Gísli Sigurðsson states 'we can safely assume that all lawspeakers would have been literate and book trained' (*The Medieval Icelandic Saga*, p. 79). See Gísli's study for more detail on the backgrounds of the twelfth-century lawspeakers between Bergþórr and Gizurr (pp. 79-86).

Þorlákur, consecrated to the see of Skálholt in 1122 (with the same *terminus ante quem* of 1133 as *Íslendingabók*, as Bishop Ketill is also mentioned) (ch. 6).<sup>87</sup>

Although, as was indicated earlier, it is possible that the tithe laws established in 1096 were written down as soon as they were introduced, and thus may have provided the inspiration for the writing of the secular laws, I would refute Gísli Sigurðsson's claim that 'the writing up of the law at Breiðabólstaður in the winter of 1117-8 may be viewed as the first step in a movement led by the allies of the Church to encroach upon the secular domain of the lawspeakers'.<sup>88</sup> In 1117 I am not so sure that 'Church' and 'secular' factions could be so clearly distinguished. From its outset the fledgling Icelandic Church was inseparable from secular power, rather than being 'an independent state within the state as happened elsewhere':<sup>89</sup> many of the *goðar* and leading *bændr* had churches built on their land and educated their sons for ordination, so that 'even if the owner of the church had not been ordained himself, he generally had a clergyman in his service, thus retaining control of the church for himself and appropriating its revenues'.<sup>90</sup> Orri Vésteinsson succinctly summarises the twelfth-century state of affairs:

In the twelfth century being a priest was first and foremost beneficial to chieftains and others of high rank [...] To most [...] priests their ordination was only an extra talent or skill which was useful to them in what we would consider a secular context. It is only in the mid thirteenth century that clear signs begin to appear that the Icelandic church was adopting a corporate identity and the clergy at large began to make clear distinctions between themselves and laymen.<sup>91</sup>

Even the monasteries, which were small and private, seem to have been 'aristocratic foundations crammed with redundant and elderly aristocrats'.<sup>92</sup> 'Church' and 'secular' parties involved in the codification therefore may not in fact have perceived themselves as such; at this time the law was another field in which Church and secular personnel

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<sup>87</sup> *ÍF* XVI, 25. 'Established and written.'

<sup>88</sup> *The Medieval Icelandic Saga*, p. 58.

<sup>89</sup> Jónas Kristjánsson, 'Vellum', p. 39.

<sup>90</sup> *Ibid.* A census of priests and parish churches undertaken by Bishop Páll of Skálholt (1195-1211) counted 290 priests and 220 churches in that diocese (*Páls saga byskups* ch. 11).

<sup>91</sup> *The Christianization of Iceland: Priests, Power and Social Change 1000-1300* (Oxford: Oxford University Press, 2000), p. 209.

<sup>92</sup> *Ibid.*, p. 135.

coexisted – the bishops held seats in the *logréttu*, for example,<sup>93</sup> and the Christian laws appear to have been prosecuted in the same way as any others.<sup>94</sup> And, as I have shown, while Hafliði Másson certainly had ties with the Church infrastructure there is no indication that he was an institutional puppet; in fact if anything he seems to have exerted more power over it than vice versa. The fact that the Christian laws were *not* recorded at this time seems to be a particularly significant indicator that the codification was not a Church-organised stratagem.

Nevertheless, whether or not a Church attempt to annex legal power was an influential factor at the ‘moment’ of codification, the circumstances of the lawspeakers following it would seem to substantiate the view that the Church began to make firm inroads into the command of legal authority during the course of the twelfth century. Between the years 1119-1200 there were (so far as we know) five secular lawspeakers and three from within the Church hierarchy; there is an almost exactly even division between the two spheres in terms of time in post.<sup>95</sup> The fact that literacy may not have been a requirement for the role of lawspeaker in the twelfth century did not necessarily work to the Church’s disadvantage: any weakening of the role in general would weaken the power of those elected to it from within their ranks, not just that of the secular postholders. Does this mean, therefore, that these twelfth-century lawspeaker-priests were appointed not for any advantages gained from being literate, but because the Church was growing into an ever more coherent institution, ever more distinct from the traditional secular spheres of power, and was able to force the elections of its own people?

Here, I wish to bring yet another factor into consideration, a piece of evidence from within *Grágás* itself. For ease of reference I will term this clause the ‘Citation Law’, after Peter Foote:<sup>96</sup>

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<sup>93</sup> K § 117: *Gg* Ia, 211.

<sup>94</sup> See in general the ‘Kristinnalagapáttir’ of *Grágás*, K §§ 1-19: *Gg* Ia, 3-37; Foote, *1117*, p. 14.

<sup>95</sup> The secular lawspeakers are: Bergþórr Hrafnsson (1117-22); Guðmundr Þorgeirsson (1123-34); Hrafn Úlfheðinsson (1135-38); Gunnarr Úlfheðinsson (1146-55); and Styrkár Oddason (1171-80), totalling 40 years (post-1119). The Church-related lawspeakers are Finn Hallsson, priest, (1139-45); Snorri Húnbogason, priest (1156-80); and Gizurr Hallsson, deacon (1181-1202), totalling 42 years (to 1200).

<sup>96</sup> ‘Some Lines’. Foote does not actually dub the Icelandic legal clause ‘Citation Law’, but rather compares it to the Citation Laws of the Emperors Theodosius and Valentinianus of AD 426; however the term is a convenient one to adopt here.

*Þat er oc at þat scolo lög vera alanðe her sem áscrám standa. EN ef scrár scilr á oc scal þat hafa er stendr a scröm þeim er byscopar eigo. Nu scilr EN þeirra scrár á. þa scal sv hafa sitt mal er lengra segir þeim orðom er male scripta með monnom. EN ef þær segia iafn langt oc þo sit hvar. þa scal su hafa sit mal er iscalaholtti er. Þat scal alt hafa er fínz a scrö þeirre er hafliðe let gera nema þocat se siþan. en þat eitt af anara lög manna fyrir sögn er eigi mæli því igeñ. oc hafa þat alt er hitzug leifir eða gløgra er. Nu þræta menn vm lögmál. oc má þa ryðia logréttu til. ef eigi scera scrár ór.<sup>97</sup>*

As can be seen, this short clause not only introduces my third strand, the production of written law, but in fact addresses and combines all three of my strands, illustrating the complexity of the reverberations of 1117. First, it shows that, while *Hafliðaskrá* is still valid and respected, other written texts are also in circulation. Therefore, even if the initial codification was inspired partly by ideological reasons, the practicality of having the law fixed in writing seems to have caught on in wider circles. Second, ‘*þat scolo lög vera alanðe her sem áscrám standa*’, not that which is stated by the lawspeaker. Not only have legal manuscripts become widespread, they seem to have acquired more authority than the man who, traditionally, would have had the greatest legal expertise in the country. And third, not only does it show that both bishoprics owned legal manuscripts, it gives authority to their versions over others, with the one in Skálaholt having the final word.

The date of the Citation Law is of course crucial here, but unfortunately, conclusive evidence on this matter is lacking. However, Foote has persuasively suggested the very end of the twelfth century on the basis of both internal and external factors.<sup>98</sup> By this time significant changes had occurred in the social organisation of medieval Iceland, and a more distinct separation of power can be drawn between the Church and secular spheres: in 1191, for example, Archbishop Eiríkr Ívarsson disallowed ordained men to simultaneously control a *goðorð*.<sup>99</sup> If we accept Foote’s

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<sup>97</sup> K § 117: *Gg* Ia, 213. ‘It is also prescribed that in this country what is found in books is to be law. And if books differ, then what is found in the books which the bishops own is to be accepted. If their books also differ, then that one is to prevail which says it at greater length in words that affect the case at issue. But if they say it at the same length but each in its own version, then the one which is in Skálaholt is to prevail. Everything in the book which Hafliði had made is to be accepted unless it has since been modified, but only those things in the accounts given by other legal experts which do not contradict it, though anything in them which supplies what is left out there or is clearer is to be accepted. If there is argument on an article of law and the books do not decide it, the Law Council must be cleared for a meeting on it’ (*Laws* I, 190-91).

<sup>98</sup> ‘Some Lines’, pp. 201-02, n. 8.

<sup>99</sup> The archbishop’s letter is printed in *DI* I, 289-91.

dating, then, had the Church now become the ultimate arbiter over secular law? Is the authority vested in the bishops' manuscripts of the law a sign that, whatever the initial motivation, the Church had been able to take advantage of the law's entry into the literate domain, and, by the end of the century, actually controlled it?

In fact, I think that previous scholars have been rather too quick to jump to this conclusion. Symbolically, the Church's status as guardian and interpreter of the written word was certainly augmented by the provisions of the Citation Law. (The status of written secular law was doubtless enhanced in return, almost becoming comparable to that other book safeguarded by the bishops: the Bible – God's law.)<sup>100</sup> Practically, however, the Citation Law may not be the conclusive evidence in favour of Church legal dominance it first seems. First, if we continue with the possibility that several of the twelfth-century lawspeakers were without skills in literacy, there would be no practical reason for them to own copies of the law text – though of course, they may still have wished to do so for reasons of prestige, particularly if other individuals owned private copies.<sup>101</sup> There would have been little reason, in this case, for a book to have been created to go with the role, to be handed on from lawspeaker to lawspeaker, and for those lawspeakers who were literate to refer to their own private copies would run the risk of inconsistencies, the very problem the Citation Law attempts to avoid. It would therefore seem logical to have an ultimate textual authority in one text with a permanent home, which could be referred to no matter who was lawspeaker, and with no obvious secular centre of administration, the episcopal library would make a convenient location. The Citation Law may in fact support the speculation that literacy was not demanded of the lawspeaker: if it were, perhaps the book in his possession would be given preference.

On the other hand, I am not at all sure that the Citation Law *does* in fact give ultimate authority to the bishops' books. Its statement, 'Þat scal alt hafa er fīnz a scrö þeirre er haflíðe let gera nema þocat se siþan', is perhaps more significant than has previously been assumed. This seems to refer to the original text produced in 1117-18, or at least to later but exact copies of it. Of course, we do not know how comprehensive *Haflíðaskrá* was, or whether the Citation Law includes whatever was written down after

<sup>100</sup> I am grateful to Fernando Guerrero for this point.

<sup>101</sup> Jón Viðar Sigurðsson points out that 'we may assume [...] that [law registers] were very much also symbols of power' (*Chieftains and Power*, p. 177).

the initial winter as part of the same project – if indeed this occurred. But it seems that, allowing for changes made during perhaps eighty subsequent years of legislation, the author of the Citation Law is satisfied with the content of the original written law text. And, importantly, this is *not* synonymous with ‘scrár þær er byscopar eigo’. So who owned *Haflíðaskrá*? And, especially as the statement referring to it comes after the statement referring to the bishops’ books, is *Haflíðaskrá* actually the ultimate text, *over* the books which the bishops own?

It is possible that whatever was written down as part of Haflíði’s undertaking was conceived of as a discrete unit – particularly if it refers to little more than ‘Vígslóði’, the manslaughter section – and copied and circulated as such, as a booklet.<sup>102</sup> The bishops may thus have owned copies of the material known as *Haflíðaskrá*, as well as copies of other sections of the law – in which case the clause may imply that their versions of *Haflíðaskrá* had priority over other versions of *Haflíðaskrá*. But if this were the case, not only it is unclear what else there would be to contradict it, but why mention *Haflíðaskrá* at all? The phrase ‘scrár þær er byscopar eigo’ would cover it. So if we are dealing with a separate law text, might this in fact have been in the possession of the lawspeaker?

There is no way that this information can be recovered, but the mention of *Haflíðaskrá* demonstrates that the Citation Law is not an unproblematic indicator of the superiority of the Church in matters of law, even written law. It also adds to the wider implication of the Citation Law, that there was no apparent attempt to create a definitive standard text. The manuscript belonging to the bishopric at Hólar could be preferred over that at Skálholt, if it ‘lengra segir þeim orðom er male scripta með monnom’.<sup>103</sup> Admittedly, manuscripts were expensive to produce and not very easy to update, and the number of clauses marked *nýmæli* (‘new law’) in the extant manuscripts suggests that considerable revisions *were* made (incidentally, another factor suggesting that the priority of the bishops’ manuscripts was for practical reasons – the episcopal sees had the resources to amend or produce new manuscripts relatively easily).<sup>104</sup> But while it

<sup>102</sup> The classic works on booklets are by P.R. Robinson: ‘Self-Contained Units in Composite Manuscripts of the Anglo-Saxon Period’, *Anglo-Saxon England*, 7 (1978), 231-38; and ‘The “Booklet”: a Self-Contained Unit in Composite Manuscripts’, *Codicologica*, 3 (1980), 46-69.

<sup>103</sup> K § 117; *Gg* Ia, 213. ‘Says it at greater length in words that affect the case at issue’ (*Laws* I, 190).

<sup>104</sup> See also Quinn, ‘From Orality’, p. 35.

seems that the concept of standardisation was considered, it was not fully realised. If the bishop of Skálholt really was the ultimate legal authority, one would think he would make all efforts to ensure he owned the definitive version. The Citation Law therefore seems to me to be a measure taken in an attempt to solve a very real problem thrown up by a proliferation of variant written texts, rather than conclusive evidence that the Church was seen as the fount of all legal knowledge and power.

In addition, the Citation Law does not end by establishing ultimate interpretative authority in a text, whether one in the possession of the bishops, the lawspeaker, or anyone else. Instead, it continues: ‘Nu þræta menn *vm* lögmál. oc má þa ryðia loqrétto til. ef eigi scera scrár ór’.<sup>105</sup> The books are fallible. Quinn points out that this is ‘only as a last resort’,<sup>106</sup> but a last resort could be seen as the final, definitive word, when other options have been found wanting. It is, in the end, still the considered opinion of experienced legislators who have brought their common sense, reason and experience to bear on the issue and debated it between themselves, that is decisive. Certainly, it would be more practical to refer to a written text, rather than dragging all the members of the *loqrétta* to argue the matter out, taking up valuable time at the Alþing (and given the length of the clause’s subsequent explanation of how the meeting is to proceed, this ‘last resort’ was not a particularly straightforward one). But whether or not, in practice, the authority of books was often preferred for its practical convenience, the ideology of the Citation Law does not give definitive authority either to the written word, or to the Church, but to the conclusions reached from oral discussion among the legal community. And, if opinions in the *loqrétta* were divided, the final casting vote still belonged to the lawspeaker.<sup>107</sup>

This is not, however, in any way to claim that written law did not attain an important role over the course of the twelfth and thirteenth centuries. The two major extant manuscripts of *Grágás* were evidently produced with care and at cost, and show little sign of the scribal errors or jarring content which for Patrick Wormald spoke such

<sup>105</sup> ‘If there is argument on an article of law and the books do not decide it, the Law Council must be cleared for a meeting on it’ (*Laws I*, 191).

<sup>106</sup> ‘From Orality’, p. 35.

<sup>107</sup> ‘EN ef þeir ero iafn margir lögrétto menn huarirtueGíó er sitt kalla lög huarir vera. þa scolo þeir hafa sití mal er lögsogo maðr er iliðe með’ (K § 117: *Gg Ia*, 214). (‘But if the Law Council men are in equal numbers with each group calling their version law, then those with the Lawspeaker among them are to prevail’ (*Laws I*, 191).

volumes about careless attitudes to Anglo-Saxon written law.<sup>108</sup> And, with another incisive observation, the First Grammarian provides evidence for the use of written legal texts, drawing upon law in a cautionary tale to justify his insistence on using extra letters beyond the standard Latin alphabet in order to represent the distinctive sounds of the ‘dönsk tunga’.<sup>109</sup> As the Latin alphabet renders Old Norse imperfectly, he argues, there is room for ambiguity, and ‘er þó vís ván, at þeygi vili allir til eins fœra, ef máli skiptir allra helzt í lofum’.<sup>110</sup> This suggests that literacy had already become a part of the legal world by the time of the composition of the *IGT*, some time in the period 1125-75; only literates could take advantage of ambiguous spellings, and the First Grammarian would hardly be making a persuasive argument if many people did not use written law-texts.

This is reinforced by the very need for the creation of the Citation Law, which, as Foote observes, implies that, ‘any written statement of law would be taken seriously if comparison with other sources did not rule it out. [...] It was the presence of a statement of law that was significant, not its absence’.<sup>111</sup> This could signify a revolution in the way law cases were brought before the courts. Clearly, it would be in the interests of as many ‘lawyers’ as possible to, at the very least, have access to written law texts, but preferably, to own them. Prior consultation was all very well if one was not sure of one’s legal rights, but how much stronger one’s case would be, the clause insinuates, if written evidence could be provided in court to prove it. It is surely at the *Alþing* that the Citation Law’s hierarchy of textual authority becomes most crucial, forestalling the degeneration of court cases into the argument, ‘my book is better than your book’, which otherwise risked becoming a direct replacement for the ‘my point is more correct than your point’ style of wrangling that the *Íslendingasögur*, at least, suggest was characteristic of the oral period.<sup>112</sup> The Citation Law’s suggestion of

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<sup>108</sup> *The Making of English Law*, p. 430.

<sup>109</sup> Haugen (ed.) *First Grammatical Treatise*, p. 14. ‘Norse [lit. ‘Danish’] language’.

<sup>110</sup> *Ibid.* ‘It is therefore surely to be expected that not all will be of one mind, if the discourse makes a difference, most of all in the laws.’

<sup>111</sup> ‘Some Lines’, p. 200.

<sup>112</sup> The classic example is the court case after the burning of *Njáll* in *Njáls saga*. This is discussed in detail in Chapter 3 of this thesis; but in summary, 28 pages of the *ÍF* edition are taken up by little more than prosecution and defence taking turns to present a technical legal argument, usually one claiming that the other side have committed a procedural error, after which their opponents are forced to consult experts not present in the court, while the onlooking crowd believe whoever has spoken last. It is hardly surprising that violence was resorted to in the end.

comparing texts must also have most practical application at the Alþing, if both bishops, for example, brought their manuscripts with them: it is hardly likely that lawyers routinely travelled between Hólar and Skálholt whilst preparing their cases, in order to diligently check which version ‘*lengra segir þeim orðom er male scripta með monnom*’. The clause must, rather, refer to a situation in which both texts were at hand.

It is true that the *samtíðarsögur* provide little evidence to suggest that written law did in fact become a major feature of Alþing procedure, though *Þórðar saga kakala* does show Þórðr taking a written account of the feud between the Haukdælir and the Sturlungar to a court convened by King Hákon to hear Þórðr’s case against Gizurr Þorvaldsson, in c.1246 (ch. 45). Few legal cases of any sort are actually shown to be heard at the Alþing in *Sturlunga saga*; violence of the sort foreshadowed by *Þorgils saga ok Haflíða* takes precedence, as will be discussed in Chapter 3 of this thesis. It is possible, therefore, that although little tangible evidence, in the form of actual surviving vellum, now exists, private ownership of law texts may quickly have become widespread among men who expected to be involved in bringing cases to court.<sup>113</sup>

Indeed, the sparseness of surviving medieval manuscripts of Commonwealth-period law may be attributable to them having been originally produced for functional reasons. Not everyone who needed a law text would have been able to afford to commission a sumptuous manuscript like the *Konungsbók* or *Staðarhólsbók* versions of *Grágás* which do survive.<sup>114</sup> Moreover, if the manuscript was to be taken to the Alþing and used in court, a large and unwieldy volume would be impractical both for transportation and ease of reference, and risked being damaged, lost or stolen. Far better to have an inexpensively produced text, perhaps containing only the sections relevant to one’s case, perhaps even single leaves copied from more comprehensive compendia. These would also be easier to annotate, or to dispose of altogether, if their contents were amended or became obsolete. They would not, however, be the type of object likely to be preserved for posterity, particularly after *Grágás* was no longer relevant. It is worth

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<sup>113</sup> Jón Viðar Sigurðsson, in *Chieftains and Power*, takes this as a given: ‘We do not know how many law registers there were, just that there were a large number of them, but we may assume that the chieftains and men who were experts on the law owned them’ (p. 177).

<sup>114</sup> See below for description and discussion of these manuscripts.

examining in detail, then, the *Grágás* manuscripts which do survive, and this will be the subject of the next section.

## THE MANUSCRIPT EVIDENCE FOR *GRÁGÁS*

The primary witnesses to the laws of the Icelandic Commonwealth are two medieval manuscripts now commonly known as *Konungsbók* (hereafter K) and *Staðarhólsbók* (hereafter St). Legal provisions also survive, however, in medieval fragments; in medieval and post-medieval manuscripts containing sections of or extracts from *Grágás*, notably the ‘*Kristinnalagapáttir*’ (‘Christian Laws section’; hereafter KLP); and in later paper copies. Vilhjálmur Finsen catalogues a total of 104 manuscripts containing some part of *Grágás*, 31 of which are included to a greater or lesser extent in his editions. The remaining 73 are all paper copies, of which 24 are copies of K or parts of it and 30 copies of St or parts of it; the rest are copies of KLP, sometimes together with the tithe laws: 6 from *Skálholtsbók*, 5 from *Staðarfellsbók*, 2 from *Arnarbælisbók* and 6 with more than one source.

Table 1.1 on pp. 51-52 details the 31 manuscripts used by Finsen, with further descriptions of the manuscripts of particular interest to this thesis given afterwards. For ease of cross-reference, I will follow Finsen’s numbering, which he arranged from the oldest manuscript he identified to the youngest. However, I will treat the two major manuscripts, K and St, first, because information provided here will be referred to in the descriptions of some of the other manuscripts. Revised dates have since been posited for several of the manuscripts, meaning that the ordering in the table and the section below does not strictly follow what would now be accepted as chronological. To counter this, however, I will explicitly state the dates suggested by the *ONP* throughout; moreover, the entailing differences in order are not significant here.

For the descriptions below I am heavily indebted to Kristian Kålund’s *Katalog over den Arnemagnæanske håndskriftsamling* and to the accounts of the manuscripts given in Finsen’s editions; there has not, however, been a previous attempt to systematically describe, compare and analyse the manuscripts of *Grágás* in a wider

context, particularly in English, and this is the intention of this section.<sup>115</sup> In doing so, I wish also to present material which will facilitate an investigation into the textual communities involved in the production of legal manuscripts, and possible points of connection and overlap with other literary communities. I will thus be particularly interested in questions of content, both in terms of material from *Grágás* and other material contained in the manuscripts; organisation and layout, where this may be significant in discerning the scribes' exemplars and/or their legal understanding; the scribes themselves, especially if their hands have been identified elsewhere; and dating, particularly the distinction between pre- and post-Commonwealth, i.e. whether the manuscripts were written before or after the introduction of the official Norwegian law-codes. I will discuss these issues in detail in the 'Analysis' section, following the descriptions of the manuscripts.

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<sup>115</sup> Kristian Kålund, *Katalog over den Arnamagnæanske håndskriftsamling*, udgivet af Kommissionen for det Arnamagnæanske Legat, 2 vols. (Copenhagen: Gyldendalske boghandel, 1889-94) (hereafter 'Kålund I or II'); *Gg* I-III.

Table 1.1: Manuscripts of Gragas used by Finser

Finser's number	Signum	Popular name (if applicable)	Date*	Gragas Contents	Other contents
1	AM 315 d fol.		c.1150-75	5 chapters of Landgræðabálfr	
2	AM 315 c fol.		c.1200-25	Fragments of Rannsóknabálfr and Ómagabálfr	1485 land-rights document
3	GKS 1157 fol.	Konungsbók	c.1250	[see description]	
4	Copenhagen, Royal Library, GKS 1812 4to		c.1250 (Finser)	Clause from the calendar (cf. K § 19)	Rimbegla (calendar/computation)
5	AM 334 fol.	Staðarhljóð	c.1280-70	[see description]	Járnslóa
6	AM 279 a 4to	Þingeyrabók	c.1250-75	Fragment of Rekabálfr	Rekaskrá (from Jónsbók); various items relating to þingeyraklaustur and its locale; fragment of <i>Historia ecclesiastica Eusebii</i>
7	AM 315 b fol.		c.1250	Various excerpts (1 leaf only)	
8	AM 315 a fol.		c.1300-50	Fragment of Vígssóð	
9	AM 346 fol.	Staðarhljóð	c.1340-50	KLP	End of 'Kristindómabálfr' from <i>Járnslóa</i> ; <i>KrÁ þns</i> ; <i>Jónsbók</i> ; legal penalties of <i>distigul líng</i>
10	AM 173 c 4to		c.1330-70	KLP	<i>KrÁ</i>
11	AM 351 fol.	Skáhnjóðskó eldri	c.1360-1400	KLP	<i>Jónsbók</i> ; legal penalties 1294-1314; <i>Kristindómabálfr</i> (from <i>Jónsbók</i> ; chs 3-11); other episcopal laws and proceedings
12	AM 347 fol.	Belgskabók	c.1350	KLP; 30 chs: on family and inheritance law	<i>KrÁ</i> (incomplete); <i>Jónsbók</i> ; Kong Erik Magnússon's legal penalties from 1294; other ecclesiastical notes
13	AM 135 4to	Amnarbálfr	c.1350	KLP; lithe law	13th-14th-century legal penalties; beginning of <i>Johannes evangelium</i> in Latin; Latin prayer; <i>KrÁ</i> ; penalties due to king; secular and ecclesiastical legal provisions; and formulae including submission agreement; Biblical quotation; parts of <i>KrÁ</i>
14	F Magn 161 4to (now KBAdd 35 I 4to)		c.1380	Beginning of KLP (2 leaves extant)	
15	AM 158 b 4to	Hildarendabók	c.1400	KLP	<i>KrÁ</i>
16	AM 173 d B 1 4to		c.1380	Fragment of KLP	
17	AM 135 4to	Skinnastabók	c.1480-1500	Declaration referring to treaty between King Ólaf and the Icelanders (cf. K §§ 247-48)	List of goods and boundaries of church at Hafnarfélsungur; <i>Jónsbók</i> ; <i>KrÁ</i> ; minor legal provisions; stanza of <i>Lilja</i> ; runes; ecclesiastical statutes
18	AM 148 4to	Landeyjabók	c.1500	Title law	<i>Jónsbók</i> ; <i>KrÁ</i> ; submission agreement; other secular and ecclesiastical legal provisions

(continued overleaf)

Finsen's number	Signum	Popular name (if applicable)	Date*	Gróttis Contents	Other contents
19	AM 624 4to		c. 1500	Various short articles consistent with K	Bernardus Clerevallensis' <i>Meditationes</i> (in Icelandic); romances; astrological contents; numbers, etc.
20	AM 50 8vo		c. 1500	KLP	KLP; <i>Kristindómabálur</i> (from <i>Járnstíga</i> )
21	AM 181 4to		c. 1650-1700	KLP; lithe law, excerpts from 'Þingskiptabálur', 'Baugatal'	KLP; annals; legal provisions; genealogies
22	Reykjavík, Landsþókkasafn Íslands, JS 5 4to		c. 1750-70	Beginning of KLP	<i>Budlog</i> (from <i>Jónsbók</i> ); table of titles; 16th-century judgements
23	Copenhagen, Royal Library, NKS 1915 4to		c. 1700-1800	KLP	18th-century decisions of the Alþing
24	Haandskrift i 12mo [no shelfmark]		c. 1750	KLP	
25	Copenhagen, Arnamagnæsan Institute, Stech 17 4to		c. 1700-50	KLP	
26	AM 125 a 4to		c. 1600	Excerpts from 'Þingskiptabálur', 'Arfábalur', 'Omagaðabálur', 'Vígskóð', certain parts of 'Festabálur', 'Kauptaðabálur', KLP, 'Rekabálur', 'Landsögðabálur' and 'Um fjárfelgur'	Excerpts from <i>Járnstíga</i> ; genealogy
27	AM 39 8vo		c. 1600-25	Various excerpts, consistent with St.	Excerpts from <i>Jónsbók</i> ; other legal provisions; annals; 'bechdom'; saga excerpts, etc.
28	AM 37 8vo		Early 18th century (Kállund)	Clause on new laws, cf. K § 19	Notes and additions to other manuscripts of <i>Jónsbók</i>
29	Uppsala, University Library, UB R 713	Troisbók	c. 1600-50	Various excerpts, consistent with St.	18th-century judgements and decisions of the Alþing
30	AM 279 b 4to		c. 1700 (Kállund)	<i>Rekabálur</i> ; copied from Þingskrárbók	<i>Rekaskrá</i> (from <i>Jónsbók</i> ); record of krists [money for upkeep of poor] in <i>Hvamm</i> in <i>Vellarsdal</i>
31	Copenhagen, Royal Library, NKS 1563 4to		Early 18th century (Finsen)	Copy of AM 315 c fol	

All manuscripts in Reykjavík, Stofnun Arna Magnússonar, unless indicated otherwise.

\* For Gróttis material, where manuscript also contains content of a different date: after OMP unless otherwise stated  
Lines in italics indicate manuscripts not listed under Gróttis by the OMP

### 3. GKS 1157 fol (Konungsbók (K))<sup>117</sup>

Konungsbók is the fullest extant representation of the laws now collectively known as *Grágás*, and the only witness for several of its sections. It is a fine manuscript, measuring 35.4cm x 24.5cm, and expensively produced using good-quality vellum and expert scribes, though its condition has since deteriorated. It now consists of 93 folios of double-columned text (two leaves are missing after fol. 37, from ‘Vígslóði’), written by two scribes, A and B.<sup>118</sup> Line-lengths are equal and the spacing between them even. Its contents are divided into discrete sections, with red section headings assigned to all but the miscellaneous sections; there are red, green and blue capitals at the beginnings of sections (or sometimes space left for initials which were never added). These sections are as follows:<sup>119</sup>

- ‘Kristinnalagabáttir’ (‘Christian Laws Section’) (fols. 1v-9v (pp. i-17))<sup>120</sup>
- ‘Þingskapabáttir’ (‘Assembly Procedures Section’) (fols. 9v-30v (pp. 17-59))
- ‘Vígslóði’ (‘Manslaughter Section’) (fols. 31r-38v (pp. 60-75))
- ‘Baugatal’ (‘Wergild Ring List’) (fols. 39r-41r (pp. 76-81))<sup>121</sup>
- ‘Lögsögumannspáttir’ (‘Lawspeaker’s Section’) (fols. 42r-42v (pp. 83-84))
- ‘Lögréttuþáttir’ (‘Law Council Section’) (fols. 42v-43v (pp. 84-86))
- ‘Arfabáttir’ (‘Inheritance Section’) (fols. 44r-49v (pp. 87-98))
- ‘Ómagabálkr’ (‘Dependents Section’) (fols. 50r-55r (pp. 99-109))
- ‘Festabáttir’ (‘Betrothals Section’) (fols. 55r-64r (pp. 109-127))

<sup>116</sup> Numbering in this section follows the table and hence is not always consecutive.

<sup>117</sup> All manuscripts referred to here are now held in Reykjavík, Stofnun Árna Magnússonar, unless stated otherwise.

<sup>118</sup> Scribe A wrote the first 13 leaves (KLP and the first fifth of ‘Þingskapabáttir’), Scribe B all the rest (Páll Eggert Ólason, ‘Introduction’ to *The Codex Regius of Grágás, m.s. no. 1157 fol. in the Old Royal Collection of the Royal Library, Copenhagen, Corpus Codicum Islandicorum Medii Ævi*, 3 (Copenhagen: Levin & Munksgaard, 1932), pp. 5-10 (p. 7)). The scribes of Konungsbók and of Staðarhólsbók are discussed further in the analysis, below.

<sup>119</sup> The section names are standardised variously in the scholarly literature; I follow here those of Páll Eggert Ólason, ‘Introduction’, pp. 7-8.

<sup>120</sup> The manuscript has been paginated rather than foliated, but with errors: the recto page of the first folio, which is illegible, is not counted; no. 77 is omitted and no. 162 is repeated. I have hence provided the page numbers as written, as well as folio references, which are my own.

<sup>121</sup> ‘Griðamál’ (the peace formula) and ‘Tryggðamál’ (the truce formula) follow (fols. 41r-41v (pp. 81-82)), but Páll does not list these separately. They are not particularly distinguished or separated from ‘Baugatal’ in the manuscript, but ‘Griðamál’ does have a heading.

- ‘Landbrigðabáttur’ (‘Land Claims Section’) (fols. 64r-76v (pp.127-152))
- ‘Um fjárleigur’ (‘On Hire of Property’) (fols. 77r-81v (pp. 152-162))
- ‘Rannsóknabáttur’ (‘Searches Section’) (fols. 82r-84r (pp. 162-166))
- ‘Um hreppaskil’ (‘On Commune Obligations’) (fols. 84r-85v (pp. 166-170))
- Miscellaneous provisions, including the so-called treaty of c.1022 between King Óláfr and the Icelanders relating to Icelanders’ rights in Norway (fols. 85v-90r (pp. 170-179))
- ‘Um Tífundargjald’ (‘On Tithe Payment’) (fols. 91r- (pp. 180-))<sup>122</sup>

Of these, ‘Þingskapabáttur’, ‘Baugatal’, ‘Lögsögumannsbáttur’, ‘Lögréttubáttur’ and ‘Rannsóknabáttur’ are unique as sections to K, although some of their content is paralleled in St, but grouped there with other provisions.<sup>123</sup> The sections in K are further divided into chapters, sometimes, though not always, with sub-headings; nevertheless, the content of the text has internal repetitions, contradictions and problems of organisation.

K is generally agreed to have been written in the third quarter of the thirteenth century, and probably in the earlier part of this time period, i.e. c.1250-60: thus before, if only just before, the fall of the Commonwealth. Nothing is known about K’s history before c.1510, when it was in the possession of Þorsteinn Finnbogason, sheriff of the Þingeyjar district.<sup>124</sup>

## 5. AM 334 fol (Staðarhólsbók (St))

Staðarhólsbók is the other major witness to the laws of the Commonwealth period, after K, and although it contains fewer sections than K, its wording is often more detailed.<sup>125</sup> It measures 33.5cm x 24cm and consists of 108 folios, each side written in

<sup>122</sup> The tithe-section proper is followed by further miscellaneous Church-related provisions but which are not particularly distinguished in the manuscript.

<sup>123</sup> E.g. clauses from ‘Þingskapabáttur’, which can be found in the ‘Fjárleigur’ section of St, and the tithe laws, which are appended to KLP in St. (See e.g. Andrew Ian Dennis, ‘Grágás: an examination of the content and technique of the Old Icelandic law books, focussed on Þingskapabáttur (the “Assembly Section”)’ (unpublished doctoral thesis, University of Cambridge, 1974), p.23; Gunnar Karlsson, ‘Ritunartími Staðarhólsbókar’ in *Sólhvarfasumbl: saman borið handa Þorleifi Haukssyni fimmtugum 21. desember 1991*, ed. by Gísli Sigurðsson (Reykjavík: Menningar- og minningarsjóður Mette Magnussen, 1992), pp. 40-42 (pp. 40-41).)

<sup>124</sup> See further Páll Eggert Ólason, ‘Introduction’, p. 7.

<sup>125</sup> *Laws I*, 15.

two columns of 37 lines each.<sup>126</sup> *Grágás* is written on fols. 1v-92r; the rest of the manuscript is taken up by the text of *Járnsíða*, the unpopular Norwegian-imposed lawcode in force from 1271-1281, although there is a lacuna of perhaps two folios between fols. 104-105. This is in fact the only extant manuscript of *Járnsíða* from the medieval period, and all later copies bar one have been made from it.<sup>127</sup> *Járnsíða*'s presence in St originally led scholars to believe that the *Grágás*-text, too, must postdate the ending of the Commonwealth period, until Finsen observed that the scribe of *Járnsíða* did not contribute to the writing of *Grágás*, and suggested a date for the latter of around 1260. Eleven different scribal hands have in fact now been identified for the *Grágás* text, although the majority was written by two main scribes.<sup>128</sup> Stefán Karlsson has identified one of these, scribe A, as the same man who wrote the majority of K.<sup>129</sup> There is still not complete scholarly agreement as to whether or not Staðarhólsbók's *Grágás* was written before a new code had come into force, however, with the editor of the facsimile edition, Ólafur Lárússon, noting that 'there is [...] no proof that the *Grágás* of Staðarhólsbók was written before 1262'.<sup>130</sup> It is, however, recognised as being slightly younger than K, and Stefán accepts Konrad Maurer's suggestion of 1262-71 as being likely.<sup>131</sup> It was proposed in the early nineteenth century that St was compiled for the drafting of *Járnsíða* and/or *Jónsbók*, but Ólafur has demonstrated on textual evidence that this is highly unlikely.<sup>132</sup> Gunnar Karlsson has recently put forth the interesting suggestion, however, that St was written in 1271, after *Járnsíða* was first put to the Alþing.<sup>133</sup> As Gunnar notes, *Árna saga biskups* tells us that during that summer

<sup>126</sup> Kålund I, 275-76; Ólafur Lárússon, 'Introduction' to *Staðarhólsbók: the Ancient Lawbooks Grágás and Járnsíða; ms. no. 334 fol. in the Arna-Magnæan Collection in the University Library of Copenhagen, Corpus Codicum Islandicorum Medii Ævi*, 9 (Copenhagen: Levin & Munksgaard, 1936), pp. 7-14 (p. 12).

<sup>127</sup> Stofnun Árna Magnússonar [anon. author], 'Staðarhólsbók Grágásar, AM 334 fol.', <[http://www.am.hi.is/handritasafn/handrit/stadarholsbokGragasar\\_AM334fol.php](http://www.am.hi.is/handritasafn/handrit/stadarholsbokGragasar_AM334fol.php)> [last accessed 18 September 2007].

<sup>128</sup> Stofnun Árna Magnússonar [anon. author], 'Iceland's Earliest Writings and Some Well-Known Manuscripts', <<http://www.hi.is/HI/Ranns/SAM/manuscripts.htm>> [last accessed 18 September 2007].

<sup>129</sup> 'Kringum Kringlu', in *Stafkrókar: ritgerðir eftir Stefán Karlsson gefnar út í tilefni af sjötugsafmæli hans 2. desember 1998*, ed. by Guðvarður Már Gunnlaugsson (Reykjavík: Stofnun Árna Magnússonar, 2000), pp. 253-71 (rpt. from *Landsbókasafn Íslands Árbók*, n.s. 2 (1976), 5-25). The significance of this is discussed in the analysis below.

<sup>130</sup> 'Introduction', p. 12.

<sup>131</sup> 'Kringum Kringlu', p. 267.

<sup>132</sup> 'Introduction', p. 12.

<sup>133</sup> 'Ritunartími Staðarhólsbókar', *passim*.

‘var þá [...] játat þingfararbæiki ok tveimur kapitulum ór erfðabæiki; um festarkonu börn ok um arfleiðing ok þegngildi um allt land, en eigi fleira’ (ch. 18).<sup>134</sup> And among the most significant omissions from St compared with K are ‘Baugatal’ and ‘all the laws about the organisation of the Alþing and the constitution of the Commonwealth: Þingskapabáttur, Lögsögumannspáttur and Lögréttubáttur’<sup>135</sup> – though much of the non-constitutional material from K’s ‘Þingskapabáttur’ actually can be found in St, reassigned to other sections. As Gunnar puts it, then:

When men rode home from the Alþing in 1271 such was the state of the constitution of Iceland that they had introduced as law new procedural rules in place of the ‘Þingskapabáttur’ of *Grágás*, and the king’s *þegn*-geld, rules about the king getting compensation for his slain thegns, in the place of ‘Baugatal’. Some prominent chieftain in Iceland believed that revision of the constitution would be stopped there. During the winter he had written for himself a new *Grágás* but dropped the obsolete material about assembly procedures and killing compensation. He then no doubt intended to have added to it those parts of *Járnsíða* that would become Icelandic law, but before that came about it was all made lawful. Then this first owner of St changed his aim and had all of *Járnsíða* added at the back of *Grágás*.<sup>136</sup>

This argument is, however, weakened somewhat by the fact that ‘Baugatal’ is a particularly problematic inclusion in *Grágás*, with no evidence to suggest it was actually ever followed, and even so would certainly have been obsolete long before 1271.<sup>137</sup> Moreover, although St is on the whole better organised and more ‘up-to-date’ than K, with a larger number of *nýmæli*, there are still inconsistencies and contradictions among its provisions, which therefore ‘could certainly not all have been in force at the

<sup>134</sup> *ÍF* XVII, 27. ‘The Assembly Procedures section [of *Járnsíða*] and two chapters of its Inheritance section – about the children of betrothed women and about adoption and *þegn*-geld – were agreed, but no more.’

<sup>135</sup> ‘Ritunartími Staðarhólsbókar’, p. 40. (‘Öll lög um skipulag Alþingis og stjórnskipun þjóðveldisins: Þingskapabáttur, Lögsögumannspáttur og Lögréttubáttur.’)

<sup>136</sup> *Ibid.*, p. 42. (‘Þegar menn riðu heim af Alþingi 1271 var þannig ástatt um löggjöf Íslendinga að þeir höfðu lögleitt ný þingsköp í stað þingskapabátta Grágásar og þegngildi konungs, reglur um að konungur tæki bætur fyrir veginn þegn sinn, í staðinn fyrir Baugatal. Einhver gildur höfðingi á Íslandi hefur haldið að þar mundi verða numið staðar við endurskoðun löggjafarinnar. Um veturinn lætur hann því skrifa fyrir sig nýja Grágás en sleppa úrelta efninu um þingsköp og vígsbætur. Síðan hefur hann sjálfsagt ætlað að láta bæta við þeim hlutum Járnsíða sem voru orðnir íslensk lög, en áður það komst í verk var hún öll lögleidd. Þá breytti þessi fyrsti eigandi Staðarhólsbókar um stefnu og lét bæta Járnsíðu allri aftan við Grágás.’)

<sup>137</sup> See e.g. Miller, *Bloodtaking*, pp. 144-45; Peter Sawyer, ‘The Bloodfeud in Fact and Fiction’, *Acta Jutlandica*, 63 (1986), 27-38 (pp. 34-35).

same time'.<sup>138</sup> It is also rather hard to believe that 'some prominent chieftain in Iceland' would be so naive as to think that the King and his representatives would be satisfied with the acceptance of just two sections of their new lawcode, especially if the situation was as volatile as *Árna saga* suggests. If, on the other hand, this hypothetical chieftain was a traditionalist, aiming to preserve what was left of the law in 1271 before it was replaced entirely, why not go ahead and include 'Þingskapabáttur' and 'Baugatal' as well? And if this were the case it would then be rather perverse to have the usurping *Járnsíða* copied into the back of the same manuscript. Gunnar's theory is attractive, but on closer inspection somewhat problematic. The rationale for St must remain rather mysterious.

Like K, St divides the text of *Grágás* into sections, each beginning with a large illuminated initial, though here only two, 'Ómagabálkr' (fol. 19r) and 'Festabáttur' (fol. 27r), are given headings in the text.<sup>139</sup> There are various marginalia: some, such as the word *nýmæli* ('new law') are from a similar date to the text itself; others are later and of no great significance, although some highlight parallel provisions in *Jónsbók*, showing that *Grágás* continued to be read and provoke interest, even if historical rather than practical. Around 1300 the 'Dómakapítuli' from *Jónsbók*, which enjoins judges to be just in their dealings, was added to the front of the first folio.<sup>140</sup> Again, little is known of the manuscript's history before the sixteenth century, although on fol. 11v there is a fourteenth-century note referring to property in the Húnavatnssýsla district owned in trust for one 'Ragnildur', who has been assumed to have been the wife of the then owner.<sup>141</sup> Its first known owner is Hólmfriður Erlendsdóttir in 1543.

## 1. AM 315 d fol

Dated to c.1150-75, this is not only the earliest witness to the laws of the Commonwealth but one of Iceland's oldest extant manuscript fragments. It consists of only two leaves, the first in particular being badly damaged and illegible in many

<sup>138</sup> Páll Eggert Ólason, 'Introduction', p. 7; *Laws* I, 15, 10.

<sup>139</sup> Ólafur Lárússon, 'Introduction', p. 12.

<sup>140</sup> *Ibid.*, p. 13.

<sup>141</sup> *Ibid.*, p.7. See further the analysis, below.

places. It contains a fragment from ‘Landbrigðapátttr’, which is headed thus in the manuscript, though is a different redaction from the more complete versions known from K and St, while corresponding with these in the essentials.<sup>142</sup> Finsen asserts it was ‘without doubt’ once part of a complete codex, though without stating any grounds for this claim.<sup>143</sup>

## 2. AM 315 c fol

Consists of two damaged leaves and a few fragments in an extremely poor state of preservation, dated to c.1200-25. Only a few letters or words per line are legible in many of the fragments, although the text has been identified as being from ‘Rannsóknarpátttr’ and ‘Ómagabálkr’.<sup>144</sup>

## 6. AM 279 a 4to (Þingeyrabók)

This manuscript consists of 13 leaves containing material written in various hands during the thirteenth, fourteenth and fifteenth centuries.<sup>145</sup> The first seven leaves hold *Rekápátttr*, in a hand dated to c.1250-75. The rest of the manuscript is also largely concerned with property rights, notably those belonging to the Benedictine monastery at Þingeyrar (founded 1133), suggesting it was written there. Its monastic provenance is reinforced by the fragment of the *Historia ecclesiastica* of Eusebius of Caesarea (c.275-339), and other fragments of writing in Latin, on fols. 10v-11. Þingeyrar is well known as a centre of book-production in the medieval period: in the twelfth century it was home to Karl Jónsson (author of a *Sverris saga*, probably at least the first part of the now extant version), Oddr Snorrason (author of a now-lost Latin version of *Óláfs saga Tryggvasonar*), and Gunnlaugr Leifsson (author of various works including biographical sagas of kings and bishops and the poem *Merlinusspá*).

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<sup>142</sup> Gg III, pp. xxxvi-xxxvii.

<sup>143</sup> Gg Ib, 219. (‘Udentvivi Levninger af en fuldstænding Codex af Grágás.’)

<sup>144</sup> Gg III, 490-501; Kålund I, 262-63.

<sup>145</sup> Kålund, I, 531-32.

## 7. AM 315 b fol

c.1250. Only one leaf is now extant, containing provisions from various sections of *Grágás*, of which none but the first can be found in K, and which are thought to be *nýmæli*.<sup>146</sup>

## 8. AM 315 a fol

c.1300-50. A single-leaf fragment from 'Vígslóði', which corresponds almost exactly to the equivalent sections in K (§§ 95-103), with the exception of minor differences in orthography and the fact that §§ 2 and 6 of this manuscript have the headings 'vm eptirmal' and 'lysingar', respectively, whereas their counterparts in K are without headings.<sup>147</sup>

## 9. AM 346 fol (Staðarfellsbók)

c.1330-60. KLP is on fols. 13r-24r of a manuscript consisting of 85 leaves, although at least five more are now lost, though none from KLP.<sup>148</sup> The manuscript also contains the 1275 *Kristinréttir Árna biskups* ('Christian Laws of Bishop Árni [Þorláksson]'; hereafter *KrÁ*); the end of the 'Kristindómsbálker' ('Christianity's section') from *Járnsíða*; *Jónsbók* (fols. 24v-80v); and other legal notices. Jón Sigurðsson suggested that the hand is the same as that of AM 399 4to (Codex Resenianus, c.1300-50), a manuscript of *Guðmundar saga Arasonar*.<sup>149</sup> The manuscript was thus in all probability produced in an ecclesiastical setting.

<sup>146</sup> Gg Ib, 227; Dennis, 'Grágás', p.11.

<sup>147</sup> 'On prosecuting for a dead man', 'Publications [of killings]'. For the text of AM 351a see Gg III, 447-54; for the equivalent in K see Gg Ia, 171-78.

<sup>148</sup> Kålund I, 281-82.

<sup>149</sup> Cited in Kålund I, 281-82.

## 10. AM 173 c 4to

A now incomplete manuscript from c. 1330-70, of which ten leaves remain. The first nine contain KLP, while fol. 10 holds a fragment of *KrÁ*. Kålund identified the hand as that of the main scribe of AM 132 fol., the famous Möðruvallabók.<sup>150</sup> This scribe's hand has also been identified (by the person given in parentheses) in the following manuscripts: AM 642 Ið 4to, a fragment of *Nikulás saga* (Stefán Karlsson); AM 325 XI 2b 4to, a leaf from *Óláfs saga helga* (Kålund); AM 240 V fol, six leaves of Marian miracles (Stefán Karlsson); AM 573 4to fols. 46-63, the end of *Breta sögur* and beginning of *Valvens þátr* (Jonna Louis-Jensen); AM 220 I fol, *prestssaga Guðmundar Arasonar* (Kålund); Lbs 5, miracles of Guðmundr Arason (Jakob Benediktsson); AM 229 II fol, four leaves from *Stjórn* (Stefán Karlsson).<sup>151</sup> Stefán Karlsson concluded from this that the scribe was a professional, probably working in an ecclesiastical institution, and most likely one in the north of Iceland. In fact, although Möðruvallabók is so-named because it was in the possession of a lawyer at the farm Möðruvellir in Eyjafjörður in 1628,<sup>152</sup> he even suggested, pleasingly though on purely conjectural evidence, that the scribe may have been attached to the Augustinian monastery of the same name, Möðruvellir in Horgardalur.<sup>153</sup>

## 11. AM 351 fol (Skálholtsbók eldri)

A legal manuscript with clear ecclesiastical concerns, dated 1360-1400, and containing *Jónsbók* with accompanying Christian laws from other sources: KLP (fols. 96v-110v) and *KrÁ*, together with archbishops' and bishops' statutes and other legal amendments, the youngest from 1359. Skálholtsbók's text of *Jónsbók* was that used as the base text for Ólafur Halldórsson's critical edition of 1904.<sup>154</sup>

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<sup>150</sup> Kålund I, 448-49.

<sup>151</sup> List from Stefán Karlsson, *Sagas of Icelandic Bishops: Fragments of 8 Manuscripts*, Early Icelandic Manuscripts in Facsimile, 7 (Copenhagen: Rosenkilde and Bagger, 1967), pp. 28-29.

<sup>152</sup> Stefán Karlsson, 'Möðruvallabók', in Pulsiano, pp. 426-27.

<sup>153</sup> *Sagas of Icelandic Bishops*, pp. 28-29.

<sup>154</sup> *Jónsbók: Kong Magnus Hakonssons Lovbog for Island vedtaget paa Altinget 1281 og Réttarbætr* (Copenhagen: S. L. Møller, 1904)

## 12. AM 347 fol (Belgsdalsbók)

The main part of this manuscript was written c.1350. KLP, with the tithe laws, on fols. 66r-84v, follows *KrÁ*, *Jónsbók* and various legal amendments. Belgsdalsbók is also one of the few manuscripts besides K and St to preserve secular laws, containing thirty chapters on family and inheritance laws. The last thirteen leaves contain various church-related legal provisions and archbishops' statutes, added in a later hand (c.1400).<sup>155</sup> The manuscript has red rubrics and coloured initials; many of the initials at the beginning of sections contain miniatures, and there are also illuminations to be found in the lower margins, illustrating scenes from the text: hunting, gaming, and manslaughter. Based on the style of these illuminations, Halldór Hermansson suggested the illustrator had a copy of a *Stjórn* manuscript as his model, again pointing to an ecclesiastical setting for the manuscript's production.<sup>156</sup>

## 13. AM 135 4to (Arnarbælisbók)

Another mid-fourteenth century Church-related legal manuscript. The original part of the manuscript contains *Jónsbók*, *KrÁ* and KLP (including the tithe law), together with various biblical quotations in Latin and Icelandic, notably the Ten Commandments (headed 'Upphaf Moyses laga'<sup>157</sup>). Additions, consisting of legal formulae and notes, were made up until the seventeenth century. The manuscript has richly ornamented initials and two illustrations: one of King Óláfr with axe and spear (fol. 6r), and one of a seated bishop with crozier (fol. 74v).

## 16. AM 173 d B 1 4to

The sigla AM 173 d 4to refers to a collection of various fragments. B1, from KLP, is a single folio from c.1380, which seems to have been copied from

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<sup>155</sup> Kålund I, 282-83.

<sup>156</sup> *Illuminated Manuscripts*, p. 11.

<sup>157</sup> 'Foundation of the laws of Moses.'

Belgsdalsbók.<sup>158</sup> Another fragment collected here, C2, which records Archbishop Jón's statute of 1280, is from the same original codex, which again clearly had ecclesiastical concerns.

## 20. AM 50 8vo

A manuscript from c.1500 containing KLP and *KrÁ*. There are lacunae in two places and some damage to the texts from the trimming of the pages; the manuscript ends part way through ch. 24 of *KrÁ*, after which Árni Magnússon has written 'Desunt permulta', presumably referring to the rest of *KrÁ*.<sup>159</sup>

## 21. AM 181 4to

A paper manuscript written in 1685 by the known scribe Oddur Jónsson, and according to a note by Oddur himself after an exemplar by Björn S. Jónsson of Skarðsá. This is primarily a manuscript of Christian laws, including KLP and *KrÁ*, with other Church-related statutes and ordinances, and genealogical tables: for Helga, concubine of the last Catholic bishop, Jón Arason (1484-1550, Hólar), Bishop Gottskálkr *grimmi* Nikúlásson (1498-1520, Hólar), and Loptr *ríki* (probably Loptur Guttormsson) – all figures from the time of the Reformation. The version of the KLP is from a now-lost fourteenth-century exemplar, Leirárgarðabók.<sup>160</sup> The manuscript also contains extracts from 'Þingskapátr' and 'Baugatal' from *Grágás*.

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<sup>158</sup> Gg III, p. xliv.

<sup>159</sup> 'Very much is wanting.' Kálund II, 358-59. There are 46 chapters in the edition of *KrÁ*, based mainly on AM 49 8vo, printed in *Norges Gamle Love indtil 1387: ifølge offentlig foranstaltning og tillige med understøttelse af det Kongelige norske videnskabers selskab*, ed. by Rudolph Keyser and P. A. Munch, 5 vols. (Oslo: Grøndahl, 1846-95), V (*Indeholdende supplementer til foregaaende bind og facsimiler samt glossarium med registre*, ed. by Gustav Storm and Ebbe Hertzberg, 1890), 16-56.

<sup>160</sup> Foote, *The Early Christian Laws*, p. 4.

## 26. AM 125 a 4to

A paper manuscript of 14 folios from c.1600, containing excerpts from both *Járnsíða* and *Grágás*, as well as, on fol. 14v, a genealogy from Teitur Þorleifsson to Ari Þorvarðsson. The manuscript is atypical, however, because the extracts are from the secular law (including extracts from ‘Þingskapabáttir’, ‘Arfabáttir’, ‘Ómagabálkr’, ‘Festabáttir’, ‘Kaupabálkr’, ‘Vígslóði’, ‘Landbrigðabáttir’, ‘Féranspáttir’ and ‘Rekabálkr’), and not KLP, and do not appear to be copied from any other extant manuscript, although there are correspondences in both K and St.

## 27. AM 58 8vo

A 17th-century paper manuscript written for and probably by the lawman Jón Jónsson. Its contents are varied, though with a legal bias, including excerpts from *Jónsbók* and Church ordinances and judgements of the Alþing; but also containing information on herbal medicines, historical notes, anecdotes, excerpts of Danish poetic and prosaic literature and quotations from classical and other foreign authors.<sup>161</sup> Fols. 118v-131v contain excerpts from *Grágás*, including several sections highlighted as being from ‘Wygslóði’, with some also headed ‘Ómaga bálkr’ (or ‘-þættir’), ‘kaupa þætti’, ‘Werða skogarmon’.<sup>162</sup> Finsen prints only two lines from the calendar, stated to be a *nýmæli* but comparable to K § 19, and identifies the rest as being consistent with St.<sup>163</sup>

## ANALYSIS

As can be seen, the majority of the extant manuscripts containing *Grágás* actually postdate the ending of the Commonwealth and were thus written after its provisions ceased to be valid law.<sup>164</sup> While the circumstances of the production of legal

<sup>161</sup> Kålund II, 363-64.

<sup>162</sup> ‘Manslaughter’; ‘Dependents’ section’; ‘Trade section’; ‘On becoming a full outlaw’.

<sup>163</sup> Gg III, 443.

<sup>164</sup> Though of course, as was noted in the Introduction, not all of the Commonwealth-period provisions preserved in the manuscripts were valid law at the same time (see further e.g. *Laws* I, 10).

manuscripts during the Commonwealth period has the most obvious relevance to this thesis, these later copies may in fact provide clues as to what exemplars were available to later scribes, i.e. possible early manuscripts which are now lost. The production of post-Commonwealth legal manuscripts may also have a comparative value, assuming that facilities, techniques and centres for writing and copying retained some continuity, although as the ending of the Commonwealth was a radical institutional change affecting the law almost above all else, such observations and surmises should be made with caution. It is worth, however, discussing here some of the *Grágás*-related manuscripts produced in the later Middle Ages, although discounting the paper copies made under the auspices of Árni Magnússon.

Although we do not know what may be lost, from the extant sources it can be seen that there are now extant more copies of KLP, 'Kristinnalagaþáttur', than any other sections of *Grágás*. In many ways the Christian laws are very much a part of the native legal tradition and share much with the secular law:

Their legal expression, their procedures and penalties, are the same as those we meet in secular law. Even the priests' court which a bishop might constitute was borrowed in form from ordinary law, admittedly with some modification.<sup>165</sup>

Indeed, they are not 'a comprehensive church law but a work of practical instruction on how a Christian life was to be led in Icelandic conditions'.<sup>166</sup> They were not of relevance only to members of the clergy but rather to everyone, particularly those who had churches built on their land, which, as we saw earlier, was a common practice.<sup>167</sup> On the other hand, there are indications that KLP was conceived of as being separate. As has already been noted, it was not part of the codification in 1117, but, as is stated in the text itself, was written down shortly afterwards under the direction of bishops Þorlákr and Ketill, in consultation with Archbishop Özurr of Lund (i.e. at some point during the period 1122-33).<sup>168</sup> It was also treated separately from the secular laws at the

<sup>165</sup> Foote, *The Early Christian Laws*, p. 23.

<sup>166</sup> *Ibid.*, p. 3.

<sup>167</sup> *Ibid.*, p. 7.

<sup>168</sup> E.g. K § 17: *Gg* Ia, 36. Foote, *The Early Christian Laws*, notes that this is included in all the texts preserved complete (p. 1).

end of the Commonwealth period, and remained in force in the diocese of Hólar until 1354, when it was abolished by royal decree, while in Skálaholt it had already been replaced in 1275 by the new code by Bishop Árni Þorlaksson known as *Kristinréttir Árna biskups (KrÁ)*.<sup>169</sup>

The manuscript evidence also points to a distinction being made between KLB and the secular laws: its physical text usually exists independently of other sections of *Grágás*. Apart from its inclusion in the codices K and St, there are eight independent manuscripts of KLB (one of which is defective), and two fragments. The disproportionate existence of KLB over other sections of *Grágás* probably reflects a disproportionate production. The resources for copying the text would have been available to the church-owner, and it would doubtless be more natural to him to own a copy of KLB, detailing his everyday responsibilities in the role, than, for example, a copy of 'Vígslóði' or other parts of the law which he may seldom or never actually need recourse to.

It remains, though, that the extant manuscripts of KLB date from the period c.1340-c.1675, and although the latest, AM 181 4to, is a copy of a lost fourteenth-century exemplar, this means they were all made after KLB had ceased to be valid – even in Hólar, where KLB was still nominally valid until 1354, Jón Jóhannesson suggests it would have become largely outdated by the 1250s.<sup>170</sup> So why did KLB continue to be copied? The lack of post-Commonwealth manuscripts of secular law suggests that there was little interest in preserving older laws once *Jónsbók* had been accepted. However, the validity of *KrÁ* itself is unclear – there is no evidence for royal ratification, and it was in fact repealed on at least one occasion – and Andrew Dennis has proposed that 'people probably continued to adhere to, and write down, the *Grágás* rules'.<sup>171</sup> Furthermore, the Christian Laws sections of both *Járnsíða* and *Jónsbók* are shorter and less detailed than *Grágás*. All the complete extant texts of KLB appear in conjunction with other ecclesiastical laws and statutes, most often *KrÁ* (nos. 9, 10, 12, 13, 15, 20 and 21). Therefore it could be that at least some of the rules of KLB were seen to supplement the newer laws, and even if problematic were better than nothing.

<sup>169</sup> Hans Fix, 'Laws: Iceland', in Pulsiano, pp. 384-85.

<sup>170</sup> *A History*, p. 219.

<sup>171</sup> 'Grágás', p. 78; Gunnar Karlsson, *Iceland's 1100 Years*, p. 97.

The entire corpus of *Grágás*' Christian law, and not just the relevant parts, may have been continued to be copied for the sake of completeness and cross-reference, particularly if the scribes were trained to copy rather than edit.<sup>172</sup>

Indeed, young priests may have been taught to write by being given legal manuscripts to copy. There is a strange and probably fictional case cited (in a different context) by Gunnar Karlsson, of four Lutherans at Skálholt in pre-Reformation Iceland, one of whom, Oddur Gottskálksson, was involved in translating Matthew's Gospel into Icelandic and avoided detection by the bishop by pretending to be copying old bishops' statutes and Church law.<sup>173</sup> It is unclear why his actual activity would have been a problem to the bishop, but, that aside, the story intimates that the copying of old law was a plausible and natural endeavour. Indeed, if large numbers of KLP manuscripts had been produced during the period it was still valid, they would later credibly make natural exemplars for trainee scribes: readily available and no longer needed for consultation. The practicalities of the ecclesiastical context is also a likely factor in the survival of KLP manuscripts: I have already suggested that the archbishops' copies of the law text may have been specified as authoritative not least because of the fact that the archbishoprics had libraries in which to keep and look after manuscripts. Any medieval Icelandic manuscript doubtless had more chance of survival in a Church archive, with a continuous supply of literate people to potentially make use of it, than a privately-owned manuscript in the possession of, say, a secular lawyer.

Nonetheless, there are possibly six different manuscripts containing *Grágás* provisions that *were* written before the ending of the Commonwealth or, at least, before the imposition of *Járnsíða* (as noted in the Introduction, the Alþing accepted Norwegian rule in 1262-64 but *Járnsíða* was not completed and sent over before 1271); and all contain extracts of secular law. Unfortunately, with the exception of Þingeyrabók (6), very little is known or can be deduced about the history of these manuscripts and the motivation behind their creation. The three earliest fragments collected together in AM 315 fol (fragments b-d) (7, 2 and 1) are incomplete and in poor condition, making it impossible to tell whether they were once part of large legal codices, pamphlets of individual sections, or extracts of sections collected with other material. The fact that

<sup>172</sup> Cf. Dennis' thoughts on the main scribe of K: 'There is sometimes reason to doubt that the second and major scribe of the Konungsbók actually perused all his sources, or even any of them, before copying began' (*Grágás*, p. 231 n. 36).

<sup>173</sup> *Iceland's 1100 Years*, p. 129. Oddur's translation of the New Testament was published in 1540.

there is material in the badly damaged AM 315 c fol from both ‘Rannsóknarpátttr’ and ‘Ómagabálkr’, though, together with the fact that the manuscript is in folio, perhaps suggests a once quite comprehensive codex, perhaps a prestigious possession like K and St, rather than the sort of reference booklet that could be easily carried to the courts. Or perhaps there was never much more than the single leaf now remaining of AM 315 b fol, seemingly a collection of *nýmæli* from various sections of *Grágás* – perhaps it came from an insert of up-to-date law to be added to an extant codex.

Þingeyrabók, however, seems to have been compiled for a specific practical purpose, containing the ‘Rekapátttr’ section of *Grágás* together with other legal notices relating to the property rights of the monastery at Þingeyrar. This hints at a practice whereby individual sections were copied and collated with related material where relevant. Rather than being a source of reference as to what the drift-rights laws might be, the ‘Rekapátttr’ text in Þingeyrabók in the context of the manuscript as a whole becomes part of a comprehensive legal statement of rights.

Furthermore, fortunately, two manuscripts have survived, probably from the Commonwealth period itself, or at least just after, which contain a large amount of secular law: K and St. As can be seen from the descriptions above, these are impressive and expensive codices, and merit further discussion here. It has already been stated that, while lacking in some major sections to be found in K, St seems to make a point of ‘saying it at greater length in words that affect the case at issue’. It is also better organised and more internally consistent.<sup>174</sup> K, on the other hand, gives the impression of having a wider and more disparate range of sources which were copied with little impulse to edit. In particular, Dennis has suggested that the scribes’ main source, for ‘Þingskapapátttr’ at least, ended at ch. 61, as much of the rest of the section as it stands in K repeats earlier material, and therefore could have been added as a supplement from one or more additional sources.<sup>175</sup> Indeed, the main scribe of K, scribe B, has been described as ‘a collector rather than a codifier’, even, as noted above, one who did not read through his sources before copying them.<sup>176</sup> For example, K’s chapter headings are not always particularly apt, often referring to ‘the opening concerns but not the

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<sup>174</sup> E.g. *Laws* I, 15.

<sup>175</sup> ‘*Grágás*’, p. 47.

<sup>176</sup> *Ibid.*, pp. 47, 231 n. 36.

preoccupations of the bulk of the chapter', which, as Dennis notes, 'does suggest a linear development of ideas, rather than a starting point involving an abstracted but comprehensive view of a particular area of the laws'.<sup>177</sup> It may also merely suggest that whoever came up with these headings, whether this was the scribe of K himself or of one or more of its exemplars, skim-read only the beginnings of the chapters to ascertain a suitable title before copying the whole text out.

Dennis has made a comparative study of the provisions relating to the constitution and functioning of the local courts as they are stated in K and St, and from even this short section of the law has drawn some significant inferences. He concludes that, for most of these rules, the scribes had a common, and 'certainly written', source (though St had more careful copyists), but that neither had access to the other.<sup>178</sup> For the rules relating to the *héraðsdómr* ('district courts'), however, he notes that 'it seems impossible that either of the scribes had any direct contact with the source used by the other [...] The fact that neither manuscript gives a very clear statement of the constitution and procedures of these courts suggests that the formulation of such rules was a fairly late addition to Icelandic law'.<sup>179</sup>

This discussion of sources does point to the circulation and availability of a fair amount of written law. Indeed, although K and St are large codices, their content is still truncated in a way which has led to the suggestion that material omitted here would have been available elsewhere to the users of the manuscripts.<sup>180</sup> Particularly interesting in this light is the paper manuscript AM 181 4to (21), a copy of an earlier exemplar, which, unusually, adds material from the 'Þingskapabáttir' and 'Baugatal' sections of *Grágás* to its more typical collection of Church-related laws and statutes. As was discussed in the description of Staðarhólsbók, this is precisely the material missing from this manuscript, suggesting that the owner of AM 181's exemplar, or someone else earlier down the line, may already have had something very like St already in his possession, which he wished to supplement either by having the absent provisions

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<sup>177</sup> Ibid., p. 50.

<sup>178</sup> Ibid., p. 217.

<sup>179</sup> Ibid., p. 228.

<sup>180</sup> *Laws* I, 14 and n. 17.

copied into the manuscript of Church laws he was having prepared, or as a separate booklet, which was later juxtaposed with the material it is found with here.

Subsequently to Dennis' study, as has been noted, Stefán Karlsson identified that the main hand of *Konungsbók* and that of *Staðarhólsbók* in fact belonged to the same scribe. This need not, however, negate Dennis' theories; indeed, the more streamlined style of *St*, which is younger than *K*, fits well with the idea of a scribe who has become more acquainted with his material. It could very well be the case that the skilful but inexperienced copyist of *K* developed into the knowledgeable and methodical editor of *St*, so that, when he was given the latter commission, he was able to utilise his prior experience to create a more efficient record of the laws from the sources to which he had access, while there would be no reason to assume his own earlier handiwork was among these sources.

This would make a particularly likely possibility if the scribe continued to live and work in an environment which offered continued access to the legal milieu. And the other manuscripts in which this scribe's hand has now been identified may in fact indicate that this could have been the case, as I shall now discuss.

Perhaps most significantly, Stefán stated: 'After very careful comparison of the script of the *Kringla*-leaf and that of the main part of *Grágás* in *Staðarhólsbók*, I am not in any doubt that both are by the same hand'.<sup>181</sup> The leaf in question is the one remaining vellum folio of the so-called 'Kringla' manuscript of Snorri Sturluson's *Heimskringla*. The rest of the manuscript was destroyed in the 1728 fire in Copenhagen which ravaged Árni Magnússon's collection of Icelandic manuscripts; fortunately, however, it was copied under his auspices in the seventeenth century, and the version of the text preserved in these transcripts is acknowledged as being the closest now extant to Snorri's original, and is the one which forms the basis of modern editions.<sup>182</sup> As was noted earlier in this chapter, one of the two versions of *Skáldatal* (*SK*) was also included in the manuscript. The extant leaf can be confidently dated to within the period 1258-64, and the latter part of this timespan seems most probable; in fact, Guðrún Ása

<sup>181</sup> 'Kringum Kringlu', p. 267. ('Eftir allnákvæman samanburð á skrift Kringlublaðsins og þessa meginhluta Grágásar í Staðarhólsbók er ég ekki í neinum vafa um að hvorttveggja er með sömu hendi.') The same article provides the detailed palaeographical evidence for this claim.

<sup>182</sup> See e.g. Diana Whaley, *Heimskringla: An Introduction* (London: Viking Society, 1991), p. 43.

Grímsdóttir has hypothesised that the manuscript was made for Sturla Þórðarson to take with him to Norway in 1263, as a gift and peace-offering, perhaps, for the king.<sup>183</sup>

Whether or not Kringla was produced at Sturla's commission or came otherwise into his possession, Stefán Karlsson enumerated strong reasons to link it firmly with the Sturlungar. Not only does it contain a text composed by Snorri, it has what seems to be a faithful version of this text; moreover, the prominent positioning of the Sturlung poets Snorri, Sturla and Óláfr Þórðarson in the *Skáldatal* text would suggest it was compiled within their circle.<sup>184</sup> We thus have a scribe working on both legal and literary texts, and, moreover, one who in all probability had connections with the Sturlung circle – which produced several lawspeakers and was one of the groups most embroiled in the political and legal machinations of the time. This would place him in an intellectual environment in which he could have absorbed legal insights of his own.

Kringla is not the only manuscript in addition to K and St which has been identified as the work of this scribe. Stefán Karlsson examined two joined but damaged folios with the siglum AM 241 b I β fol., which appear to be the two outermost leaves of an eight-leaf quire from a Latin psalter manuscript, and which he stated to be 'without doubt written by the man who wrote Kringla and was the chief scribe of the two *Grágás* manuscripts'.<sup>185</sup> Stefán also proposed from the skilled penmanship demonstrated in the fragments that the scribe was 'a well educated man and without doubt clerically trained'.<sup>186</sup>

In addition to this, Stefán identified another Latin manuscript, JS fragm. 14, as also being the work of the same scribe. Again, there are now only two conjoint leaves which survive, containing extracts from John's Gospel and exegetical homilies on them. Previous attempts at dating the fragment placed it in the fourteenth century, or as late as

<sup>183</sup> 'Sturla Þórðarson', in *Sturlustefna: Ráðstefna haldin á sjö alda ártíð Sturlu Þórðarsonar sagnaritara, 1984*, ed. by Guðrún Ása Grímsdóttir and Jónas Kristjánsson (Reykjavík: Stofnun Árna Magnússonar, 1988), pp. 9-36 (pp. 32-33).

<sup>184</sup> 'Kringum Kringlu', p. 266.

<sup>185</sup> 'Daviðssálmar með Kringluhendi', in Guðvarður Már Gunnlaugsson (ed.), *Stafkrókar*, pp. 274-78 (p. 277) (rpt. from *Daviðsdiktur: sendur Davið Erlingssyni fimmtugum 23. ágúst 1986*, ed. by Sigurgeir Steingrímsson (Reykjavík: Stofnun Árna Magnússonar, 1986), pp. 47-51). ('An efa skrifuð af þeim manni sem skrifað Kringlu og var aðalskrifari Grágásarhandritanna tveggja.')

<sup>186</sup> *Ibid.* ('Vel menntaður maður og án efa prestlærður.')

the fifteenth, but the identification of the *Grágás*-scribe's hand moves the dating back to the thirteenth century; and indeed Stefán suggested that the probable time of writing for all the known manuscripts by this scribe is the third quarter of the thirteenth century. He suggests that Kringla was written after K but before St, but finds the religious fragments more difficult to date relative to these because of the differences in language and script.<sup>187</sup>

Nonetheless, religious documents were part of the scribe's repertoire, and it can be seen that he was equally accomplished at writing both in Latin and in the vernacular. Probably a cleric, he was clearly an expert scribe, in all likelihood with a reputation as such, making him an obvious choice for a wide range of prestigious commissions. Kringla's apparent connections to the Sturlungar may suggest he was working in the west of Iceland. Indeed, Stefán made a circumstantial identification of the scribe as one Þórarinn *kaggi* Egilsson, a priest at Vellir during the childhood of the future bishop Laurentius.<sup>188</sup> Þórarinn wrote both for the church at Vellir (which owned a disproportionately large number of books in the 1318 census of the possessions of churches in the Hólar diocese),<sup>189</sup> and for the episcopal see at Hólar, and he is commemorated in *Lárentius saga* (ch. 3) as 'klerkr góðr ok hinn mesti nytsemdamaðr til letrs ok bókaþjórða'.<sup>190</sup> He was perhaps also involved in the education of the boys at the school at Vellir.<sup>191</sup>

While the possible identification of the *Grágás*-scribe as Þórarinn *kaggi* is based on purely circumstantial evidence, it is worthwhile testing this speculation further. Although on the one hand it seems rather too convenient for the *Grágás*-scribe to have been that man renowned for his talent in *Lárentius saga*, there is no doubt that, among his works, at least the *Grágás* manuscripts and Kringla are high-prestige commissions whose patrons would have wanted the very best, and so naturally would have chosen a

<sup>187</sup> Ibid, p. 277-78.

<sup>188</sup> 'Kringum Kringlu', p. 270.

<sup>189</sup> *DI* II, 455. This is also noted by Stefán, who fancied that among the 'lesbækur .x. vondar [...] capitularium [...] .ii. psaltarir góðir [...] og .x. skrár fornar' ('10 difficult reading-books [...] capitularies [...] 2 fine psalters [...] and 10 old manuscripts') mentioned in the inventory might be included the Latin fragments discussed here, and even possible exemplars for the *Grágás* manuscripts ('Davíðssálmar', p. 278).

<sup>190</sup> *ÍF* XVII, 217. 'A good clerk, and the most useful man regarding script and the writing of books.'

<sup>191</sup> See *Lárentius saga* ch. 5.

man with an established reputation. Conversely, working on these manuscripts could very possibly have heightened the scribe's own prestige and reputation for quality, and brought him further into the public sphere, at least within medieval Iceland's textual communities – and so it is perhaps not so incredible after all that he should be someone we can put a name to from textual sources. It is also a nice twist to the theme of this chapter that we may be able to read about a legal scribe in literary sources.

Indeed, Þórarinn has walk-on parts in various other *samtíðarsögur*, where he can be seen participating in peace negotiations on behalf of Bishop Heinrekr of Hólar (1247-60).<sup>192</sup> In one instance he is firmly connected with the world of literacy, his mission being to read out at a letter from the bishop forbidding the men of Skagafjörður to accept Þorgils *skarði* Bøðvarson as district leader in 1255. He could, perhaps, have written this letter out himself, under the bishop's dictation. Stefán Karlsson observed that in his three appearances in *Þorgils saga skarða*, Þórarinn is not given the title of priest, suggesting he had not yet achieved this rank, which would mean that he is unlikely to have been of sufficient age or experience to have produced his earliest-known fine manuscript, *Konungsbók*, before c.1255-58. As Stefán noted, Þórarinn is described as *prestr* in *Íslendinga saga* when he is involved in events of 1254, but this could of course be a back-projection.<sup>193</sup> In any case, Þórarinn's role seems to have been as a trusted deputy of the bishop, but not someone who exerted a great deal of influence of his own. On the other hand, however, he was not without some personal wealth, as *Lárentius saga* attests: 'Gaf síra Þórarinn fátækum frændum sínum mikit góðz, ok setti mörg kristfé í mörgum jörðum um Svarfaðardal ok svá annars staðar'.<sup>194</sup>

Þórarinn was indeed well-connected: his father, Egill Sölmundarson, is revealed by the *samtíðarsögur* to have been, as well as a sub-deacon, a prominent *bóndi*, whose good will and support was important to those involved in the struggles for power in the Borgarfjörður district.<sup>195</sup> Egill was Snorri Sturluson's nephew on his mother's side, and

<sup>192</sup> *Íslendinga saga* ch. 183; *Þorgils saga skarða*, chs. 54, 57, 61; *Árna saga biskups* ch. 27; *Lárentius saga* chs. 3, 5.

<sup>193</sup> 'Daviðssalmar', pp. 274-75.

<sup>194</sup> *ÍF* XVII, 217-18. 'Fr. Þórarinn gave many goods to his poor kinsmen, and established much *kristfé* [property for the support of the poor] in many lands throughout Svarfaðardalir and other places also.'

<sup>195</sup> See *Íslendinga saga* chs. 147, 157, 181, 194, 213; *Þorgils saga skarða* chs. 16, 18, 29, 43. See also Axel Kristinsson, 'Sagas and Politics in Thirteenth-Century Borgarfjörður', paper presented to the *Sagas and Societies International Conference, Borgarnes, Iceland, 5-9 September 2002*, ed. by Tönno Jonuks,

lived at Reykjaholt and received ‘eigi minna en tvau hundruð hundraða’ of the value of Snorri’s inheritance.<sup>196</sup> He also named two of his legitimate sons after Snorri and Jón *murtr*, Snorri’s son. Egill is often listed as being present at various district meetings and negotiations and is himself involved in a dispute connected to the distribution of Snorri’s inheritance with Þorgils *skarði*, which is described in some detail in the saga bearing the latter’s name. Although Egill is eventually forced to cede self-judgement to Þorgils, he comes away with generous terms and good honour: ‘Þóttust menn þat brátt finna, at Egill unði vel við’.<sup>197</sup> Egill has also achieved modern-day fame in discussions of the control of the Church over clerical celibacy, as he was forced by Bishop Árni to divorce from his wife, Þórunn Garða-Einarsdóttir, whom he had married without the permission of Bishop Sigvarðr, even though Egill and Þórunn had five children together.<sup>198</sup> (Þórarinn, however, was Egill’s son from a previous relationship, with Guðný *stjarna*; after his divorce Egill had five further children with his mistress, Þórunn Valgarðsdóttir.)<sup>199</sup> Interestingly, Egill has been suggested by the editors of the *Íslensk Fornrit* edition of *Borgfirðinga sögur* as the possible author of *Hænsa-Þóris saga*.<sup>200</sup>

A further strand cited by Stefán Karlsson to connect Þórarinn with the *Grágás* manuscripts comes from the fourteenth-century annotations to Staðarholsbók. Here, as was noted in the description, there is mention of one ‘Ragnildur’, said to have had a brother called Benedikt, and it has been surmised that, as this is clearly a wealthy family with connections with Húnavatnssýsla, this Benedikt could be one of the two known personages from that area with the name, either Benedikt Kolbeinsson (d.1379) or Benedikt Gissurarson (still living 1391).<sup>201</sup> Stefán speculates still further that the former Benedikt’s father, Kolbeinn, could be the Kolbeinn *jarli* mentioned in *Árna saga biskups* (ch. 27) as being married to Hallbera, daughter of Egill Sölmundarson – i.e.

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Axel Kristinsson, and Stefanie Würth, pp. 1-14, [http://w210.ub.uni-tuebingen.de/dbt/volltexte/2004/1060/pdf/6\\_axel~1.pdf](http://w210.ub.uni-tuebingen.de/dbt/volltexte/2004/1060/pdf/6_axel~1.pdf) [accessed 23 March 2007].

<sup>196</sup> *Íslendinga saga* ch. 152: SS I, 455. ‘Not less than two hundred hundreds.’

<sup>197</sup> SS II, 173. ‘Men quickly realised that Egill was well pleased with this.’

<sup>198</sup> E.g. Orri Vésteinsson, *The Christianization of Iceland*, p. 236.

<sup>199</sup> *Árna saga biskups* ch. 27.

<sup>200</sup> *ÍF* III, p. xxxiv. Axel Kristinsson, ‘Sagas and Politics’, discusses the possible political motivations and implications of the writing of this saga, by Egill or by someone in a similar position.

<sup>201</sup> See Ólafur Lárússon, ‘Introduction’, p. 7, for a summary of the theories, although Ólafur himself emphasises the speculative nature of these arguments.

Þórarinn's half-sister.<sup>202</sup> This titled personage very likely had the wealth to commission a manuscript such as *Staðarhólsbók*, and could have drawn on his wife's family connections to find a notable scribe.<sup>203</sup>

Other notable family connections of Þórarinn's, although not ones explored by Stefán Karlsson, are that he had a half-brother, Þórðr, Egill's son by Þórunn Valgarðsdóttir, who was a 'lögmaðr';<sup>204</sup> and that he was the uncle of Kálfr, father of Bishop Laurentius of Hólar (1323-1330). Indeed, *Lárentius saga* credits Þórarinn with being responsible for Laurentius' safe birth (in 1267): after a difficult labour, Laurentius' mother, Þorgríma, delivers a seemingly still-born baby, whereupon Þórarinn prays to St. Lawrence (it being his feast day) that the child should live, saying he would have him named after the saint and would thenceforth fast on his feast day; 'ok eftir þetta heit staðfest ok upp sagt af síra Þórarni sáz lífsmark þegar með piltinum' (ch. 3).<sup>205</sup>

We thus have in Þórarinn a man who, although himself illegitimate and of limited social status, was well-connected to important actors in the political manoeuvrings of the 1250s and 60s, not only to the class of the higher-status *bændr*, in the figure of his father Egill, but, through Egill, to the Sturlungar themselves. As well as this, he was educated to a high standard as a priest, and was evidently held in some respect at the see of Hólar, being a trusted representative of the bishops, in addition, of course, to being renowned for his excellent scribal skills, thus creating personal status for himself within his own sphere of activity. Through the combination of these factors he had access both to the educated, literate world, and the book-producing communities of Vellir and Hólar, and to the socio-political milieu of the last period of the Commonwealth, in which the law and its upholding would have been such a contentious topic. His own involvement in this sphere, as a delegate of the bishop, doubtless afforded him a thorough understanding of law and legal process: experience perhaps reflected in the increased sophistication of the presentation of the material in *St over K*. In addition, he would have been prominent enough to attract the attention of patrons and

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<sup>202</sup> 'Kringum Kringlu', p. 270.

<sup>203</sup> Kolbeinn is however a very shadowy figure, only otherwise mentioned in *Geirmundar þáttur heljarsskinns* (ch. 7), in a genealogy. Whether he would have been around early enough to commission *St*, or what his political reasons for doing so might have been, are unclear.

<sup>204</sup> *Ibid.*

<sup>205</sup> *ÍF* XVII, 222. 'And after this steadfast promise and speech by Fr. Þórarinn, signs of life were immediately seen in the boy.'

commissioners of manuscripts even without the fact that he could claim kinship to the author (Snorri) and possible commissioner (Sturla) of *Kringla*, and perhaps even to the family who commissioned *Staðarholsbók*. Still further, these very family ties connect him once again to the literary world, but this time in a secular rather than clerical context.

Even if we do not accept the identification of Þórarinn as the *Grágás*-scribe, many of the conjectures proposed here remain valid. If not Þórarinn, the scribe must have been someone very like him: someone clerically educated and prominent enough in his own field to have attracted the attention of some of the major players in the political sphere of later-Commonwealth period Iceland; someone who probably gained first-hand experience of the machinations of the law, and first-hand experience of its failings; and someone connected to literary book-production as well as the perhaps more vocational production of religious texts. And even in the absence of a name or other biographical details, the career of the scribe as it can be traced from his work affords much thought-provoking material. The combination of legal, literary and religious material which he produced demonstrates that these strands cannot be separated from one another but are inextricably intertwined.

This consideration of intellectual and textual communities in the late-twelfth and the thirteenth centuries finally brings us back, then, to lawspeaker-poets, the remaining four of whom were active in the poetical and political lives of this period; the Sturlung circle, in particular, with which Þórarinn was so closely connected, produced the latter three of them.

## LAWSPeAKER-POETS II: THE LITERATE PERIOD

### *Styrkárr Oddason (1171-80)*

Styrkárr is not at all well attested in the sources, although his election to the lawspeakership and his death are both referred to in *Sturlunga saga*.<sup>206</sup> As was the case

<sup>206</sup> *Prestssaga Guðmundar góða* chs. 4, 6. His son is referred to in *Guðmundar saga dýra* ch. 1.

with Skapti, a single fragment of a verse is attributed to him in *Skáldskaparmál*; he is not otherwise known as a poet. It should be noted, therefore, that as *Skáldskaparmál* gives no further identifying details, we cannot claim for certain that the lawspeaker and the poet are in fact the same man – although as I shall argue shortly, a further twist in the interconnections between lawspeakers and poetry provides a possible reinforcement of this identification.

Styrkarr's relative anonymity and the meagre survival of his poetry means he has been largely ignored, and it is therefore worth presenting and discussing his *helmingr* here. Snorri uses it as an illustration in his section containing kennings for ships:

Ok ept ítrum <stökkvi>  
ók Høgna lið vøgnum  
hlunns á Heiða fannir  
hyrjar flóðs af móði.<sup>207</sup>

The ship-kenning this verse is used to exemplify, 'vagnar hlunns' ('wagons of the slipway'), typifies the convention in kennings to use something usually associated with the land (i.e. wagons) to represent something usually associated with the sea (i.e. ships). The gold-kenning, 'hyrr flóðs' ('fire of the flood'), is also common in skaldic verse. In *Skáldskaparmál*, Snorri explains:

Þá lét Ægir bera inn á hallargólf lýsigull þat er birti ok lýsti høllina sem eldr [...] Rán er nefnd kona Ægis [...] Nú er þessi saga til þess hvaðan af þat er, gull er kallat eldr eða ljós eða birti Ægis, Ránar eða Ægis døtra. Ok af þeim kenningum er nu svá sett at gull er kallat eldr sævar ok allra hans heita, svá sem Ægir eða Rán eigu heiti við sæinn. Ok þaðan af er nú gull kallat eldr vatna eða á ok allra árheita.<sup>208</sup>

<sup>207</sup> Faulkes (ed.), *Skáldskaparmál*, I, 76. 'And, after the glorious scatterer of the fire of the flood [GOLD > GENEROUS LORD], Hogni's troops drove wagons of the slipway [SHIPS] over Heidi's snowdrifts [WAVES], enraged.'

<sup>208</sup> Faulkes (ed.), *Skáldskaparmál*, I, 40-41. 'Then Ægir had carried in and placed upon the hall floor shining gold that brightened and lit up the hall like fire [...] Ægir's wife is called Rán [...] Now this is the story from whence gold is called the fire or light or brightness of Ægir, Rán or Ægir's daughters. And from these kennings is it now established that gold is called the fire of the sea and of all names for it, just as Ægir or Rán are names for the sea. And from thence gold is now called fire of lakes or rivers and all river-names.'

The legend of the Niflung or Nibelungen gold, hidden in the river Rhine (which is also detailed in *Skáldskaparmál*), is also linked to the kenning-type.<sup>209</sup> It most likely eventually became a topos with no particular mythic reference intended. The play of sunlight on water provides a more literal referent for the kenning, meaning its subject was not necessarily obscure without background knowledge of the mythology.<sup>210</sup> Styrkárr's wave-kenning, however, 'Heiða fannir' ('Heiði's snowdrifts'), apparently makes explicit reference to a mythological sea-king, although it cannot be taken for granted that the allusion was still fully understood – compare Snorri's concern to explain the mythological origins of skaldic kennings as articulated in the *Edda*.<sup>211</sup> Styrkárr's choice of imagery demonstrates that once Christianity was firmly established, skalds felt comfortable with returning to the traditional pagan kennings and imagery which the Conversion-era skalds such as Skapti had chosen to reject.<sup>212</sup>

### *Snorri Sturluson (1215-18 and 1222-31)*

As is well known, Snorri Sturluson positively insisted on a return to tradition: whilst warning his audience not to believe in the heathen gods, he says of the mythological tales about them which he relates, 'ekki er at gleyma eða ósanna svá þessar sögur at taka ór skáldskapinum for[nar ke]nningar þær er höfuðskáld hafa sér líka látit'.<sup>213</sup> And I would argue that this devotion to native tradition signifies a new development in the ties between lawspeakers and poetry. Snorri's political and intellectual activities are of course extremely well documented and studied, but I wish to reiterate and highlight here those features of his life and work which are of particular relevance to this thesis.

Snorri's antiquarianism and commitment to native tradition are apparent from the very existence of his *Edda*, a sort of textbook for aspiring court skalds, which seems

<sup>209</sup> Ibid., p. 48; see also Guðrún Nordal, *Tools of Literacy*, pp. 330-32.

<sup>210</sup> Turville-Petre, *Scaldic Poetry*, pp. xlix-l.

<sup>211</sup> See further below.

<sup>212</sup> See e.g. Attwood, 'Christian Poetry', pp. 49-50.

<sup>213</sup> Faulkes (ed.), *Skáldskaparmál*, I, 5. 'One should not forget or disprove these stories, so as to take away from poetry the old kennings which the major poets have themselves been happy to use.'

to have been inspired by his concern that the old traditions were being forgotten – ironically enough, perhaps because of the now-flourishing literate, Christian and Latinate skaldic poetics heralded by Markús Skeggjason. The *Edda* has three main parts, *Gylfaginning*, *Skáldskaparmál*, and *Háttatal*, plus a Prologue. *Gylfaginning* provides a systematic account of Norse pagan mythology, but, along with *Háttatal*, to be discussed below, it is *Skáldskaparmál* which is of most relevance here – it exemplifies and, where necessary, explains the origins of the major types of kenning to be found in skaldic verse. Throughout the *Edda*, Snorri demonstrates a high regard for the work of the early Icelandic skalds, being reluctant to criticise the early poets even where poetic tastes have changed, as this quote from *Háttatal* exemplifies:

[Viðá er þat í] fornskálða verka er í einni vísu eru ymsir hættir eða háttaföll, ok má eigi yrkja eptir [því] þó at þat þykki eigi spilla í fornkvæðum.<sup>214</sup>

As well as demonstrating his knowledge of and affection for the Scandinavian pagan myths, as Guðrún Nordal observes, *Skáldskaparmál* does not cite any verse composed by Snorri's contemporaries, demonstrating clearly his perception of the superiority of the early works.<sup>215</sup>

Snorri's knowledge of earlier skaldic verse is clearly vast, and it is thought that few of his quotations were taken from written sources.<sup>216</sup> Although the tight rules governing skaldic verse would suggest that this was easier to commit accurately to memory than, for example, the laws in the form they are preserved in the extant manuscripts of *Grágás*, this capacity for memorisation was doubtless a vital transferable skill for a lawspeaker. Interestingly, the two fragments by Styrkárr Oddason and Skapti Þóroddsson occur within three verses of each other in *Skáldskaparmál* (being verses 266 and 269 respectively in Faulkes' edition), while there are also verses attributed to Markús within a few verses either side (vss. 260 and 270).<sup>217</sup> Perhaps Snorri's

<sup>214</sup> Snorri Sturluson, *Edda: Háttatal*, ed. by Anthony Faulkes (London: Viking Society for Northern Research, 1999), p. 26. 'It is widespread in the work of the ancient skalds that in one verse there are different metres or metrical inconsistencies, and one must not make verses like this, although it is not thought to be detrimental in the ancient poetry.'

<sup>215</sup> *Tools of Literacy*, p. 238.

<sup>216</sup> *Ibid.*, p. 60.

<sup>217</sup> The relative positions of the verses of these three men are maintained in all of the manuscript versions of the *Edda* in which all three appear: Copenhagen, Arnarnagnæan Institute, AM 242 fol (Codex

knowledge that these men had all held the office of lawspeaker prompted his recollection of their poetry and influenced their position within the text. I would suggest that this, therefore, lends support to the identification of Styrrkár Oddason the poet and Styrrkár Oddason the lawspeaker as one and the same man. It is of no small significance that the *lögsögumannatal*, or list of lawspeakers, is preserved uniquely in the Codex Upsaliensis manuscript of the *Edda* (which also preserves the *SU* version of *Skáldatal*). As this register ends with Snorri himself, it is assumed that the version preserved here is a copy of an original made during his second term of office, in all likelihood by Snorri himself or at least by one of his close circle.<sup>218</sup> Snorri was clearly interested in the office and its holders and saw both skaldic poetry and the institution of the lawspeakership as particularly Icelandic traditions to be cherished and preserved. His knowledge of his predecessors and interest in passing down their details is on a par with Markús' relation of this information to Ari.<sup>219</sup>

Snorri's own poetic reputation does appear to have been firmly established among his contemporaries, in addition to the fame, or perhaps notoriety, he achieved on account of his wealth and political power. He is referred to in *Gunnlaugs saga*, for instance, as part of a list of 'skáldmenn miklir',<sup>220</sup> and in *Sturlunga saga* as 'skáld gott'.<sup>221</sup> In fact, in one incident described in *Íslendinga saga* (chs. 38-39), Snorri's political enemies attack him by criticising his skaldic ability and parodying his poetry, which leads to further enmity. Much of his work is apparently lost, however; apart from the 102 verses of *Háttatal*, only two fragments and seven *lausavísur* survive. Nevertheless, Guðrún Nordal has commented on their great variety in subject matter, including religious and romantic themes.<sup>222</sup> *Skáldatal* reveals Snorri to have composed for several Norwegian rulers.<sup>223</sup>

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Wormianus); Reykjavík: Stofnun Árna Magnússonar AM 748 I b 4to; Reykjavík, Stofnun Árna Magnússonar, GKS 2367 4to (Codex Regius); and Utrecht, University Library, MS No. 1374 (Codex Trajectinus).

<sup>218</sup> Jón Sigurðsson, 'Introduction' to the *lögsögumannatal*, *DI* I, 499-500 (p. 499). The *lögsögumannatal* is described further in Chapter 2 of this thesis.

<sup>219</sup> Gabriel Turville-Petre suggested that it was one of the duties of the lawspeakers to memorise a list of their predecessors (*Origins of Icelandic Literature* (Oxford: Clarendon, 1953), p. 90).

<sup>220</sup> *ÍF* III, 51. 'Great poets.'

<sup>221</sup> *SS* I, 269. 'A good skald.'

<sup>222</sup> *Tools of Literacy*, p. 188.

<sup>223</sup> Jón Sigurðsson and others (eds.), *Edda Snorra Sturlusonar*, III, 255-57, 264-67.

*Háttatal* (lit. ‘list of metres’) makes up the final section of Snorri’s prose *Edda*, and is a technical demonstration of around one hundred skaldic verse forms (some innovative rather than traditional), with accompanying commentary, though the poetry in itself apparently also had an independent existence as a praise-poem for the co-regents King Hákon Hákonarson and Jarl Skúli Bárðarson of Norway.<sup>224</sup> However, rather than being performed by Snorri at court in the traditional manner, it is thought that he composed it on his return to Iceland after his stay in Norway in 1218-20, and had it delivered in manuscript form.<sup>225</sup> From Markús’ possible experimentation with literacy, this illustrates a now changed perception of the nature of traditionally oral skaldic praise poetry, and, perhaps, a different method of composition. Nonetheless, despite these intellectually- and technologically-driven innovations, the poem can be seen as a culmination and celebration of native tradition: as Stephen Tranter comments, ‘in its self-confident acceptance of the poet’s competence and value to its patron it is directly in the tradition of the tenth-century heyday of Icelandic *skáldskapr* in Norway’.<sup>226</sup>

Snorri grew up in the cultural milieu of the secular centre of Oddi, where, as we learn from *Sturlu saga* (ch. 34), he was fostered by Jón Loptsson from the age of three. The structure of the *Edda* has sparked much debate on the nature of the education he received there, and specifically on his literacy in Latin. Anthony Faulkes has concluded that while Snorri obviously knew of the existence of classical rhetorical treatises, he need not have been able to read and understand them himself: he is not bound by the analytical framework used in the description of classical verse, although his methodology is analogous – but the accurate description of native verse forms is more important to Snorri than comparing them directly to the forms used in Latin poetry.<sup>227</sup>

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<sup>224</sup> Faulkes (ed.), *Háttatal*, pp. xvi-xviii; Quinn, ‘*Edda list*’, pp. 72, 77-79.

<sup>225</sup> Faulkes (ed.), *Háttatal*, p. ix.

<sup>226</sup> ‘Medieval Icelandic *artes poeticae*’, pp. 147-48.

<sup>227</sup> ‘The Sources of *Skáldskaparmál*: Snorri’s Intellectual Background’, in *Snorri Sturluson*, ed. by Alois Wolf, *ScriptOralia* 51 (Tübingen: Gunter Narr Verlag, 1993), pp. 59-76, *passim*.

Óláfr Þórðarson hvítaskáld (1248-50 and 1252)

Snorri's nephew, Óláfr Þórðarson, on the other hand, did take up the enterprise of a comparison between Norse and Latin poetry: his *Third Grammatical Treatise* (hereafter *3GT*) draws heavily on skaldic verse (including his own) to explain figurative language. Óláfr's indebtedness to foreign sources is much more obvious than is the case with Snorri: he clearly knew Latin and used classical rhetorical treatises as the foundation for his own text, in particular the works of Priscian and Donatus.<sup>228</sup> On the other hand, Óláfr, too, exhibits a desire to justify the validity and intellectual value of the Norse cultural inheritance, while exploring the connections between native and foreign: the *3GT* demonstrates his own sound knowledge of native poetics and of Norse runes.<sup>229</sup> His purposes are made explicit in his manifesto, set out in an often-quoted passage from the beginning of *Málskrúðsfræði* ('The Science of Language Ornament'):

Jþæssi bok [i.e. Donatus' *Ars maior*] ma gerla skilia, at ǫll ær æin listin skalld skapr sa, ær romverskir spækingar namv iathænis borg a griklandi ok snerv siþan i latinu mal, ok sa lioða hátr æða skalldskapr, ær oðinn ok aðrir asia menn flvttv norðr higat i norðr halfv heimsins, ok kendv monnum a sina tvngv þæsskonar list, sva sæm þeir hǫfðv skipat ok nvmit isialfv asia landi, þar sæm mæst var fręgð ok rikdomr ok froðlæikr veralldarinnar.<sup>230</sup>

Here, he shows that, in his opinion, traditional Norse poetry is of equal status with classical Latin poetry, as they have the same origin. The treatise attempts to reinforce this by analysing skaldic verse according to classical methods, although, in contrast to Snorri, Óláfr sticks to the framework and terminology devised by classical authors, even when this does not translate successfully to the rules of Old Norse poetry.<sup>231</sup> Stephen

<sup>228</sup> E.g. Tranter, 'Medieval *artes poeticae*', p. 144; Clunies Ross, *Poetry and Poetics*, p. 188; Gísli Sigurðsson, *The Medieval Icelandic Saga*, p. 98.

<sup>229</sup> Gísli Sigurðsson, *The Medieval Icelandic Saga*, p. 98.

<sup>230</sup> *Den Tredje og Fjærde Grammatiske Afhandling I Snorres Edda*, ed. by Björn Magnússon Ólsen, Samfund til udgivelse af gammel nordisk literature, XII (Copenhagen: Fr. G. Knudtzons Bogtrykkeri, 1884), p. 60. 'In this book it can be fully perceived that it is all one art, that poetry which the Roman sages learnt in the city of Athens in Greece and then turned into the Latin language, and those verse forms of songs or poetry which Óðinn and others of the Æsir brought north hither into the northern half of the world, and taught art of that kind to men in their own tongue, just as they had arranged and learnt it in Asia itself, where beauty and power and knowledge were the greatest in the world.'

<sup>231</sup> See e.g. Elena Gurevich, 'Skaldic Praise Poetry and *Macrologia*: some observations on Óláfr Þórðarson's use of his sources', in *Old Norse Myths, Literature and Society: Proceedings of the Eleventh International Saga Conference, 2-7 July 2000, University of Sydney*, ed. by Geraldine Barnes and Margaret Clunies Ross (Sydney: Centre for Medieval Studies, University of Sydney, 2000), pp. 100-108,

Tranter thus notes that while Óláfr is ‘a self-confident believer in the value of his own poetic tradition’, in that he clearly feels skaldic verse is worthy of such analysis, at the same time, ‘the concept of the Latin poetic standard pervades the whole of his work.’<sup>232</sup>

The *3GT* quotes 123 examples of poetry, mostly parts of stanzas rather than full verses, of which 90 are not known from other sources; it names 34 poets, although around a third of the poetry cited is presented anonymously.<sup>233</sup> Although Óláfr is less exclusive than Snorri in terms of the date of his material, Gísli Sigurðsson, who has analysed this poetry thoroughly, suggests that Óláfr’s knowledge of Icelandic poets and poetry was restricted on a regional basis. Apart from certain figures from both the earlier period and from Óláfr’s own time who appear to have been nationally known, his examples seem to be localised to the west of Iceland, where he and his family were based. This suggests that, like Snorri, Óláfr could still call upon an extensive memorised repertoire of traditional oral sources, alongside his foreign written models.<sup>234</sup>

As well as lawspeaker, poet, and author, Óláfr was a subdeacon, and a reference in *Dorgils saga skarða*, that a priest, Þorsteinn *tittlingr*, ‘hafði verit til kennslu í Stafaholti með Óláfi Þórðarsyni’, is usually taken to mean that Óláfr ran a school there (ch. 49).<sup>235</sup> His poetic renown is indicated in that his nickname, *hvítaskáld* (‘white poet’), focuses on this part of his identity. *Skáldatal* names him as court poet in Norway (to King Hákon Hákonarson, Jarl (later *Hertogi*, ‘Duke’) Skúli Bárðarson and Jarl Knútr Hákonarson), in Sweden (to King Eiríkr Eiríksson) and in Denmark (to King Valdimarr Valdimarsson).<sup>236</sup> Several of his verses about King Hákon are used in *Hákonar saga Hákonarsonar*. His other extant poetry includes two verses of a *drápa* about St. Thomas à Becket, and various *lausavísur*. The prose *Knýtlinga saga*, which chronicles the kings of Denmark from c.940 to 1187, has, although preserved anonymously, also been associated with Óláfr, largely because of his known connections with the Danish court,

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<<http://www.arts.usyd.edu.au/departs/medieval/saga/pdf/100-gurevich.pdf>> [accessed 30 May 2006]; Tranter, ‘Medieval Icelandic *artes poeticae*’, pp. 144-46.

<sup>232</sup> ‘Medieval Icelandic *artes poeticae*’, p. 147.

<sup>233</sup> Gísli Sigurðsson, *The Medieval Icelandic Saga*, p. 100.

<sup>234</sup> Clunies Ross, *Poetry and Poetics*, p. 187.

<sup>235</sup> *SS* II, 184. ‘Had been for instruction in Stafaholt with Óláfr Þórðarson.’ See also Gísli Sigurðsson, *The Medieval Icelandic Saga*, p. 96.

<sup>236</sup> Jón Sigurðsson and others (eds.), *Edda Snorra Sturlusonar*, III, 252, 256-58, 260, 265-68.

and his family connections with Snorri, whose *Heimskringla* is considered the model for the work.<sup>237</sup> There is, additionally, an internal reference to Óláfr within *Knýtlinga saga* (ch. 127), explaining how he acquired knowledge from King Valdimarr Valdimarsson *inn gamli* (r. 1202-41). The text contains fifty-nine stanzas of skaldic verse, on which it relies for its subject material, including, as was noted early in this chapter, Markús Skeggjason's *Eiríksdrápa*. While Markús seems to have been eminent and still generally known in the thirteenth century, it remains that, were it not for *Knýtlinga saga*, little of his poetry would survive today. His work and reputation have thus been ensured through the often-cited Sturlung control over literary production in the thirteenth century,<sup>238</sup> and perhaps he was seen as particularly worthy of inclusion in the Sturlung canon because of his dual credentials as skald and lawspeaker. Indeed, Óláfr's own connections with the Danish court and with the Icelandic Church may have caused him to feel a particular affinity with Markús.

#### *Sturla Þórðarson (1251)*

One of the figures benefiting most from the Sturlung creative monopoly must be Óláfr's brother, my final lawspeaker-poet, Sturla Þórðarson. Sturla's poetry survives almost exclusively within his own prose works.<sup>239</sup> Like his uncle and older brother, he was a court poet, though his praise-poetry for King Hákon Hákonarsson, which comprises a substantial part of his surviving verse, was written after the latter's death and never presented to its subject (who was in fact an enemy of the Sturlungar in his lifetime). He also composed occasional verses cited in *Íslendinga saga* which form part of the action or act as a commentary on it. Sturla's poetry has been described, however, as 'conventional rather than exceptional'.<sup>240</sup>

As with Snorri and Óláfr, Sturla's verse reveals his knowledge of earlier poetry and his desire to participate in the skaldic poetic tradition. For example, as Guðrún

<sup>237</sup> E.g. Hermann Pálsson and Paul Edwards, 'Introduction' to *Knýtlinga saga: The History of the Kings of Denmark* (Odense: Odense University Press, 1986), pp. 9-19 (pp. 18-19). The work is printed in *ÍF* XXXV.

<sup>238</sup> E.g. Clunies Ross, *Poetry and Poetics*, p. 218.

<sup>239</sup> See Appendix 1.1.

<sup>240</sup> Marlene Ciklamini, 'Sturla Þórðarson', in Pulsiano, pp. 613-14 (p. 613).

Nordal observes, he uses the gold-kenning explicitly linked to the Niflung legend on two occasions: 'rínar log' ('fire of the Rhine') (*Hrynhenda* 14) and 'Rínfúrr' ('Rhine-fire') (*Hákonarflokkr* 1). Guðrún points out that, although the evidence suggests that this kenning was commonly used by the early skalds, there is only one other thirteenth-century poet who uses it: Snorri.<sup>241</sup> Sturla and Snorri, therefore, appear to be intentionally drawing upon traditional language to demonstrate their inheritance from and connections with their predecessors.

This is also strongly evident in Sturla's prose, particularly *Hákonar saga*, written by Sturla as a commission in 1264 or 1265, shortly after Hákon's death.<sup>242</sup> The saga preserves much of Sturla's own poetry, quoting 96 of his total of 105 known stanzas, from five poems. These are cited in the manner of verses in other *komungasögur*, as eye-witness accounts authenticating the prose, although as Ármann Jakobsson notes, 'nobody could ever have been of the opinion that the poetry in *Hákonar saga* had any independent source value'.<sup>243</sup> Sturla had in fact never met Hákon, and he and his family were involved in conflicts with the king. He evidently considered skaldic verse to be an integral part of the content of a king's saga, however, and may have composed some or all of the poetry in order to include it.<sup>244</sup> It should be noted, though, that this may not have been for lack of choice: *SK* lists a total of seven of Hákon's court poets, while *SU* adds a further skald.<sup>245</sup> Sturla chose, however, to include his own verse, and that of his brother and uncle, over that of other poets, despite the fact that his was not based on first-hand experience. As well as enhancing Sturlung control over the representation and preservation of events, this ensured for the Sturlungar a position for posterity analogous to that of the early skalds, whose poetry is central to the sagas of earlier kings, as Markús' is, for example, to *Knýtlunga saga*. Sturla thus sets

<sup>241</sup> *Tools of Literacy*, pp. 331-32.

<sup>242</sup> The text of Sturla's *Hákonar saga Hákonarson* can be found in *Hákonar saga, and a fragment of Magnus saga, with appendices*, vol. II of *Icelandic Sagas and other Historical Documents Relating to the Settlements and Descents of the Northmen on the British Isles*, ed. by Guðbrand Vigfusson, 4 vols. Rolls Series, 88 (London: Eyre and Spottiswoode, 1887-94; rpt. Millwood: Kraus Reprints, 1964).

<sup>243</sup> 'Royal Biography', in McTurk (ed.) *A Companion*, pp. 388-402 (p. 395); see also Bjarni Einarsson, 'On the Rôle of Verse in Saga-Literature', *Mediaeval Scandinavia*, 7 (1974), 118-25 (p. 121).

<sup>244</sup> Clunies Ross, *Poetry and Poetics*, p. 185.

<sup>245</sup> Common to both manuscripts are Jatgeirr Torfason, Jarl Gizurr Þorvaldsson, Arni langi and Óláfr Leggson, as well as Sturla, Snorri and Óláfr. *SU* adds Guðormr *kortr*. Jón Sigurðsson and others (eds.), *Edda Snorra Sturlusonar*, III, 256, 265.

himself and his family up as inheritors of a well-established tradition, which their own work is shown to directly continue.

## CONCLUSIONS

Spanning, as they do, three centuries of the Icelandic Commonwealth, and reflecting its transition from orality to literacy, the six lawspeaker-poets discussed in this chapter epitomise the complex, developing relations between law and literature during this period. Some of the connections between lawspeakers and poetry pertain to all the lawspeaker-poets, from the turn of the millennium to the mid thirteenth century. The oral skills required of a successful lawspeaker mirrored those necessary to a successful skald, even in the literate period, when lawspeaker-poets would have used oral as well as written methods in both their legal and poetic undertakings. Both careers, and the rewards which they offered, must have seemed attractive to the politically ambitious, and doubtless complemented each other in the attaining of each position. A successful court poet would be a known and esteemed name at home in Iceland, a suitable choice for the lawspeakership; at the same time, an Icelandic lawspeaker would have the respect of the Scandinavian courts, and thus be more likely to gain a hearing from the king.

If we accept the attribution of *Knýtlinga saga* to Óláfr Þórðarson, all of the texts which preserve lawspeakers' verse and whose authors are known were compiled by the three thirteenth-century lawspeaker-poets, Snorri, Sturla, and Óláfr. This seems a highly significant fact which shows an evolution of the affiliation between lawspeakers and poetry, from a natural development stemming from the possession of certain skills and training pertinent to both professions, combined with political ambition and family connections, to a multifaceted interrelationship which was consciously and deliberately cultivated. Through their prose works, and indeed the style of their own verse-making, all three authors demonstrate a fascination for and desire to preserve and continue native culture and traditions – poetry, linguistics and history. Snorri's mythology, Óláfr's runes and Sturla's use of 'authenticating' poetry in a saga about a contemporary king are just a few examples of their self-consciously antiquarian interests highlighted here. Furthermore, in diction, subject matter, and function, their own poetry reflects an

admiration for and aspiration towards such traditions. They look to the past and seek to emphasise their own connections with it.

It is particularly significant that the two *helmingar* which are all that survives of the poetry of Skapti and Styrkárr, and the clearest piece of anecdotal evidence we have for the former's skaldic ability, are preserved in texts written by Snorri. The juxtaposition of *Skáldatal* and *lögsögumannatal* in the Codex Upsaliensis manuscript of his *Edda* is symbolic of both the connection between lawspeakers and poetry, and of the attraction of native history and institutions to these later important legal and literary figures. I would venture, then, that for these men, the holding of the office of lawspeaker, while offering limited possibilities for personal gain and forming just a small part of their complex political roles, held an irresistible attraction: it enabled them to participate in a peculiarly Icelandic tradition which fused their intellectual proclivities for native law and native literature.

To return to the quotation which I used to open this chapter, the First Grammarian was being neither unique, nor original, when he compared skalds to craftsmen. The analogy was a common one in Scandinavia: the 'first skald', the semi-legendary Bragi Boddason, defined himself as 'skapsmið Viðurs' and 'hagsmið bragar', inspiring numerous similar examples in skaldic verse;<sup>246</sup> Óláfr Þórðarson defined alliteration as an effect 'ær saman helldr norænvu skalldskap, sva sæm naglar hallda skipi saman, ær smiðr gerir';<sup>247</sup> many of the technical terms used to describe skaldic poetry were derived from the semantic fields of wood- and metal-working.<sup>248</sup> In this chapter I have shown that, though the comparison may have been less well-attested among his contemporaries, the First Grammarian was being no less random when he chose to compare skalds and lawyers. Sometimes, in fact, these were one and the same, as in the six lawspeaker-poets I have considered here. More generally, however, the First Grammarian's 'skáld' and 'lögmennt' can be taken to represent, respectively, medieval Iceland's literary and legal intellectual (and textual) communities, which, as I have demonstrated, overlapped, intertwined and depended on each other as intricately

<sup>246</sup> Faulkes (ed.), *Skáldskaparmál* I, 83-84. 'Thought-smith of Viðurr [POET]'; 'skilled smith of poetry [POET]'.

<sup>247</sup> Björn M. Ólsen (ed.) *Den Tredje og Fjærde Grammatiske Afhandling*, p. 96. 'Which holds Norse poetry together, just as nails hold a ship together, which the shipwright makes.'

<sup>248</sup> See further Clunies Ross, *Poetry and Poetics*, pp. 2, 39, 87-94, and examples therein.

and as vitally as, perhaps, the interlace designs of his hypothetical 'smiðir'. Both native law and native literature were crucial to the collective self-awareness which gave Commonwealth-period Icelanders their precocious sense of national identity: from the early movement to write down culturally significant material in the vernacular in the early days of literacy, to the dying decades of the Commonwealth, both spheres flourished in the society which produced, among much else, the *Konungsbók* and *Staðarhólsbók* manuscripts of *Grágás*; *Snorra Edda*; and many of the 'classical' *Íslendingasögur*. The legal and the literary spheres certainly had their individual roles, characteristics and functions, but these cannot be studied independently of one another, compared and contrasted as discrete sources of evidence. As I have shown through the careers and concerns of lawspeakers, *goðar*, *bændr*, churchmen, historians, poets, scribes – and grammarians – they were inseparable in the mentalities and lives of medieval Icelanders, and must henceforth be considered as such.

Appendix 1.1: Extant verse composed by law-speakers (data from *Skaldic Poetry of the Scandinavian Middle Ages* <<http://skaldic.arts.usyd.edu.au/db.php>> [accessed 16 January 2005])

Name	Date of office	Title of poem	Total no. of verses	Verses preserved in text	Text verse cited in
Skaptil Þoroddason	1004 - 30	Fragment	1	1	Skáðskaparmál
				1-3, 6 4-5, 7-32	Skáðskaparmál Kryllinga saga
Marrís Skeggjason	1084 - 1107	Eilífstrápa	32	1	Skáðskaparmál
				1	Skáðskaparmál
				1	Skáðskaparmál
				2	Skáðskaparmál 3GT
Sýnkátt Oddason	1171 - 80	Fragment	1	1	Skáðskaparmál
				2	Skáðskaparmál; 3GT Skáðskaparmál
Snorri Sturluson	1215 - 18, 1222 - 31	Háttatal	102	1-4, 6-11, 13, 16-27, 29-39, 41-62, 65, 67-72, 74-82, 84-102	Háttatal; 3GT
				5, 15, 28, 40, 73, 83	Háttatal; 4GT
				12, 14	Háttatal; 4GT
				63-64, 66	Háttatal; Hákonar saga Hákonarsonar
				1	3GT
				1	Íslendinga saga
				1	Íslendinga saga
Ólafur Þorkelsson Hvítakaldr	1248 - 50, 1252	Hákonartrápa	1	1-4	Íslendinga saga
				5	Hákonar saga Hákonarsonar; 3GT
				6	4GT
				7	Snorra Edda (Codex Wormianus redaction only)
Hjónhænda	1248 - 50, 1252	Hákonartrápa	1	1	Hákonar saga Hákonarsonar
				1-12	Hákonar saga Hákonarsonar

(continued overleaf)

Name	Date of office	Title of poem	Total no. of verses	Verses preserved in text	Text verse cited in
Ólafur Þorðarson Hvítastakíld (cont.)	1251	Thomasdrápa	2	1-2	4GT
		Aronsdrápa	2	1	Aron's saga Aron's saga; Guðmundar saga Arasonar; Íslendinga saga
				2	
		Lausevísur	3	1	Hákonar saga Hákonarsonar (Codex Frisianus redaction only)* Hákonar saga Hákonarsonar 3GT
				2	
				3*	
		Þvervísur	1	1	Þorgils saga skírdar
		Þorgilsdrápa	3	1 2-3	Þorgils saga skírdar Íslendinga saga
		Hymnenda	21	1-21	Hákonar saga Hákonarsonar
		Hákonarflókkur	11	1-11	Hákonar saga Hákonarsonar
Hákonarvíða	42	1-42	Hákonar saga Hákonarsonar		
Drapa um Magnús lagabætur	2	1-2	Hákonar saga Hákonarsonar		
Hrafsmál	20	1-20	Hákonar saga Hákonarsonar		
Fragment	1	1	Snorra Edda (Laurías Edda Y redaction only)		
Lausevísur	4	1-3	Íslendinga saga		
		4	Íslendinga saga; Sturlu þáttur		

\* Copenhagen, The Arnamagnæan Institute, AM 242 fol.

\*This four-line stanza is attributed only to an 'Ólafur' in the text of the 3GT; this is conventionally identified as Ólafur Þorðarson since Björn M. Ólsen made the attribution in his 1884 edition. However, Tarrin Willis has argued that, as the author of the treatise, Ólafur is unlikely to have referred to himself in this way, and that the verse is more plausibly the work of another Ólafur, perhaps Ólafur Loggsson, who is quoted elsewhere in the 3GT. Willis also suggests that some of the anonymous verse in the 3GT is quite possibly the work of Ólafur Þorðarson (The Anonymous Verse in the *Third Grammatical Treatise*, in *The Fantastic in Old Norse/Icelandic Literature / Sagas and the British Isles: Peyprius of the Thirteenth International Saga Conference, Durham and York, 6th-12th August, 2006*, ed. by John McKinnell, David Ashurst and Donata Kick, 2 vols (Durham: Centre for Medieval and Renaissance Studies, 2006), II, 1054-63 (pp. 1056-57).

## CHAPTER 2:

### LAWSPEAKERS IN LITERATURE

It is a much-touted fact of Commonwealth-period Iceland that the lawspeaker was a unique figure. He was the only elected official in a society that had no overarching ruler or state system of governance, and stood at the head of the legal community in a society whose literature is commonly held to attest to a ‘cultural predisposition for law’.<sup>1</sup> In Chapter 1, I also demonstrated that some of the most prominent literary and political figures of the thirteenth century felt a special affinity with the office and its traditions.

It is little surprise, therefore, to find that the scholarly literature claims an ‘almost presidential’ role for the lawspeaker.<sup>2</sup> Max Weber spoke of the Scandinavian ‘Law Prophet’,<sup>3</sup> while Kirsten Hastrup goes so far as to claim that the lawspeaker ‘personified the society’.<sup>4</sup> Indeed, that the lawspeakership was a grand, prestigious and powerful role is a logical assumption. Nevertheless, it is noteworthy that such claims tend to be generalised, made without reference to specific pieces of evidence. And while some valuable work has been done from a historical perspective – establishing who the lawspeakers were, in terms of names, dates, and family connections – no study has previously been made of the portrayal of lawspeakers in medieval Icelandic texts. Indeed, some types of texts – most notably the *Íslendingasögur* – have barely been utilised at all in reference to lawspeakers, unless they perhaps provide some ‘factual’ biographical detail unknown from other sources.

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<sup>1</sup> Miller, *Bloodtaking*, p. 224.

<sup>2</sup> Clunies Ross, *Poetry and Poetics*, p. 159.

<sup>3</sup> ‘Emergence and Creation of Legal Norms’ in *Max Weber on Law in Economy and Society*, ed. by Max Rheinstein, trans. by Edward Shils and Max Rheinstein (Cambridge, MA: Harvard University Press, 1966), pp. 65-97 (pp. 86-89).

<sup>4</sup> ‘Establishing an Ethnicity: The Emergence of the “Icelanders” in the Early Middle Ages’, in her *Island of Anthropology: Studies in Past and Present Iceland*, The Viking Collection, 5 (Odense: Odense University Press, 1990), pp. 69-82 (p. 74).

A catalogue of lawspeakers was produced by Jón Sigurðsson in his ‘Lögsögumanna tal og lögmanna á Íslandi’ of 1886.<sup>5</sup> Jón’s aim – within his nationalist perspective – was to establish a definitive list of the names and terms of office of these men,<sup>6</sup> and he seems to have relied primarily on the Icelandic annals, though he also notes appearances of lawspeakers in other sources. More recently, Gísli Sigurðsson has made a detailed study of the family backgrounds and political and ecclesiastical connections of the eleventh- and twelfth-century lawspeakers, ending with Styrkarr Oddason (1171-80).<sup>7</sup> Gísli’s primary focus is on *Íslendingabók*, supplemented by genealogies which include or pertain to lawspeakers, particularly from *Landnámabók* and to a lesser extent the *Íslendingasögur* and *Sturlunga saga*. Gísli provides a thorough and meticulous documentation of appearances of lawspeakers in these sources, which as such is invaluable; but despite his claim to ‘examine what the written records have to say about [lawspeakers], not so much for *what* we can find out about their lives as for *how* they are presented, described and distinguished’,<sup>8</sup> he stops some way short of considering popular perceptions and discussing remembered traditions about lawspeakers, focussing instead on any detectable political or ecclesiastical biases in the texts and in what ways the lawspeakership can conceivably be related to power groupings in the earlier part of the Commonwealth period.

In this chapter, then, I wish to examine the way lawspeakers are presented in different genres of medieval Icelandic writing. It will be important here, too, to spend some time drawing some of the more factual information from the texts about each lawspeaker and about the office in general – this will act as the foundation for the discussion, and, as will be discussed below, the recording of such information has its own significance in considering how lawspeakers were thought about in medieval Iceland. I wish primarily, however, to explore the attitudes that were held by medieval Icelanders towards the lawspeakership and its incumbents; to investigate the traditions that were remembered about the early lawspeakers and recorded, often in much later

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<sup>5</sup> ‘Lögsögumanna tal og Lögmanna á Íslandi, með skýringargreinum og fylgiskjölum’, *Safn til sögu Íslands og ízlenskra bókmenta að fornu og nýju*, 2 (1886), 1-250 (pp. 1-39).

<sup>6</sup> Jón was a leading figure in the nineteenth-century movement for greater Icelandic independence from Denmark and the re-establishment of the Alþing, which had been abolished in 1800 (Gunnar Karlsson, *Iceland’s 1100 Years*, pp. 183-84, 205-14).

<sup>7</sup> *The Medieval Icelandic Saga*, ch. 1, ‘From Lawspeaker to Lawbook: A Power Struggle Between the Church and Secular Leaders?’, pp. 53-92.

<sup>8</sup> *Ibid.*, p. 65.

texts; and to consider whether similar opinions persisted when thirteenth-century authors referred to their contemporaries, the thirteenth-century lawspeakers. This will offer a new perspective on the role and status of the lawspeaker, building upon what was discovered about lawspeaker-poets in Chapter 1, and, in anticipation of the next chapter, will begin to consider issues of narrative composition: why are lawspeakers included in these texts, and what is their function in the structure and purpose of the narrative?

This chapter will fall into three main sections, based on the traditional genre divisions between the texts I wish to examine. The first section will reconsider the ‘historical’ or ‘historiographical’ sources used by Jón and Gísli, not in order to repeat or contradict their findings, but instead to reflect on the significance of the very fact of the medieval recording of the biographical and chronological information they deduce from these texts. The second section will, as has not been done before, examine the appearance of lawspeakers in the *Íslendingasögur*, both to find out the sorts of traditions maintained about individual Saga-Age lawspeakers and the nature of the office in its early stages, and to explore how these traditions were drawn upon and manipulated by the thirteenth-century authors of the *Íslendingasögur*. The final section will then look at the *samtiðarsögur*, sub-divided into the *biskupa sögur* for the twelfth-century lawspeakers, and the *Sturlunga saga* compilation for the later ones, in order to analyse how the role and its holders were perceived by contemporaries, and again, to look at how and why these authors chose to include references to the lawspeakership. I wish, then, to investigate whether traditions about lawspeakers were drawn upon differently in different types of writing.

As a basis for this discussion, I will begin by presenting the list of Commonwealth-period lawspeakers, as established by Jón Sigurðsson,<sup>9</sup> followed by the information that can be obtained from the laws themselves about the duties of the lawspeaker.

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<sup>9</sup> Jón included the various by- or nicknames given to the lawspeakers in some sources; I have chosen to list here only given names and patronymics. The nicknames seem to me to be an important part of how the lawspeakers are remembered and will consequently form a part of the discussion of the individual sources in which they are found.

*Table 2.1: Lawspeakers of the Icelandic Commonwealth*

Name	Term	Name	Term
1 Úlfjótr	927-29 <sup>a</sup>	22 Gunnarr Úlfheðinsson	1146-55
2 Hrafn Ketilsson (Høngsson) <sup>b</sup>	930-49	23 Snorri Húnbogason	1156-70
3 Þórarinn Óleifsson	950-69	24 Styrrkarr Oddason	1171-80
4 Þorkell Þorsteinsson	970-84	25 Gizurr Hallsson	1181-1202 <sup>c</sup>
5 Þorgeirr Þorkelsson	985-1001	26 Hallr Gizurarson	1203-09
6 Grímr Svertingsson	1002-03	27 Styrmir Kárason	1210-14
7 Skapti Þoroddsson	1004-30	28 Snorri Sturluson	1215-18
8 Steinn Þorgestsson	1031-33	29 Teitr Þorvaldsson	1219-21
9 Þorkell Tjörvason	1034-53	30 <i>Snorri Sturluson, 2nd term</i>	1222-31
10 Gellir Þólverksson	1054-62	31 <i>Styrmir Kárason, 2nd term</i>	1232-35
11 Gunnarr Þorgrímsson	1063-65	32 <i>Teitr Þorvaldsson, 2nd term</i>	1236-47
12 Kolbeinn Flosason	1066-71	33 Óláfr Þórðarson	1248-50
13 <i>Gellir Þólverksson, 2nd term</i>	1072-74	34 Sturla Þórðarson	1251
14 <i>Gunnarr Þorgrímsson, 2nd term</i>	1075	35 <i>Óláfr Þórðarson, 2nd term</i>	1252
15 Sighvatr Surtsson	1076-83	36 Teitr Einarsson	1253-58
16 Markús Skeggjason	1084-1107	37 Ketill Þorlaksson	1259-62
17 Úlfheðinn Gunnarsson	1108-16	38 Þorleifr Ketilsson	1263-66 <sup>d</sup>
18 Bergþórr Hrafnsson	1117-22	39 Jón Einarsson	1267
19 Guðmundr Þorgeirsson	1123-34	40 <i>Þorleifr Ketilsson, 2nd term</i>	1268
20 Hrafn Úlfheðinsson	1135-38	41 <i>Jón Einarsson, 2nd term</i>	1269-70
21 Finnr Hallsson	1139-45	42 <i>Þorleifr Ketilsson, 3rd term</i>	1271

<sup>a</sup> Úlfjótr is now conventionally counted as the first lawspeaker, although the dates Jón suggested appear to be spurious: there is no evidence that Úlfjótr officially held the office for a three-year term. Some of the sources name Hrafn as the first lawspeaker (see further below).

<sup>b</sup> Hrafn was the son of Ketill *hængr* and he is commonly named with the patronymic based on his father's nickname, i.e. Høngsson.

<sup>c</sup> The sources are contradictory as to whether Gizurr Hallsson's term ended in 1200 or 1202; Jón opted for the latter though several modern accounts now list the former.

<sup>d</sup> Some sources suggest one Sigurðr Þorvaldsson to have been lawspeaker for a year in 1266; Jón considered this to be an error.

As was detailed in Chapter 1, the lawspeaker had his own section in *Grágás*: ‘Lögsögumannspáttir’, now preserved uniquely in the *Konungsbók* manuscript.<sup>10</sup> It is from here that we gain our most detailed evidence of his duties, responsibilities, and rights, and I shall, therefore, quote from it in some detail. It should be reiterated, though, that the dates for individual provisions of *Grágás* are often difficult to establish, and, moreover, the nature of the role undoubtedly changed over time, and probably even, to some extent, from lawspeaker to lawspeaker, depending on their circumstances. ‘Lögsögumannspáttir’, whilst a valuable source, must then be treated with some caution, and while I will make reference to its provisions when seems relevant in the following discussion, it will be with the proviso that to assume they are representative of the lawspeakership throughout the Commonwealth period in its entirety would be to overgeneralise and oversimplify a complex and developing situation.

‘Lögsögumannspáttir’ begins with the fundamental statement, ‘Sva er en mælt at sa maðr scal vera nockor auallt a lande óro er scyldr se til þess at segia log monnom. oc heitir sa lögsogo maðr’.<sup>11</sup> There are detailed regulations for the lawspeaker’s democratic election to the office, which he was to keep for three years, after which he could choose to give it up or to remain in post, with the agreement of the *lögrétta*. His primary duty was ‘at segia up lög þátto alla a þrimr sumrom hueriom. en þingscop huert sumar’, which took place at *Lögberg*.<sup>12</sup> If he was concerned that his knowledge of the law was inadequate, he was to arrange a consultation with five or more legal experts in the twenty-four hours before the recital was due to take place. His fee was ‘ii. hundrað alna vaðmala af lögrétto fiám’, and ‘hálfar þær er a alþingi ero dømþar her’.<sup>13</sup> We learn further, from ‘Lögréttuþáttir’ (‘Law Council Section’), that the lawspeaker had a seat on the *lögrétta* and had the right to give other men places there if the rightful holders did not attend.<sup>14</sup> As was seen in Chapter 1, he had the casting vote in split decisions, but his vote otherwise counted no more than that of other members unless he was a member of

<sup>10</sup> ‘Lögsögumannspáttir’ is K § 116: *Gg Ia*, 208-10.

<sup>11</sup> *Gg Ia*, 208. ‘It is also prescribed that there shall always be some man in our country who is required to tell men the law, and he is called the Lawspeaker’ (*Laws I*, 187).

<sup>12</sup> *Gg Ia*, 209. ‘To recite all the sections of the law over three summers and the assembly procedure every summer’ (*Laws I*, 187).

<sup>13</sup> *Gg Ia*, 209. ‘240 ells of homespun from the Law Council’s funds’; ‘Half of all the fines imposed by judgement at the General Assembly’ (*Laws I*, 188).

<sup>14</sup> ‘Lögréttuþáttir’ is K § 117: *Gg Ia*, 211-17.

a minority of twelve or more, in which case the other side had to have a majority of at least two. ‘Lögréttuþáttir’ also informs us that ‘þess er lögsögo maðr scylldr at segia ollom þeim er hann spyria her lögmál bæþi her oc heima, EN erat hann framár scyldr sacraþa við menn’,<sup>15</sup> and that he could be fined if he ‘leysir eigi af hende þav scil öll er hann er scyldr til at navðsynia laúso’.<sup>16</sup>

While *Grágás* thus, on the one hand, seems to delineate an essential and unique role for the lawspeaker, on the other it tells us, ‘Pat er oc at lögsögo maðr er ut lagr iii. morcom ef hann kómr eigi til alþingis fosto dag in fyra aðr menn gangi til lögbergs at navðsynia lavso, enda eigo menn þa at taca anan logsogo man ef vilia’.<sup>17</sup> Three marks seems an absurdly low amount for the lawspeaker’s failure to attend, even if the clause does seem to anticipate his coming late rather than not at all. However, this is really the only plausible penalty available to the law, given *Grágás*’ extremely limited range of official punishments – three marks is the standard monetary penalty, the alternatives being lesser- or full outlawry, and it would be rather nonsensical to punish the lawspeaker for non-attendance by ensuring he was not able to attend in the future; moreover few, presumably, would want to lose such a prestigious figure from their society.<sup>18</sup> One would assume that the prestige and sense of duty conferred by the role (not to mention the monetary remuneration) was incentive enough for the lawspeaker to attend and discharge his duties fully.<sup>19</sup>

With *Grágás*’ definition of the lawspeaker in mind, then, I turn now to the main focus of this chapter, the portrayal of lawspeakers in literature, beginning with the ‘historical’ sources.

<sup>15</sup> *Gg* Ia, 216. ‘The Lawspeaker is required to tell everyone who asks him what the article of the law is, both here and at his home, but he is not required to give anyone further advice on lawsuits’ (*Laws* I, 193).

<sup>16</sup> *Gg* Ia, 217. ‘Without legitimate excuse [...] does not discharge all the duties required of him’ (*Laws* I, 193).

<sup>17</sup> *Gg* Ia, 210. ‘It is also prescribed that the Lawspeaker is fined three marks if, without legitimate excuse, he does not come to the General Assembly on the first Friday before men go to Lögberg, and men may then appoint another Lawspeaker if they want to’ (*Laws* I, 188).

<sup>18</sup> On the other hand, the lawspeaker could be subject to lesser outlawry if he ‘gørir þav ofiðt nokor er meire lutr manna vill kalla þings af glöþon’ (*Gg* Ia, 217). (‘Commits any trespass which the majority are prepared to call assembly balking’ (*Laws* I, 193).) The nature of such trespasses is not further defined.

<sup>19</sup> Cf. my discussion of Skapti Þóroddsson, in Chapter 1, whom I suggested may have passed up the opportunity to visit the court of King Óláfr as a royal skald because of his obligations as lawspeaker. For a rather different attitude, however, see also my discussion of the behaviour of Snorri Sturluson and Sturla Þórðarson in the section of this chapter on the *samtíðarsögur*, below.

## SECTION I: HISTORICAL WRITING ABOUT LAWSPEAKERS

*Íslendingabók*

Ari Þorgilsson's *Íslendingabók* is the earliest source for the names and dates of the lawspeakers from Úlfljótr, who first brought the law to Iceland, to Guðmundr Þorgeirsson, who held the office at the time the text was written (during the period 1122-33); this account is still the authority for our knowledge of the early lawspeakers. Without it, in fact, there would be several gaps in our tally of lawspeakers; as will be seen, later lists appear to be indebted to Ari's account, and some lawspeakers are not attested in the independent sources.

As was discussed in the previous chapter, *Íslendingabók* is a landmark text in the emergence of the 'Icelanders' as a self-defined distinct nation: its subject matter covers the settlement of Iceland, the bringing of law and the establishment of the Althing, the calendar, the division into Quarters, the settlement of Greenland, the introduction of Christianity, and the bishops of Iceland. It is vital to a study of lawspeakers not only for the factual details it provides regarding the names and dates of postholders, and of the events which took place during their time in post, but also because the fabric of the text is structured around lawspeakers, and, as will be discussed below, two lawspeakers are among Ari's many sources of information.

As is often stated, Ari based his chronology on the terms of the lawspeakers, similarly to the way other medieval historians used the reigns of kings.<sup>20</sup> Of course, Ari would have had to look outside Iceland for a royal chronology – out of the question in a text specifically intended as a native history. His decision to use lawspeakers instead, though, shows that he considered them adequate substitutes for kings – recall Adam of Bremen's 'apud illos non est rex, nisi tantum lex' – and gives the office, which *is* an Icelandic institution, a central position in Icelandic history. It has been claimed that, despite the respect in which Ari and his work were held by his intellectual successors – the First Grammarian and Snorri Sturluson, for instance – his system of dating had little influence on the methods of later historians.<sup>21</sup> It is true that later authors do not give the

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<sup>20</sup> Gísli Sigurðsson, *The Medieval Icelandic Saga*, p. 59.

<sup>21</sup> *Ibid.*

office the same prominence as Ari does in establishing a chronology, but, as I will demonstrate later in the chapter, many texts do indeed still include lawspeakers among other temporal referents.

Despite the importance of the institution of the lawspeakership to the structure of *Íslendingabók*, the details provided there about most of the individual postholders are sparse; the information it does give is summarised in Table 2.2 on the following page. As can be seen, for the first few lawspeakers after Úlfjótr, beside their patronymic and the duration of their term of office we are told where they came from – but even this detail is omitted for the later lawspeakers, the information provided being, in some cases, no more than a list: ‘Gunnarr enn spaki hafði tekit lögsoðu, þá es Gellis lét af, ok hafði þrjú sumur. Þá hafði Kolbeinn Flosasonr sex [...] Þá hafði Gellir í annat sinn þrjú sumur; þá hafði Gunnarr í annat sinn eitt sumar; þá hafði Sighvatr Surtssonr, systurson Kolbeins, átta’ (ch. 9).<sup>22</sup> Gísli Sigurðsson has suggested that this may reflect that regional origins were of greater consequence in the selection of the lawspeaker in the tenth century, but that in the eleventh, family connections had begun to carry more weight.<sup>23</sup> If this is the case, it is interesting that the concerns relevant at the time of the election of each lawspeaker were preserved in tradition, even if these were no longer significant factors. It may also be, however, that geographical location was more closely tied into the identity of the early figures, those closest in time to the original settlement.

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<sup>22</sup> *ÍF* I, 20. ‘Gunnarr the wise had taken the lawspeakership, when Gellir gave it up, and had it three summers. Then Kolbeinn Flosason had it six [...] Then Gellir had it another time for three summers; then Gunnarr had it another time for one summer; then Sighvatr Surtsson, Kolbeinn’s sister’s son, had it for eight.’

<sup>23</sup> *The Medieval Icelandic Saga*, p. 68 n. 19.

Table 2.2: Details of lawspeakers provided in *Íslendingabók*

Name (as stated by Ari)	Term	Origin	Notable family connections	Legal innovations	Other
Ulfjótr		Norwegian; settled in Lón.	Father of Gunnarr from whom the Djúpadalers are descended (Eyjafljótr)	Brought law from Norway (Ulfjotslög); established Alþing at Þingvellir	
Hrafn Hængssonr	20 summers	'ýr Rangárhverfi'			
Þórarinn Ragabróðir, sonr Óleifs hjalta	20 summers	'Borgfirzkr'			
Þorkell máni Þorsteinssonr	15 summers		Grandson of Ingólfr 'landnámamaðr'; father Þorsteinn held Kjalamesþing before establishment of Alþing	Addition of leap-week to calendar	
Þorgeirr Þorkelsson	17 summers	'at Ljósavatni'		Adoption of Christianity	
Grímr Svertingssonr	2 summers	'at Mosfelli'	Uncle of Skapti		
Skapti Þóroddssonr	27 summers		Nephew of Grímr	Established Fifth Court; law on announcing killings	Many important men outlawed for feuding because of his power and authority
Steinn Þorgeistssonr	3 summers				
Þorkell Tjörvasonr	20 summers				
Gellir Bolverkssonr	1st term, 9 summers; 2nd term, 3 summers				
Gunnarr enn spaki	1st term, 3 summers; 2nd term, 1 summer				
Kolbeinn Flosasonr	6 summers		Uncle of Sighvatr		
Sighvatr Surtssonr	8 summers		Nephew of Kolbeinn		
Markús Skeggjasonr	24 summers		Brother Þórarinn; grandfather Bjarni enn spaki	Tithe law	Ari's informant for tally of lawspeakers
Ulfheðinn Gunnarssonr	9 summers				Ari's informant on establishment of the Quarter þing and Alþing
Bergþórr Hrafnssonr	6 summers				Laws written down during his term and with his advice
Goðmundr Þorgeirssonr <sup>a</sup>	12 summers				

<sup>a</sup> Lawspeaker 1122-34, and therefore at least the length of his term is a later interpolation into Ari's text.

Some lawspeakers, though, have particular laws or legal innovations attributed to them. Ari tells us that, to counter the problem, when counting 364 days a year, ‘at sumarit munaði apr til vársins’,<sup>24</sup> the adoption of an extra week into the calendar every seventh year was proposed by one Þorsteinn *surtr* and ‘þegar í lög leitt at ráði Þorkels mána ok annarra spakra manna’ (ch. 4).<sup>25</sup> Þorkell had not yet taken up post at this time; it seems, therefore, that he had a good deal of interest in and influence over legal matters even before becoming lawspeaker – unsurprisingly, given that one would have to be an acknowledged legal expert to be elected – even to the extent that the serving lawspeaker, Þórarinn Óleifsson, who is not mentioned in this context, was, on this occasion, overshadowed.

We are also given a brief account of some of the legal innovations established during the lawspeakership of Skapti Þóróddsson, one of the most celebrated of the early lawspeakers and record-holder for the longest term of office:

Skapti hafði lögsoðu sjau sumur ok tuttugu. Hann setti fimmtardómslög ok þat, at engi vegandi skyldi lýsa víg á hendr þörum manni en sér, en áðr váru hér slík lög of þat sem í Norvegi. Á hans dögum urðu margir hofðingjar ok ríkismenn sekir eða landflótta of víg eða barsmiðir af ríkis sökum hans ok landstjórn (ch. 8).<sup>26</sup>

*Grágás* states that all new laws were to be ratified by the *lögretta*, though they were to be included in the lawspeaker’s recital every year for three years before becoming valid. This latter provision, however, would seem to provide the opportunity for as many people as possible to hear the law and, if they so chose, to object to it, rather than implying that the lawspeaker was at liberty to drop it if he personally disapproved. Ari’s account, though, seems to credit Skapti, the lawspeaker, with a rather more important and autonomous role in creating legislation. It is interesting, too, that Ari seems to think, rather approvingly, that Skapti had the ‘ríkr ok landstjórn’ to have ‘margir hofðingjar ok ríkismenn’ outlawed: this makes him sound rather like a king, sitting in

<sup>24</sup> *ÍF* I, 9. ‘The summer moved back towards the spring.’

<sup>25</sup> *ÍF* I, 11. ‘Immediately laid down as law, by the counsel of Þorkell *máni* and other wise men.’

<sup>26</sup> *ÍF* I, 19. ‘Skapti had the lawspeakership twenty-seven summers. He established the institution of the Fifth Court, and this, that no killer should publish a slaying at the hands of another man than himself, when before the law about that was the same here as in Norway. In his day many chieftains and powerful men were outlawed or exiled for manslaughter or fighting owing to his power and governance.’

judgement over the most powerful men in the land, though no other source suggests such a role for the lawspeaker. Perhaps Skapti suggested other manslaughter laws than just the one cited, so that crimes that had previously gone unpunished by legal means were now subject to outlawry; or perhaps he had, independently of the office, such personal power through his support base – *Njáls saga* tells us he was a ‘*hofðingi mikill*’ (ch. 56)<sup>27</sup> – that he was able to ensure that outlawry judgements were followed through and that the *rikismenn* in question were not powerful enough to disregard their sentences.

It may be that in the earliest period the lawspeaker really did have a great deal of legislative autonomy. It is more likely, though, that Ari means that the Fifth Court and manslaughter laws were adopted during Skapti’s lawspeakership, and quite possibly on his advice. As he was after all the country’s foremost legal authority, it is entirely probable that the lawspeaker took a prominent role in suggesting additions and amendments to the laws – particularly in the early period when most adjustments to ‘*Úlfjótsslóð*’, the laws brought back from Norway by Úlfjótr, would have been necessary. The association of these laws with Skapti is probably not dissimilar to the earlier example of Þorkell, or – as discussed in Chapter 1 – *Íslendingabók*’s awarding of at least a third of the credit for the establishment of the tithe law to ‘*umbráði Markúss lögsögumanns*’ (ch. 10).<sup>28</sup> The *lqgrétta* doubtless acknowledged and accepted the advice of the leading legal experts. It is still something of a curiosity, though, that a certain, few laws were remembered as being associated with particular lawspeakers, while the vast majority were not.

Indeed, there are three lawspeakers in the *Konungsbók* manuscript of *Grágás* itself who are named as the originators of some specific pieces of legislation. Markús Skeggjason (1084-1107) is associated with a law on the inheritance of debts resulting from settlements;<sup>29</sup> Úlfheðinn Gunnarsson (1108-16) on the procedure for prosecuting for assistance of outlaws;<sup>30</sup> and Guðmundr Þorgeirsson (1123-34) on plots to disfigure

<sup>27</sup> *ÍF* XII, 141. ‘Great *hofðingi*.’

<sup>28</sup> *ÍF* I, 22. ‘The guidance of Markús the lawspeaker.’

<sup>29</sup> K § 221: *Gg* Ib, 147. Markús is also named in K as a witness to Bishop Ísleifr’s oath concerning the agreement with King Óláfr on the legal rights of Icelanders in Norway: see K § 248: *Gg* Ib, 197. He is not mentioned in the extant *Grágás* manuscripts in connection with the tithe law.

<sup>30</sup> K § 73: *Gg* Ia, 122-23.

and on dependants.<sup>31</sup> It has to be said that these laws – introduced along the lines of, ‘*Þat sagðe guðmvrdr lög at [...]*’ – do not stand out as particularly important, radical or memorable, and it is therefore difficult to see why they, in particular, should have been remembered in connection with specific lawspeakers. It is very interesting, though, that the terms of all three lawspeakers named in K fall just either side of the codification in 1117. Although Markús and Úlfheðinn both died in office, and thus too early to have been present at the codification,<sup>32</sup> their lawspeakerships would have been in living memory of the legal experts dictating the law then and who perhaps recalled recent, possibly controversial cases in which the lawspeaker had had to advise or decide on what should be lawful. Guðmundr’s laws could then have been added later, perhaps in the continuation of the codification or even by someone checking the written document against the lawspeaker’s recital. These parts of K, then, could derive from especially old exemplars, rather than implying that these few and rather minor articles of law were somehow commonly celebrated as products of the lawspeakers who initiated them. The anonymity of the vast majority of the laws makes them more authoritative, and more communal – they are universal, timeless, shared ‘truths’, rather than a hotchpotch collection of decisions made by specific individuals.

There is one lawspeaker, though, to whom *Íslendingabók* definitely gives autonomous credit for the adoption of a radical new law: Þorgeirr Þorkelsson, who held office when Christianity was accepted at the Alþing as the legal religion of Iceland. Þorgeirr’s actions and speech announcing his decision and reasoning are recounted in detail, in a vivid and memorable description which not only influenced other medieval writers, but has become the more-or-less universally accepted account of Iceland’s conversion (ch. 7):<sup>33</sup>

Es menn kvómu í búðir, þá lagðisk hann niðr Þorgeirr ok breiddi feld sinn á sik ok hvíldi þann dag allan ok nóttina eptir ok kvað ekki orð. En of morguninn

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<sup>31</sup> K § 108: *Gg Ia*, 184; K § 143: *Gg Ib*, 23.

<sup>32</sup> See *Kristni saga* ch. 16 (for Markús); *Hungrvaka* ch. 9 (for Úlfheðinn).

<sup>33</sup> On the influence Ari’s account has had on both medieval and modern historians, see Siân Grønlie, ‘The Sagas and Conversion History: *Kristni saga* and Other Texts’, in Jonuks, Axel Kristinsson and Würth (eds.), *Sagas and Societies*, pp. 1-16, <[http://w210.ub.uni-tuebingen.de/dbt/volltexte/2004/1078/pdf/25\\_sia~1.pdf](http://w210.ub.uni-tuebingen.de/dbt/volltexte/2004/1078/pdf/25_sia~1.pdf)> [accessed 12 December 2004], and the introduction and notes to her translation *Íslendingabók – Kristni saga: The Book of the Icelanders – The Story of the Conversion* (London: Viking Society for Northern Research, 2006).

eptir settisk hann upp ok gærði orð, at menn skyldi ganga til lögbergis. En þá hóf hann tölur sína upp [...] ok sagði, at honum þótti þá komit hag manna í ónýtt efni, ef menn skyldi eigi hafa allir lög ein á landi hér, ok talði fyrir monnum á marga vega [...] ‘Þat mon verða satt, es vér slítum í sundr löginn,’ [kvað hann], ‘at vér monum slíta ok friðinn.’ En hann lauk svá máli sínu, at hváirtveggju játtu því, at allir skyldi ein lög hafa, þau sem hann réði upp at segja.<sup>34</sup>

Ari has already explained that the decision fell to Þorgeirr because the Christian and pagan factions – we may assume the members of the *lögretta* among them – showed no signs of reaching a compromise, and because Hallr of Síða, whom the Christians wanted to proclaim the law, ‘keypti at Þorgeiri [...] en hann vas enn þá heiðinn’ (ch. 7).<sup>35</sup> The image of Þorgeirr portrayed here must surely be that of the ideal lawspeaker: he is shown to be knowledgeable (elsewhere in his speech he makes an analogy with the problems of the political situation in Norway and Denmark); philosophical; gifted with reason; and with the best interests of the country at heart, able to base his decisions on the greater good rather than his own personal beliefs. Moreover, Ari is unafraid to draw attention to Þorgeirr’s heathenness, and does not try to attribute to him any particularly pious or Christian sentiments: his reasoning has nothing to do with any proposed merits of Christianity over paganism, but is based on his conviction that everybody in the land should be united under one law.

Although Þorgeirr’s portrayal in other sources will be examined in more detail later in the chapter, it is worth foregrounding here that he is known elsewhere as an extremely powerful *goði* from the Ljósavatn district (he is identified in several sources with the byname *Ljósvetningagoði*,<sup>36</sup> or as ‘goði frá Ljósavatni’).<sup>37</sup> As I shall argue in the following section, this aspect of his identity was in fact much more important in popular tradition than was his lawspeakership or his role in the conversion. Interestingly, however, Ari does not mention his chieftaincy at all (nor does he use his

<sup>34</sup> *ÍF* I, 16-17. ‘When men went into their booths, Þorgeirr lay himself down and covered himself with his cloak and lay there all that day and the following night and spoke not a word. But the next morning he sat up and gave word that men should go to the Law Rock. Then he began his speech [...] and said that it seemed to him that the affairs of men would come to ruin, if all men would not have one law here in this land, and explained this to men in many ways [...] “It will prove true, if we break asunder the law,” [he said], “that we will also break the peace.” And he so concluded his speech, that both sides agreed that all should have one set of laws, those which he would pronounce.’

<sup>35</sup> *ÍF* I, 16. ‘Made a bargain with Þorgeirr [...] though he was still heathen then.’

<sup>36</sup> E.g. *Barð* ch. 3; *Fljótt* ch. 3; *Finn* chs. 1, 14, 22.

<sup>37</sup> E.g. *Landnámabók* S237, H202; S242, H207; *Dropt* ch. 15; *Reyk* chs. 3, 18, 20.

byname, though he does acknowledge that Þorgeirr was ‘at Ljósavatni’).<sup>38</sup> He thus seems to ignore a strand of Þorgeirr’s identity which was dominant in collective memory. Perhaps Ari merely took this detail for granted, and indeed, he does not identify any other lawspeaker as *goði* either, though four of the first six held this rank.<sup>39</sup> On the other hand, perhaps he wished to avoid drawing attention to Þorgeirr’s activities as *goði*, reminding his audience of other traditions they may have been aware of about Þorgeirr, which, as I will highlight in the next section, might detract from or even contradict Ari’s idealistic portrait.

Of the post-conversion lawspeakers, Gísli Sigurðsson claims that it is those with some form of connection with the Church – Grímr Svertingsson, Skapti Þóroddsson, Markús Skeggjason, and Bergþórr Hrafnsson – that Ari describes in more detail than merely providing names and some genealogical information:

Ari seems keener to talk about the lawspeakers who it was known were closer to the Church than those who do not appear to have had such connections. This provides indirect evidence [...] perhaps that the men of the Church formed a kind of party in opposition to the more secular chieftains at the other side of the political divide from the priest and historian Ari Þorgilsson – assuming that interest groups were competing for power at this time in anything like the way we know they did in the 13th century.<sup>40</sup>

I disagree, however, that Ari demonstrates such a bias in his discussion of the lawspeakers, or that he manipulates his presentation of them in such a way as to emphasise the importance of the Church. As I argued in the previous chapter, I do not think it can be said that interest groups – particularly Church/secular interest groups – were indeed competing for power in the early twelfth century as they were in the thirteenth; so, while Ari – after all, a priest writing for two bishops – would naturally have an ecclesiastical perspective, there would be little reason for him to be simply producing ecclesiastical propaganda. Moreover, the links with the Church that Gísli posits for some of these men, as well as the claim that ‘Ari has more to say’ about some of them than other lawspeakers, seem to me to be rather tenuous.<sup>41</sup> It is true that Markús

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<sup>38</sup> *ÍF* I, 13. ‘From Ljósavatn.’

<sup>39</sup> Jón Viðar Sigurðsson, *Chieftains and Power*, p. 90.

<sup>40</sup> *The Medieval Icelandic Saga*, p. 70.

<sup>41</sup> *Ibid.*

appears to have worked closely with Bishop Gizurr on the tithe law, as was discussed in the previous chapter, and his role in this is noted by Ari. Skapti, too, had a close relationship to the Church hierarchy, being the uncle of Bishop Ísleifr; but it is notable that Ari actually makes no reference to this relationship, nor does he attach to Skapti any particularly religious connotations. For Grímr's links with the Church Gísli can manage only that he was Skapti's uncle, and could therefore also claim relationship to Ísleifr, but the only extra information Ari actually provides about Grímr is that he 'hafði tvau sumur, en þá fekk hann lof til þess, at Skapti Þóroddsonr hefði, systurson hans, af því at hann vas hásmæltr sjalfr'.<sup>42</sup> Interesting though this is as evidence of the physical demands of the office,<sup>43</sup> and of the lawspeakership being 'inherited' within the family, it is hardly a wealth of information, nor could it be taken as in any way promoting the interests of the Church. Rather, Ari may have felt the need to explain Grímr's unusually short term of office: not only did it not meet the three-year period stipulated by *Grágás*, but no-one before Grímr had held the office for fewer than fifteen summers, and Skapti himself went on to hold it for twenty-seven. Finally, for Bergþórr's connection to the Church, Gísli highlights his co-operation with Hafliði Másson, 'the son-in-law of Bishop Ísleifr's son Teitr', in the writing down of the laws,<sup>44</sup> and indeed his role in the codification is the only extra information Ari provides about Bergþórr. However, not only was Hafliði not yet Teitr's son-in-law at the time of the codification,<sup>45</sup> this would in any case not be a connection particular to Bergþórr but whoever was the serving lawspeaker at the time. Further, it is safe to say that Ari would have found the codification significant enough to mention whatever Bergþórr's religious proclivities.

With the possible exception of Ari's silence as to the rank of those lawspeakers, such as Þorgeirr, who were also *goðar*, which may suggest an attempt to play down this secular role, I do not think that *Íslendingabók*'s portrayal of lawspeakers reflects any particular ecclesiastical bias. However, the intermingling of the ecclesiastical with the legal, the literary, and the traditional in twelfth-century intellectual circles, which I explored in Chapter 1, is highlighted in the fact that two lawspeakers, namely Markús

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<sup>42</sup> *ÍF* I, 19. 'Had [the lawspeakership] two summers, but then he got permission that Skapti Þóroddsson, his sister's son, should have it, because he himself was hoarse.'

<sup>43</sup> Quinn, 'From Orality', p. 33.

<sup>44</sup> *The Medieval Icelandic Saga*, p. 70.

<sup>45</sup> See Chapter 1, above.

Skeggjason (1084-1107) and Úlfheðinn Gunnarsson (1108-16), are numbered among Ari's informants – once again demonstrating the close ties lawspeakers had with literate culture. Significantly, both lawspeakers are used as sources for the history of specifically legal matters – Úlfheðinn on the origins of the common pasture land at Þingvellir and the establishment of the Quarter *þing*, and Markús, as we have seen, on the terms of the lawspeakers, 'þeira es váru fyrir vart minni' (ch. 10).<sup>46</sup> Ari obviously believes the lawspeakers to be the most accurate and trustworthy sources for such matters, and that his audience will be of the same opinion, implying, perhaps, that lawspeakers were expected to be learned not only in the law as it stood but in wider legal issues as well.

*Íslendingabók* demonstrates a great interest in and respect for the law, and provides fundamental details of the names and terms of the lawspeakers. Beyond this, however, additional information about them tends to be connected with major events in legal history. Ari does not, for example, report any anecdotal information for its own sake. It should not be supposed, however, that this necessarily means that little information of this sort was in circulation, or that Ari was unaware of it; he was, after all, writing a history of Iceland, and not of the lawspeakers. He thus draws only on those details relevant and necessary to his purpose. Nevertheless, by choosing to measure Icelandic history by the terms of the lawspeakers, he immortalises the office as central to Icelandic identity, demonstrates Icelandic institutions to be equal to other, foreign methods of marking history, and roots his own text firmly within native tradition.

### *Landnámabók*

Like *Íslendingabók*, *Landnámabók* was among those texts discussed in Chapter 1 which contain material of national interest and which were first produced in the early twelfth century, during the same period as the codification of the laws. Indeed, Ari is widely accepted to have been involved in the compilation of the original, together with Kolskeggr *inn vitri* Ásbjarnarson, but this version has not survived.<sup>47</sup> The name

<sup>46</sup> *ÍF* I, 22. 'Those who were before our memory.'

<sup>47</sup> See e.g. Jakob Benediktsson, 'Landnámabók', pp. 373-74.

*Landnámabók* now refers not to a single entity but to a text which exists in five redactions: three are medieval, and the remaining two are seventeenth-century compilations from early manuscripts. Other versions are known to have existed but have since been lost. The text charts the settlement of Iceland, beginning in the south and moving clockwise round the country, covering around 430 settlers and giving details of their land-boundaries, origins, and families, both ancestors and descendants. Later versions include additional material derived from the *Íslendingasögur* and other thirteenth-century sources such as genealogical writings.<sup>48</sup>

The relationship between the known versions of *Landnámabók* is complex and detailed theories and explanations can be found elsewhere. However, the authors of the medieval texts, and their sources, are relevant to this discussion, and therefore a brief description will be provided here.

The most important redactions of the text are Sturlubók (S) and Hauksbók (H). Sturlubók, the earliest extant version, was put together by Sturla Þórðarson (lawspeaker in 1251), probably between c.1275-80. One of Sturla's sources was the now-lost \*Styrmisbók version, by Styrmir Kárason (lawspeaker 1210-14 and 1232-35), completed c.1220.<sup>49</sup> Hauksbók was compiled by Haukr Erlendsson, a lawman, around 1306-08. Haukr says himself, in a postscript to the text, that he used both \*Styrmisbók and Sturlubók as sources: over half of his version is a copy of Sturlubók.<sup>50</sup> The third medieval version, Melabók (M), is likely to have been written c.1300 by another lawman, Snorri Markússon of Melar; of this version, we have only two leaves of a fifteenth-century vellum manuscript, although the manuscript was in a much better condition in the seventeenth century when it was used, along with Skarðsárbók (an amalgamation of Sturlubók and Hauksbók completed not later than the autumn of 1636) for the compilation of the final redaction, Þórðarbók.<sup>51</sup>

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<sup>48</sup> See further: Jakob Benediktsson, 'Landnámabók'; Jakob Benediktsson, 'Landnámabók: Some Remarks on its Value as a Historical Source', *Saga-Book*, 17:4 (1969), 275-92; Jakob Benediktsson, 'Formáli' to *ÍF* I, pp. 1-cliv; Hermann Pálsson and Paul Edwards, 'Introduction' to *The Book of Settlements: Landnámabók* (Manitoba: University of Manitoba Press, 1972), pp. 1-13. The most comprehensive study of *Landnámabók*, many of the conclusions of which are now widely accepted, is Jon Jóhannesson, *Gerðir Landnámabók* (Reykjavík: Hið íslenska bókmenntafélag, 1941).

<sup>49</sup> Jakob Benediktsson, 'Landnámabók: Some Remarks', p. 277.

<sup>50</sup> *Ibid.*

<sup>51</sup> *Ibid.*, pp. 277-79; Hermann Pálsson and Edwards, 'Introduction' to *The Book of Settlements*, pp. 3-4.

Styrmir Káráson was Snorri's priest at Reykjaholt before becoming prior of Viðey in 1235.<sup>52</sup> He, too, was therefore an integral part of the Sturlung intellectual circle and centrally involved in its literary output; parts of a biography of St. Óláfr by him are preserved as fragments or so-called *articuli* in *Flateyjarbók*.<sup>53</sup> His version of *Landnámabók* is thought to have had the original text by Ari and Kolskeggr as its direct source.<sup>54</sup> We also know from Snorri's writing that Ari's work was familiar to the Sturlungar: from his foreword to *Heimskringla* Snorri seems to have known Ari's original and extended version of *Íslendingabók* (and was impressed enough to comment on his system of dating using lawspeakers' terms of office); Ari is also referred to as an authority at various points in the text of *Heimskringla*.<sup>55</sup> Styrmir is thus another product of the intermingling of law, history and literature that Chapter 1 demonstrated to be characteristic of medieval Icelandic intellectual life.

Chapter 1 also highlighted the literary activities and interest in native history and tradition of Sturla Þórðarson, another member of the Sturlung circle. On the basis of his other writings it is clear that *Landnámabók* is exactly the kind of work which would appeal to him, and it is interesting that he seems to have written his version – of a text which records material that is particularly Icelandic and which remembers its original separation from Norway – after the ending of the Commonwealth. It cannot be said, though, that Sturla was fundamentally opposed to Norwegian rule: although he had been embroiled in his family's feuds with King Hákon, he gained favour with Hákon's son Magnús, who became king after Hákon's death in 1263, during the period of Icelandic acceptance of Norwegian sovereignty. It was Sturla who brought Magnús's new lawcode, *Jónsbók*, to Iceland, and became the country's first royally-appointed *Lögmaðr*.

It is not the place here to debate the political situation at the end of the Commonwealth or the motivations and roles of the major figures involved – that is outside the scope of this thesis. However, it is worth noting that the civil unrest in Iceland in the second half of the thirteenth century had reached the point where outside

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<sup>52</sup> Orri Vésteinsson, *The Christianization of Iceland*, p. 131.

<sup>53</sup> Reykjavík, Stofnun Árna Magnússonar, GKS 1005 fol. The *articuli* are printed in *Flateyjarbók*, ed. by Sigurður Nordal and others, 4 vols. (Akranes: Flateyjarútgáfan, 1944-45), IV, 1-13.

<sup>54</sup> Jakob Benediktsson, '*Landnámabók: Some Remarks*', pp. 280-81.

<sup>55</sup> E.g. *Óláfs saga Tryggvasonar* ch. 14; *Óláfs saga helga* chs. 179, 246.

intervention had arguably become necessary.<sup>56</sup> And *Jónsbók* is in fact far more representative of *Grágás* than Magnús's first lawcode for Iceland, *Járnsíða*. It is not, therefore, necessary to view Sturla's public role on the one hand, and his writings on the other, as being diametrically opposed. His apparently nationalistic literary activities need not be a sign of rebellion against the new regime, but a celebration and commemoration of an earlier phase of Icelandic history, as the country moved into a new era.

The content of *Landnámabók*, and not just its authorship, is, of course, also vital to a study of lawspeakers. The relatively late dates of *Sturlubók* and *Hauksbók* mean that, unlike with *Íslendingabók*, completed in the early twelfth century, or the *Íslendingasögur*, set in a specific period of time (c. 930-1030), there is the potential for all the lawspeakers of the Commonwealth to appear in the text. This is not fully realised, but the range of lawspeakers included does span from the original lawspeaker, Úlfjótr, to Ketill Þórlaksson (1259-62). Table 2.3, on the following page, charts the appearance of lawspeakers in *Landnámabók*, whether they are identified with bynames (which are given in the table in italics if so), and whether or not they are identified as holders of the post.

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<sup>56</sup> E.g. Jón Viðar Sigurðsson, *Chieftains and Power*, pp. 71-83. See also John M. Simpson, 'Sturla Þórðarson as Politician and Writer', unpublished paper presented to the *Third International Saga Conference, Oslo, 26-31 July 1976*, pp. 1-10 (pp. 7-8).

Table 2.3: Appearances of lawspeakers in *Landnámabók*

Identified as lawspeaker	Named without title of lawspeaker	Not included
Úlfjótr	Þorgeirr Þorkelsson <i>goði at Ljósavatni</i>	Þorkell Tjörvason
Hrafn Høengsson	Úlfheðinn Gunnarsson	Gunnarr Þorgrímsson
Þórarinn <i>Ragabróðir</i> Óleifsson	Hrafn Úlfheðinsson	Kolbeinn Flosason <sup>a</sup>
Þorkell <i>máni</i> Þorsteinsson	Snorri Húnbogason	Bergþórr Hrafnsson
Grimr Svertingsson	Gizurr Hallsson	Guðmundr Þorgeirsson
<i>Lög</i> -Skapti Þóroddsson	Snorri Sturluson	Gunnarr Úlfheðinsson
Steinn Þorgestsson	Ketill Þorláksson	Styrkár Oddason
Gellir Þólverksson		Teitr Þorvaldsson
Sighvatr Surtsson		Styrmir Kárason
Markús Skeggjason		Óláfr Þórðarson
Finnr Hallsson		Sturla Þórðarson
Hallr Gizurarson		Teitr Einarsson
		Þórleifr Ketilsson
		Jón Einarsson

<sup>a</sup> A Kolbeinn Flosason Valla-Brandsson is mentioned in S270, H232 and S359, H315; but it is unclear whether this is Kolbeinn Flosason the lawspeaker. See Jón Sigurðsson, 'Lögsögumanna tal' (p. 19) and Gisli Sigurðsson, *The Medieval Icelandic Saga* (pp. 74-75), for possibilities as to lawspeaker Kolbeinn's identity.

As can be seen, all of the earliest lawspeakers, up to and including Skapti Þóroddsson, are included in *Landnámabók* genealogies.<sup>57</sup> Almost all are identified as lawspeaker – Skapti himself is even referred to as 'Lög-Skapti' (S379, H334), showing just how much his traditional identity was tied in with his lawspeakership. Þorgeirr Þorkelsson is a notable exception, not given the title in four separate mentions common to S and H. He is, however – unlike in *Íslendingabók* – named as *goði* in three of these instances.<sup>58</sup> This latter role thus appears to have been of greater consequence to the compilers than his lawspeakership. There is, though, on the whole, a disappointing lack

<sup>57</sup> All references in the following are to *ÍF* I: for Úlfjótr, see pp. 49 (H11), 266 (S231, H197), 311-313 (S307, H268). For Hrafn Høengsson, see pp. 346-348 (S344, H303), 351 (H305), 360 (S357), 363 (H313), 396 (S398, H355). For Þórarinn Óleifsson, see pp. 73 (S 35), 146 (S109). For Þorkell Þorsteinsson, see pp. 46 (SH 9), 47 (H10), 227-8 (S187, H154), 358 (S355, H313). For Þorgeirr Þorkelsson, see pp. 143 (S105), 270 (S237), 271 (H202), 273-74 (S242, H207), 275 (S244, H208), 358 (S355, H313). For Grímur Svertingsson, see pp. 367 (S365, H320), 389, 391 (H346). For Skapti Þóroddsson, see pp. 303, 305 (H250), 334 (S334), 335 (H293), 367 (S365, H320), 379-81 (S379, H334), 391, 393 (H348).

<sup>58</sup> He is also named as *goði* in S105, a reference not included in H.

of anecdotal evidence for these early lawspeakers, apart from the following brief description of Þorkell *máni* (SH 9):

Son Þorsteins var Þorkell máni lögsgumaðr, er einn heiðinna manna hefir bezt verit siðaðr, at því er menn vitu dæmi til. Hann lét sik bera í sólargeisla í banasótt sinni ok fal sik á hendi þeim guði, er sólina hafði skapat; hafði hann ok lifat svá hreinliga sem þeir kristnir menn, er bezt eru siðaðir.<sup>59</sup>

The ‘noble heathen’ motif applied here to the lawspeaker is interesting, as is the fact that this tradition about Þorkell has not survived elsewhere.<sup>60</sup> There is no evidence elsewhere in *Landnámabók* of an effort to emphasise or attribute positive or spiritual qualities to the other lawspeakers, but without knowing the origin of this extract, it must remain a tantalising glimpse into an otherwise unknown aspect of Þorkell’s life. The anecdote does make Þorkell’s nickname, *máni* (‘moon’), seem positively perverse, but unfortunately there is not, as far as I am aware, any further explanation as to how he came by it to be found in the sources.

The trends that can be observed for the early lawspeakers – namely that they are often included in genealogies but without any further description, and that the title of lawspeaker is attributed in the majority of appearances – pertain to the later lawspeakers also. Nineteen of the thirty-three lawspeakers between Úlfjótr and Jón Einarsson appear at least once in the text of at least one medieval redaction.<sup>61</sup> The reasons for their inclusion or non-inclusion, however, are not straightforward. The early

<sup>59</sup> *ÍF* I, 46. ‘The son of Þorsteinn was Þorkell *máni* the lawspeaker, who was one of the best-conducted heathen men which men have known examples of. He had himself carried into a beam of sunlight on his deathbed and gave himself into the hands of that god who had created the sun; he had also lived as purely as those Christian men who are best in conduct.’

<sup>60</sup> On the concept of the noble heathen in Old Norse literature see Lars Lönnroth, ‘The Noble Heathen: A Theme in the Sagas’, *Scandinavian Studies*, 41:1 (1969), 1-29.

<sup>61</sup> All references are to *ÍF* I: for Steinn Þorgestsson, see pp. 129-130 (S88, H76). Þorkell Tjörvason does not feature. For Gellir Þólverksson, see pp. 173 (H101), 172, 174 (S129). Gunnar Þorgrimsson and Kolbeinn Flosason do not feature. For Sighvatr Surtsson, see pp. 172, 174 (S129), 322, 324 (S320), 323, 325 (H280). For Markús Skeggjason, see p. 358 (S 355, H313). Bergþórr Hrafnsson and Guðmundr Þorgeirsson do not feature. For Finn Hallsson, see pp. 393, 395 (H351). Gunnar Úlfheðinsson does not feature. For Snorri Húnbogason, see pp. 156, 158 (S116, H88). Styrkarr Oddason does not feature. For Gizurr Hallsson, see pp. 316-318 (S310, H270), 388 (S389, H343). For Hallr Gizurarson, see pp. 171 (H99), 170-171 (M40). For Snorri Sturluson, see pp. 79 (H29), 316-318 (S310, H270). Teitr Þorvaldsson, Óláfr Þórðarson and Teitr Einarsson do not feature. For Ketill Þorláksson, see pp. 93, 95 (H54), 141 (M27), 147 (M28), 172-173 (M42). Þorleifr Ketilsson and Jón Einarsson do not feature. Úlfheðinn Gunnarsson and Hrafn Úlfheðinsson are assumed to appear in M from the Þórðarbók text. In addition to the nineteen, Styrmir Kárason and Sturla Þórðarson are mentioned in H (*ÍF* I, 395, 397 (H354)), but only in Haukr’s postscript as his sources.

lawspeakers who are directly descended from settlers have perhaps the most legitimate reasons for inclusion, and are likely to have appeared in the early versions. Those appearing in genealogies traced down through many generations, however, may appear by virtue of their relationship to one of the later redactors. Melabók, for example, presents lines traced down to the wife or parents of Snorri Markússon of Melar on forty-three separate occasions.<sup>62</sup> Úlfheðinn Gunnarsson (1108-16) and his son Hrafn (1135-38) are part of this line, and indeed they appear in M but not in S or H. Rather surprisingly, however, they are not identified as lawspeakers; furthermore, Úlfheðinn's father, Gunnarr Þorgrímsson, and his second son, another Gunnarr, both also held office, and they do not appear in the text. This seems to suggest that the lawspeakership was not in itself a factor influencing their inclusion.<sup>63</sup>

In fact, it appears to be fairly arbitrary whether or not lawspeakers are included in *Landnámabók*. Of the twelve that do not appear at all, some, for example Þorkell Tjörvason (1034-53), are unknown in other sources as well – *Íslendingabók* is our only independent source for this lawspeaker.<sup>64</sup> Others, however, are more famous, such as Bergþórr Hrafnsson (1117-22), who was involved in the first codification of the law, and appears in the *biskupa sögur* and the *Sturlunga saga* compilation.<sup>65</sup> Lawspeakers were thus not apparently included for their own sake; holding the office was not in itself reason enough for an individual's genealogy to be traced. Of course, *Landnámabók* is, by definition, a record of the settlement and the settlers' families, not of everyone, or of randomly-chosen people, in Iceland, and Jón Viðar Sigurðsson has observed that 'of the thirty-one Lawspeakers in the Commonwealth period only eleven were chieftains'.<sup>66</sup> This is not to say that lawspeakers could not (or did not) still come from chieftain families, and the fact remains that medieval Icelandic genealogies were 'frequently altered', 'selective and flexible', and 'could easily be made to change direction [...] in

<sup>62</sup> Jakob Benediktsson, 'Formáli', p. lxxxiii, also cited in Whaley, 'A Useful Past', p. 197 n. 48.

<sup>63</sup> See also Gísli Sigurðsson, *The Medieval Icelandic Saga*, pp. 76-79, 83.

<sup>64</sup> Jón Sigurðsson, 'Lögsögumanna tal', pp. 17-18; Gísli Sigurðsson, *The Medieval Icelandic Saga*, p. 71.

<sup>65</sup> *Kristni saga* ch. 16; *Hungrvaka* ch. 7; *Haukdæla þáttur* ch. 3. His kinship connections remain unclear, though, as they are not enumerated in these sources either.

<sup>66</sup> *Chieftains and Power*, p. 90.

order to devise the most prestigious genealogy'.<sup>67</sup> In other words, if the compiler really wanted to include a certain individual, some way of doing so could usually be found. It could be, though, that some lawspeakers just did not have particularly illustrious family backgrounds, and therefore did not meet the criteria for inclusion in *Landnámabók*.

When a lawspeaker's family connections do qualify him for a place, the title is mentioned more often than not. If we discount Úlfheðinn Gunnarsson and Hrafn Úlfheðinsson on the grounds that they appear only in M and presumably purely on the basis of their kinship to the redactor, it is notable that at least three of the remaining five named without the title – Þorgeirr *goði* Þorkelsson, Gizurr Hallsson and Snorri Sturluson – were well-known figures for many more reasons than just their lawspeakership. There is thus no reason why it should be singled out to identify them. On the whole, then, it seems that a lawspeaker in the family was considered worthy of note by the compilers, but this is a conclusion that can be drawn only – and rather unexpectedly – tentatively.

### *Lögsögumannatal*

As was mentioned in Chapter 1, a list of lawspeakers, from Úlfjótr to Snorri Sturluson's second term (1222-31), is contained in the Codex Upsaliensis manuscript of Snorri's *Edda*. This *lögsögumannatal*, though, has been almost completely ignored by scholars of the *Edda*: its text has never appeared in an edition.<sup>68</sup> Firstly, Codex Upsaliensis is not the manuscript usually chosen as the basis for an edition (that is Codex Regius):<sup>69</sup> its text is problematic on two counts, namely that it is 'verbally shortened and carelessly copied to the point of incomprehensibility in many places', and that it is most divergent in the order of the material compared to any of the other *Edda*-

<sup>67</sup> Margaret Clunies Ross, 'The Development of Old Norse Textual Worlds: Genealogical Structure as a Principle of Literary Organisation in Early Iceland', *Journal of English and Germanic Philology*, 92 (1993), 372-85 (pp. 377-79).

<sup>68</sup> It has, however, been printed in *DI I*, 500-501, and in two eighteenth-century publications. A facsimile of the manuscript, together with a transcription and detailed description is available in Anders Grape, *Snorre Sturlasons Edda: Uppsala-handskrifter DG11*, 2 vols. (Stockholm: Almqvist and Wiksell, 1962-71).

<sup>69</sup> See Chapter 1 for manuscript sigla.

manuscripts, perhaps having been copied from loose sheets.<sup>70</sup> Furthermore, there is disagreement as to the function of the *lögsögumannatal* within the manuscript: Anthony Faulkes lists it among ‘items that were probably not intended to be part of Snorri’s *Edda*’, while Guðrún Nordal feels that it ‘becomes an integral part of this version of *Snorra Edda*’.<sup>71</sup> Therefore it is worth describing in some detail here.

Codex Upsaliensis is dated to c.1300-25 and is the oldest of the surviving manuscripts of the *Edda*. It has 56 folios divided into eight quires.<sup>72</sup> As well as the *lögsögumannatal*, and the four parts of the *Edda*, the manuscript contains a version of *Skáldatal* (*SU*); a genealogy of the Sturlungar; and a version of the so-called *Second Grammatical Treatise*.

The *lögsögumannatal* itself begins about two-thirds of the way down fol. 25v (p. 48), directly under the Sturlung genealogy, which occupies the top two-thirds, and continues for about a third of fol. 26r (p. 49).<sup>73</sup> The rest of the page was originally left blank, although a drawing of a person has since been added, and the well-known illustration of Gangleri conversing with Hárr, Jafnhárr and Þriði appears on the verso. *Skáldatal* immediately precedes these items (fols. 23r-25r; pp. 43-47); these four folios of additional material interrupt *Skáldskaparmál* part way through.

The *lögsögumannatal* is largely nothing more than a list of names and terms, in the form ‘Gunnar vlfheðins son .ix. svmor. bergþor hrafns son .vj. svmor. Gunnar Þorgeirs son .xij. svmor’, etc.<sup>74</sup> It is no less confused than anyone else, however, as to

<sup>70</sup> Faulkes (ed.), *Skáldskaparmál* I, pp. li, xliii. It is, however, Codex Upsaliensis which attributes the composition of the *Edda* to Snorri, with the famous statement, ‘Bók þessi heitir Edda. Hana hefir saman setta Snorri Sturluson eptir þeim hætti sem hér er skipat’ (Snorri Sturluson, *Edda: Prologue and Gylfaginning*, ed. by Anthony Faulkes, 2nd ed. (London: Viking Society for Northern Research, 2005), p. xiii). (‘This book is called Edda. Snorri Sturluson put it together in accordance with the way it is arranged here.’)

<sup>71</sup> Faulkes (ed.), *Skáldskaparmál* I, pp. xlvi-xlvii; Guðrún Nordal, *Tools of Literacy*, p. 51.

<sup>72</sup> Guðrún Nordal, *Tools of Literacy*, p. 50.

<sup>73</sup> The manuscript has been paginated rather than foliated, but current practice is to use the more modern method of foliation (e.g. Guðrún Nordal, *Tools of Literacy*; Thomas Krömmelbein, ‘Creative Compilers: Observations on the Manuscript Tradition of Snorri’s *Edda*’, trans. by Donald Tuckwiller, in *Snorrastefna: 25-27 júlí 1990*, ed. by Úlfar Bragason (Reykjavík: Stofnun Sigurðar Nordals, 1992), pp. 113-29). I therefore provide both references.

<sup>74</sup> *DI* I, 501. ‘Gunnarr Úlfheðinsson, 9 summers. Bergþórr Hrafnsson, 6 summers. Gunnarr Þorgeirsson, 12 summers.’

whether or not Úlfjótr counts as a lawspeaker, with the somewhat self-contradictory explanation, 'Vlfliotr het maþr er fyrst sagði log vp a islandi at hans raþi var alþingi set. En han hafði eigi laga [vp]sogv sva at þat se vitað. En hrafn hæings son hin fyrsti logsavgo maþr a islandi sagði log vp. xx. vetr.'<sup>75</sup> It identifies Þórarinn *Ragabróðir*, Þorkell *máni* and Gunnarr *inn spaki* with their nicknames; Þorgeirr Þorkelsson is noted to be 'fra liosa vatni' (though not as the district's *goði*), and Grímr Svertingsson 'fra mosfelli'.

As was stated in Chapter 1, it is probable that the *lögsögumannatal* preserved here is a copy of an original made either by Snorri himself or by someone within his close circle, probably during his second term of office (1222-31), with which it ends.<sup>76</sup> I discussed there Snorri's sense of affiliation with the office and his interest in its holders; it is entirely likely, therefore, that a complete tally of the lawspeakers is information he would have known and seen fit to record. *Íslendingabók*, which as we have seen was known in the Sturlung circle, appears to have been used as the source for the early lawspeakers, as the *lögsögumannatal* refers to the same outside events that Ari does, in order to orientate the list in time, for example: 'kolbeinn flosa son .iv. svmor. þat svmar sem hana tok lavgsavgo fell haraldr konvngr a englandi'.<sup>77</sup> There are several differences, however, in the lengths of the terms or in the spellings of the names of the lawspeakers, compared to *Íslendingabók*;<sup>78</sup> this can perhaps be attributed to the scribal carelessness which Anthony Faulkes notes is a feature of the whole Uppsala manuscript.<sup>79</sup>

Jón Sigurðsson suggested, however, that the names of the later lawspeakers, who are not covered by Ari, are in fact written more correctly than the earlier ones, and

<sup>75</sup> *DI* I, 500. 'The man who first spoke the law in Iceland was called Úlfjótr. At his advice the Alþing was established. But he did not have the lawspeakership so far as is known. And Hrafn Hængsson, the first lawspeaker in Iceland, spoke the law for twenty winters.'

<sup>76</sup> Jón Sigurðsson, 'Introduction' to the *lögsögumannatal*, p. 499.

<sup>77</sup> *DI* I, 501. 'Kolbeinn Flosason, 4 summers. The summer that he took the lawspeakership King Haraldr fell in England'; cf. *Íslendingabók* (ch. 9): 'Þá hafði Kolbeinn Flosasonr sex [sumur]; þat sumar, es hann tók lögsggu, fell Haraldr rex á Englandi' (*ÍF* I, 20). ('Then Kolbeinn Flosason had six [summers]; that summer, when he took the lawspeakership, king Haraldr fell in England.') Note that this also provides an example of a scribal error in the copying of the numeral.

<sup>78</sup> Jón Sigurðsson, 'Introduction' to the *lögsögumannatal*, p. 499.

<sup>79</sup> *Skáldskaparmál* I, p. li.

inferred from this that the original author of the list abbreviated the earlier names because he already had a copy of them in *Íslendingabók*, but took more care over the later ones, 'which were new'.<sup>80</sup> This, however, implies that the author did not have a written source for the details of the later lawspeakers, raising several interesting questions as to how this information was preserved and transmitted. We have seen that Markús Skeggjason certainly knew from memory the names and terms of his predecessors, and Gabriel Turville-Petre suggested that it could have been one of the unofficial duties of the lawspeaker to recall this information.<sup>81</sup> Might this, then, have been the case, and Snorri, if indeed he is the author, was the first to take the trouble to write it down? Or did the author research the details in the same way Ari did, by finding informants who could remember the terms of several lawspeakers? Was this information written elsewhere, perhaps in annal format (see below), and collated here into a list? Or was this in fact one of several written lists of lawspeakers, which has been preserved because of its inclusion in a high-status *Edda* manuscript, while the others, perhaps viewed as no longer relevant, have been lost?<sup>82</sup> However it was created, and for whatever reason, the *lögsögumannatal* at least shows that comprehensive information on the names and terms of office of all of the lawspeakers had been preserved and transmitted well into the thirteenth century, and that someone in the Sturlung circle, possibly even Snorri himself, considered it worthwhile to record this list of lawspeakers for its own sake.

### *The Icelandic annals*

The Icelandic annals are still little-used and little-understood sources of information and much more work on their nature and circumstances is required before their full historical value can be realised.<sup>83</sup> Moreover, the information they provide on lawspeakers is restricted to standard entries such as: '1117. Á því ári varð Bergþór

<sup>80</sup> 'Introduction' to the *lögsögumannatal*, p. 500. ('Sem ný voru.')

<sup>81</sup> *Origins of Icelandic Literature*, p. 90; this was also discussed in Chapter 1 of this thesis.

<sup>82</sup> See also my discussion of the potential loss of *Grágás* manuscripts, Chapter 1, above.

<sup>83</sup> However, see further Eldbjørg Haug, 'The Icelandic Annals as Historical Sources', *Scandinavian Journal of History*, 22 (1997), 263-74; Elizabeth Ashman Rowe, 'The Flateyjarbók Annals as a Historical Source: A Response to Eldbjørg Haug', *Scandinavian Journal of History*, 27:4 (2002), 233-41.

lögmaðr'; and they are thus of limited value within the context of this thesis.<sup>84</sup> However, they were a major source for Jón Sigurðsson in the establishment of his now largely-accepted tally of the lawspeakers, and therefore will be described briefly here.

The oldest extant annals were written down during the late thirteenth and early fourteenth centuries. They contain foreign material derived from other medieval annals and chronicles; for the native material, *Íslendingabók* is a major source, as are the *biskupa sögur*, *konungasögur* and *samtíðarsögur* for the later periods. The *Íslendingasögur* are also drawn upon. There is disagreement among scholars as to whether the early material is purely derived from historical writings or whether the annal tradition actually began earlier than the surviving manuscripts suggest: 'A large number of entries from the 12<sup>th</sup> and 13<sup>th</sup> centuries cannot be derived from known historical works or sagas'.<sup>85</sup>

The annal tradition has been linked with Sturla Þórðarson or his intellectual circle, a connection which Jakob Benediktsson believes to be 'likely, even though convincing arguments are lacking'.<sup>86</sup> The connections this thesis draws between law, literature, history and tradition in Sturla's circle make this attribution a not unsurprising one. Again, the annals are evidence that the terms of the lawspeakers were considered significant and noteworthy milestones in Icelandic history.

## SECTION I: CONCLUSIONS

The historical writings show that it was considered important, throughout the Commonwealth period, in both oral and literate tradition, to remember and later to record the names and terms of all of the lawspeakers. At the same time, however, little detail can be gleaned about the lives of many of the individuals who held office. This is, in part, due to the nature of these sources: *Íslendingabók*, *Landnámabók* and the annals

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<sup>84</sup> '1117. In this year Bergþórr [Hrafnsson] became lawspeaker [lit. 'lawman', the title of the office when it became a royally-appointed post after the loss of independence].' The relevant annal entries are quoted and compared in Jón Sigurðsson's 'Lögsögumanna tal', to which I owe this citation. The standard edition is *Íslandske Annaler indtil 1578*, ed. by Gustav Storm (Oslo: Grøndahl, 1888).

<sup>85</sup> Jakob Benediktsson, 'Annals: Iceland (and Norway)' in Pulsiano, pp. 15-16.

<sup>86</sup> *Ibid.*; see also Whaley, 'A Useful Past', pp. 163, 194 n. 6.

all have much wider-ranging concerns than just lawspeakers, and are not anyway, for the most part, anecdotal narratives (though *Landnámabók* contains some such stories). In this light, the very existence of the *lögsögumannatal*, though a simple list, is notable: lawspeakers are its sole focus of interest, information considered worthy of recording in its own right.

The structure of *Íslendingabók*, and its exact attention to the terms of the lawspeakers, is then even more remarkable, not least because of its position as one of medieval Iceland's first vernacular texts: a tally of the lawspeakers was part of the very first wave of writing and of recording matters of national interest, and thus became part of the material which doubtless took on an iconic and influential status. That Ari chose to give such prominence to the lawspeakers in his work suggests that the office was considered fundamental to Icelandic society at that moment in time; that he recorded it in writing perpetuated this perception for future generations.

The evidence of *Landnámabók*, on the other hand, is not so clear cut. As we have seen, it is inconsistent in the attention it gives to lawspeakers. That a majority of lawspeakers appear, and that the majority of those are identified with their title, supports the assumption that lawspeakers would be desirable figures to be related to and would be signposted where possible. On the other hand, a substantial number are not included at all, while others are not flagged as postholders. *Landnámabók's* enthusiasm for lawspeakers seems somewhat lukewarm.

However, it is difficult to draw many firm conclusions based on the nature of the historical material, and so in the following section I will explore the portrayal of lawspeakers in more literary writings, the *Íslendingasögur*, which have more scope for the recording and expanding of popular traditions and stories.

## SECTION II: LAWSPEAKERS IN THE *ÍSLENDINGASÖGUR*

As was stated in the introduction to this chapter, the *Íslendingasögur* have really only been invoked in connection with lawspeakers where they provide 'factual' biographical information such as particulars of the family of a postholder. Here,

however, I will examine the portrayal of the lawspeakers in these more conventionally 'literary' texts. As this has not been done before, I will treat each lawspeaker in turn and detail all the evidence available, even for those about whom there is little to be found, to continue tracing the traditions that were remembered about individual postholders. I will then undertake a more general consideration of the way in which the lawspeaker is used in the world of the *Íslendingasögur*.

The appearances of the lawspeakers in the *Íslendingasögur* are illustrated in Table 2.4 on the next page, followed by a discussion of each lawspeaker. The numbering of the lawspeakers in this table and the discussion corresponds with that of Table 2.1, reflecting their place in the chronological list.

Table 2.4: *Lawspeakers in the Íslendingasögur*

	Bard	Drop	Egill	Eyrb	Finn	Floam	Fjót	Grett	Gullp	Gunnl	Hard	Lax	Ljos	Njal	Reyk	V-L	Porstpx	Porstpst	Öik	No. of sagas																		
1									h											2																		
2			r											g						2																		
3			g									g		X						3																		
4								L			L		X	L	X					2																		
5	g	g			X		r						X	L	X					7																		
6			X																	1																		
7	r		g			X		L		X				X		L			X	8																		
8								L												1																		
9													r							1																		
12																		g		1																		
15												g								1																		
21																		g		1																		
28				g						g								g		3																		
34								r												1																		
<b>number of lawspeakers referred to</b>																				2	1	4	1	1	1	1	4	1	2	1	2	2	4	1	1	3	1	1

h - Úlfjótir is mentioned in historical context as having brought law to Iceland  
 r - referred to in passing only  
 g - mentioned in genealogy; plays no role in saga  
 L - plays primarily legal role in saga  
 X - plays role in action of saga

Text in bold denotes a lawspeaker explicitly identified as such; text in italics denotes that the lawspeaker is named without his title.

### 1. Úlfjótr

Úlfjótr is conventionally counted as the first lawspeaker in the chronological lists;<sup>87</sup> however, while his actions of memorising and reciting the law at the first Alþing certainly qualify him for the title, he is remembered in the *Íslendingasögur* with the strictly historical role of having brought law to Iceland. In fact, even this is only in two rather minor places, *Gull-Þóris saga* (where he is invoked only in passing), and *Þorsteins þáttur uxafóts* (which gives basic biographical details of his settlement and bringing of the law). Despite Úlfjótr's role in Icelandic history, however, he does come rather too early for the 'Saga Age' proper, and so it is perhaps understandable that he has a minimal role in the *Íslendingasögur*.

### 2. Hrafn Hængsson (c. 930 - c. 949)

It is Hrafn who is credited, in *Egils saga*, with the distinction of being 'fyrstr lögsögumaðr á Íslandi' (and 'goðgastr sona Hængs') (ch. 23).<sup>88</sup> This does not afford him any widespread fame in the *Íslendingasögur*, however, being mentioned elsewhere only in *Njáls saga* in a genealogy (chs. 13, 19). Like Úlfjótr, Hrafn is perhaps too distant to be remembered as anything more than a somewhat legendary figure from early history.

### 3. Þórarinn Ragabróðir Óleifsson (c. 950-69)

Þórarinn is enumerated as one of the sons of Óleifr *hjalti* in *Egils saga* (ch. 29), and is identified with the nickname *Ragabróðir*, 'Ragi's brother', in a genealogical mention in *Laxdæla saga* (ch. 7), and in *Njáls saga* (ch. 17), in which he plays a minor role. In all three sagas in which he appears it is noted that he held office. His nickname is firmly associated with his traditional identity:<sup>89</sup> rather intriguingly, his own credentials as lawspeaker were apparently not enough to make him memorable on his own merits, and his brother Ragi seems to have been the more interesting member of the family. Unfortunately, however, no extant source provides further details about

<sup>87</sup> E.g. Jón Jóhannesson, *A History*; Byock, *Viking Age Iceland*.

<sup>88</sup> *ÍF* II, 59, 60. 'The first lawspeaker in Iceland', 'noblest of Hæng's sons'.

<sup>89</sup> As Tables 2.2 and 2.3 demonstrate, it is also found in *Íslendingabók* and *Landnámabók*.

Ragi's exploits, although he is described as 'vígamaðr mikill' in *Njáls saga* (ch. 13).<sup>90</sup>

*Njáls saga*, which describes Þórarinn favourably as 'stórvitr maðr',<sup>91</sup> also introduces a third brother, Glúmr, who survives four chapters as the second of Hallgerðr's ill-fated husbands (chs. 13-17). Þórarinn helps arrange their marriage, albeit reluctantly, and manages to emerge with honour after Glúmr's death, even though the situation is not straightforward – and even without the help of Ragi, who does not play a part in the saga. Baldur Hafstað has noted, however, that Glúmr is not attested elsewhere, and suggests that the author of *Njáls saga* makes repeated efforts to connect invented characters with important figures from Icelandic history.<sup>92</sup> It is worthy of note, therefore, that the author may have seized the opportunity to invent an Óleifsson in order to bring a lawspeaker into the saga. As can be seen from Table 2.4, *Njáls saga* is rivalled only by *Grettis saga* in the number of lawspeakers it makes reference to: four in all. That the author should make a special effort to include as many as possible fits well with the saga's notorious penchant for law and legal history.<sup>93</sup>

#### 4. *Porkell máni Þorsteinsson* (970-84)

Porkell *máni* is another early lawspeaker whose nickname appears to be firmly associated with him in tradition. As well as its use in *Íslendingabók* and *Landnamabók*, he is identified with it in the two *Íslendingasögur* in which he appears, *Grettis saga* and *Harðar saga ok Hólmverja*, in both of which he plays a cameo role as legal expert. He is also identified as lawspeaker in both instances. The two sagas, however, are late, and he is, in fact, anachronistic in them, his term of office having been later than the events described.<sup>94</sup> In *Grettis saga* he is said to have established the shore-rights law after being asked to give a verdict on a case involving competing claims to a whale which

<sup>90</sup> *ÍF* XII, 41. 'A great warrior.'

<sup>91</sup> *Ibid.* 'A greatly wise man.'

<sup>92</sup> Baldur Hafstað, 'Egils saga, Njáls saga and the shadow of Landnáma: The Work Methods of the Saga Writers', in *Sagnaheimur: Studies in Honor of Hermann Pálsson on his 80<sup>th</sup> Birthday, 26 May 2001*, ed. by Ásdís Egilsdóttir and Rudolf Simek (Vienna: Fassbaender, 2001), pp. 21-37 (pp. 33-34).

<sup>93</sup> This is explored in Chapter 3 of this thesis.

<sup>94</sup> Anthony Faulkes, 'Introduction' to *Three Icelandic Outlaw Sagas: The Saga of Gisli, The Saga of Grettir, The Saga of Hord* (London: Everyman, 2001), pp. xv-xxviii (p. xxv).

has been washed ashore (ch. 12); this attribution is not made in any other source. Þorkell's illustrious connections are highlighted here: while making his decision he draws an analogy with a case which had involved his grandfather, Ingólfr Árnason, Iceland's first settler. In *Harðar saga* he also brings about a successful settlement to a case, and is described by two of the other characters as 'bæði vitr ok góðgjarn' and 'kunnigr at allri réttvísi' (ch. 10).<sup>95</sup>

### 5. Þorgeirr Ljósvetningagóði Þorkelsson (985-1001)

As can be seen from Table 2.4, of all the lawspeakers Þorgeirr is one of those most frequently referred to in the *Íslendingasögur*, receiving mention in seven in all and playing a significant role in three of them. Indeed, he is the only lawspeaker who can be said to be one of the central characters of an *Íslendingasaga* (namely *Ljósvetninga saga*: although he himself only appears in the first four chapters, he is head of the Ljósvetningar and the saga continues with tales of his descendants). However, there are two very striking aspects of Þorgeirr's portrayal in the *Íslendingasögur*. The first is that, despite being a major character in *Reykðæla saga*, *Finnboga saga ramma* and *Ljósvetninga saga*, he is nowhere identified as lawspeaker in the first two, nor in the latter in the section of the saga in which he actually plays a role. (His position as lawspeaker is, however, presumably what Guðmundr refers to when he says, 'þú hefir lögín í þínu valdi' (ch. 2), even if this does seem to somewhat overstate the power of the office.)<sup>96</sup> He is only given the title of lawspeaker in ch. 13 of the saga, just after the section also known as *Vqðu-Brands þáttur*, as part of the introduction to the saga of his son Þorkell hákr, and this is perhaps to emphasise the fact that Þorkell 'átti [...] sökótt'.<sup>97</sup>

Þorgeirr's place in *Íslendingasögur* tradition is as the wealthy and powerful *goði* of Ljósavatn: this appears to be far more significant than his sixteen-year term of office as lawspeaker. To be sure, Þorgeirr is involved in legal cases and asked for advice on

<sup>95</sup> *ÍF* XIII, 26; 27. 'Both wise and benevolent'; 'knowledgeable in all matters of justice'.

<sup>96</sup> *ÍF* X, 7. 'You have the law in your power.'

<sup>97</sup> *ÍF* X, 16. 'Had many legal disputes.' The chapter number refers to the C redaction, which Andersson argues is the primary one; the same appears in ch. 5 of the A redaction, which does not include the short *þættir* (*The Problem*, pp. 150-65).

legal issues, but this was part of the role of any *goði*;<sup>98</sup> Þorgeirr's part in the legal action of the sagas is that of a powerful and influential man, not as token legal expert (compare Þorkell *máni* in *Grettis saga*). Even in the sagas where Þorgeirr is mentioned only in genealogies (*Droplaugarsona saga* and *Barðar saga*), where we might expect the title to be used to highlight the illustriousness of the family line, the authors do not in fact appear to consider his lawspeakership a significant or noteworthy addition to his attributes.

Andersson and Miller suggest, by way of explanation of the abrupt beginning of *Ljósvetninga saga*, that Þorgeirr 'was presumably too well known to require introduction'.<sup>99</sup> This is an understandable assumption, but unsatisfactory. *Ljósvetninga saga*, admittedly, is unusually brief, stating only: 'Þorgeirr goði bjó at Ljósavatni, hofðingi mikill' (ch. 1).<sup>100</sup> However, many of the other sagas in which he appears contain more conventional, fuller descriptions, but, like *Ljósvetninga saga*, still omit the fact he was lawspeaker. Why should this detail be neglected when others, just as likely to be general knowledge, are included?

The puzzle deepens with the second striking feature about Þorgeirr's appearances in the *Íslendingasögur*, something else which seems to be omitted, compared with what we are told about him in *Íslendingabók*. It was, of course, Þorgeirr, who, according to Ari, went under the cloak and decided that it should be made law that everyone in Iceland should be Christian, with the (one would think) memorable words 'es vér slítum í sundr lögin [...] vér monum slíta ok friðinn'.<sup>101</sup> Yet it is only *Njáls saga* that makes any reference to this event (ch. 105), in an account indebted to Ari's.<sup>102</sup> In fact, *Finnboga saga* even refers to the advent of Christianity, but notes merely: 'Svá er sagt, þá er kristni var boðuð á Íslandi, sá fagnaðr, er öllum hefir mestr orðit, at engi varð fyrr til né skjótari en Finnbogi inn rammi at játa því með Þorgeiri, móðurbróður sínum'

<sup>98</sup> This is explored in Chapter 3.

<sup>99</sup> *Law and Literature in Medieval Iceland: Ljósvetninga saga and Valla-Ljóts saga* (Stanford: Stanford University Press, 1989), p. 121 n. 1.

<sup>100</sup> *ÍF* X, 3. 'Þorgeirr goði lived at Ljósavatn, a great hofðingi.'

<sup>101</sup> *ÍF* I, 17. "If we break asunder the law, we will also break the peace."

<sup>102</sup> Einar Ól. Sveinsson, *Njáls Saga: A Literary Masterpiece*, ed. and trans. by Paul Schach (Lincoln: University of Nebraska Press, 1971), p. 23.

(ch. 36).<sup>103</sup> This would be going to extremes even for the famously understated style of the *Íslendingasögur*; rather, although it is admittedly Finnbogi rather than Þorgeirr who is the focus of the saga, the author seems to be completely unaware of Þorgeirr's fundamental role in the conversion.

The *raison d'être* of the *Íslendingasögur* is not, of course, to record religious or legal historical fact and, as will be seen continually throughout this chapter, they, and indeed other genres of medieval Icelandic writing, do not often supply superfluous detail for its own sake (compare my conclusions on Ari's sparing detail about the lawspeakers in the discussion of *Íslendingabok*, above).<sup>104</sup> Yet it is rather astounding for the modern reader, so familiar with the details of Ari's account, to realise that what was remembered about Þorgeirr in the popular tradition of the *Íslendingasögur* seems to have had virtually nothing to do with his role in the conversion.

Þorgeirr's relative celebrity in the *Íslendingasögur*, especially compared to the other postholders, is in fact almost completely unconnected to any aspect of his lawspeakership: the fact he held office is not why he appears. Any deeds he might have performed in office – including his role in the conversion – have no bearing on the action of the sagas he appears in. To mention the fact that he was lawspeaker, then, would be out of place, possibly even misleading. As I shall demonstrate throughout this chapter, mention of a lawspeaker's title tends to be made only when it is relevant to the plot. If Þorgeirr's lawspeakership was remembered in popular tradition, and not just in learned, historiographical circles, it was not considered worthy of note for its own sake, and he was not, apparently, involved in any saga-worthy events in his capacity as lawspeaker. Þorgeirr is commemorated first and foremost as *Ljósvetningagoði*; this was his major source of power, and it is his actions in this role which are deemed *söguligt*.

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<sup>103</sup> *ÍF* XIV, 316. 'It is so said, that when Christianity, that joy which is the greatest of all, was [first] preached in Iceland, no-one was earlier nor quicker to agree to it than Finnbogi *inn rammi* and Þorgeirr, his uncle.'

<sup>104</sup> See also Anne Heinrichs, "Intertexture" and its Functions in Early Written Sagas: a Stylistic Observation of *Heiðarvíga saga*, *Reykðæla saga* and the Legendary Olafssaga', *Scandinavian Studies*, 48:2 (1976), 127-45 (p. 142).

### 6. *Grímr Svertingsson (1002-03)*

Grímr held the office of lawspeaker for only two summers, so it is consequently unsurprising that he is little remarked upon in the *Íslendingasögur*. In fact, he appears only in *Egils saga*, where he is introduced with reference to his more famous nephew and successor, Skapti, and it is merely as an afterthought that it is said ‘Grímr var ok lögsgumaðr’, although his term comes after the events of the saga take place.<sup>105</sup> Grímr marries Egill’s niece and foster-daughter, Þórdís, and Egill goes to live with them at Mosfell in his later years. Otherwise there is little to distinguish Grímr, although he is ascribed the conventional but appropriately lawspeaker-ish qualities of being ‘æðigr ok ættstórr’, and is said to have been baptised and had a church built on his land with the coming of Christianity (ch. 89).<sup>106</sup>

### 7. *Skapti Þóroddsson (1004-30)*

Skapti is the most widely known lawspeaker from the *Íslendingasögur*, appearing, as Table 2.4 shows, in eight different sagas. Like Þorgeirr *Ljósvetningagoði*, Skapti was also a powerful chieftain; however, Skapti’s lawspeakership seems to be much more closely tied into his identity than is the case with Þorgeirr. Skapti is explicitly said to be lawspeaker in five sagas and appears solely in connection with legal matters in a further two. This may be attributable to the fact that his twenty-six-year term of office meant that he was lawspeaker for a substantial part of his life in Iceland’s political scene (though Þorgeirr’s sixteen years could hardly be called an insignificant term), and, of course, during the core of the Saga Age.

So far, this accords with the portrayal of Skapti in the historical sources: *Landnámabók*’s bestowal of the by-name ‘Lög-Skapti’ and *Íslendingabók*’s impressed portrait of the wise and firm leader suggest a respected, revered place in tradition for Skapti in which his accomplishments, particularly his lawspeakership, were well known. As was alluded to in Chapter 1, however, the portrayal of Skapti across the range of *Íslendingasögur* in which he appears is somewhat conflicting. By far the most

<sup>105</sup> *ÍF* II, 241. ‘Grímr was also lawspeaker.’

<sup>106</sup> *Ibid.* ‘Wealthy and of good family.’

favourable portrayal he receives is in *Grettis saga*, where he is never mentioned without his title and exhibits ideal, if again somewhat conventional, lawspeaker qualities:<sup>107</sup> he is said to be ‘*manna vitrastr ok heilráðr*’, who ‘*lagði þat til með hverjum manni, sem hann ætlaði, at duga skyldi*’ (ch. 32).<sup>108</sup> His words also show him to be modest; when he is asked for advice by the farmer Þorhallr he replies, ‘*Í litlum færur em ek til þess*’.<sup>109</sup> The help he provides in this case, however, is to give to Þorhallr his shepherd Glámr, who after his death haunts Þorhallsstaðir, leading to the fight in which he curses Grettir. Skapti is not blamed for this, or suggested to have acted maliciously, but it seems to be emblematic of the role played by the law in Grettir’s downfall, and therefore perhaps an attitude towards Commonwealth-period law which the narrator is trying to convey: a good idea in theory, but one with unfortunate, if well-intentioned, consequences.

Demonstrating an admirable sense of fairness and justice, Skapti declares he will not outlaw Grettir in his absence (ch. 46). However, Grettir is found guilty and exiled despite Skapti’s protests, offering a view of the power of the lawspeaker somewhat different to that suggested by Ari’s reference to Skapti’s ‘*ríkr [...] ok landstjórn*’.<sup>110</sup> Nonetheless, Skapti continues to be shown to be on Grettir’s side, through advising him during his exile (ch. 54), until his death, which is said to be a great loss to Grettir, as Skapti had promised to press for his release from outlawry after twenty winters (ch. 76). Lest Skapti’s aiding of a convicted felon be taken as a sign that the lawspeaker was disrespecting the law and the proper fulfilment of its penalties, however, the narrator is careful to limit his help to the strictly lawful, quoting him: “‘*en með því at ek skal heita lögmaðr í landinu, þá stendr mér eigi at taka við útleðarmönnum ok brjóta svá lög*in” (ch. 54).<sup>111</sup>

Elsewhere in the sagas in which Skapti figures, though, the light in which he is depicted is, at best, neutral. Admittedly, he plays only a small role in *Gunnlaugs saga*

<sup>107</sup> He is more usually referred to as *lögmaðr* than *lögsgumaðr* here – an anachronistic usage of the post-Commonwealth title owing to *Grettis saga*’s probable date of composition, c.1310-20.

<sup>108</sup> *ÍF* VII, 108. ‘Wisest of men and of good counsel’; ‘discharged [advice] to every man, if he thought that it would help.’

<sup>109</sup> *Ibid.* “‘I am of little ability in this regard.’”

<sup>110</sup> *ÍF* I, 19. ‘Power and governance.’

<sup>111</sup> *ÍF* VII, 178. “‘Because I am called lawspeaker [lit. ‘lawman’] in this land, it is not fitting for me to take in outlaws, and thus break the law.’”

(where, as a kinsman of Hrafn's, he argues that Gunnlaugr's betrothal to Guðrún is invalid (ch. 9)), *Valla-Ljóts saga* (where he supports the hero, Ljótr, in various legal matters, though is not explicitly identified as lawspeaker), and *Flóamanna saga* (where again, he gives legal advice but without reference to his title). There is, therefore, no need to develop his character in these sagas: he is used merely as the token legal expert. *Njáls saga*, singularly, dramatises the establishment of the Fifth Court; but, unfortunately for Skapti, the author's desire to preserve accounts of legal history come second to his requirements of plot and character development. Skapti's association with this event, evidenced in *Íslendingabók*, is thus preserved in the saga; however, he is relegated here to a passive and intellectually subordinate role, while Njáll appears as the greater legal expert in (rather deviously) masterminding the plan in order to gain a *goðorð* for his foster-son Hǫskuldr (ch. 97).

Skapti's expertise in law is acknowledged elsewhere in *Njáls saga*: when he is introduced to the saga, together with his father Þóroddr, they are described as 'lǫgmenn miklir' (ch. 56),<sup>112</sup> and Skapti is consulted at several points during the legal wrangling in the preliminaries to the suit for the burning at Bergþórshvoll (ch. 142). However, he is also roundly insulted by Skarpheðinn, in a tantalising reference to a bizarre-sounding incident in his past (ch. 119):

‘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. Síðan fórt þú til Þórólfs Loptssonar á Eyrum, ok tók hann við þér ok bar þik út í mjǫlsekkum sínum.’<sup>113</sup>

Unfortunately, no other source yields further elucidation on this incident. Later in *Njáls saga*, however, in refusing assistance to Kári and his supporters, Skapti in fact makes matters worse for himself, not only repeating Skarpheðinn's accusations but adding further unflattering detail: ‘Þat var mér þá í hóg, er Skarpheðinn mælti við mik, at ek hefða sjálf þorrit tjǫru í hǫfuð mér ok skorit á mik jarðarmen, ok hann kvað mik orðinn svá hræddan, at Þórólfr Loptsson bæri mik í mjǫlkýlum sínum á skip ok flytti mik svá

<sup>112</sup> *ÍF* XII, 141. ‘Great legal experts.’

<sup>113</sup> *ÍF* XII, 298-99. “‘You are called Skapti Þóroddsson, but previously you called yourself Burstakoll [‘Smearhead’], when you had killed Ketill of Elda; you then shaved your hair and smeared tar on your head. Then you paid some slaves to raise up a strip of turf and you crept under it for the night. Then you went to Þórólfr Loptsson at Eyra, and he took you in and carried you out in his meal-sacks.’”

til Íslands, at ek munda eigi eptir hann mæla' (ch. 139).<sup>114</sup> Some of the taunts Skarpheðinn directs at other characters in this scene appear to reflect events which are also referred to in other sagas,<sup>115</sup> suggesting they could allude to generally-known stories; and the anecdote about Skapti is specific enough to suggest a basis in tradition, at least, if not truth. It could be, then, that this is the sort of behaviour *Íslendingasögur* authors and audiences chose to forget about their lawspeakers; hence what sounds like rather a good story does not survive elsewhere.

As could be inferred from the Introduction to this thesis, Skapti's reputation suffers a further blow in *Njáls saga* at the battle of the Alþing (ch. 145). He initially does not get involved, until he discovers that his son, Þorsteinn, is fighting on the side of Guðmundr *inn ríki*. Skapti tries to intervene to stop the fighting, but he is skewered through both legs by a spear thrown by Ásgrímr, one of those to whom he previously refused help, necessitating the indignity of his being dragged away from the action. At this point, the literal crippling of the lawspeaker represents the failure of the law to control disputes and its helplessness against the escalation of violence. To make matters even worse for Skapti, Kári and Snorri *goði* both then immortalise this incident in mocking skaldic verse, and it is later pointed out that Skapti is never compensated for the wounding, as a further insult to his honour.

Most extreme of all, however, is Skapti's portrayal in *Qlkofra þáttur*. Here, he is one of six powerful *goðar* (all historically attested figures known from other sagas) whose jointly-owned woodland is accidentally burnt down by the eponymous Qlkofri. Skapti is identified as lawspeaker on his introduction to the narrative, and it is he who prepares the case against Qlkofri, albeit 'því hann sat næst', rather than because of his legal expertise (ch. 1).<sup>116</sup> Although, as far as can be deduced from *Grágás*, the *goðar* are probably within their rights to prosecute Qlkofri (and Skapti himself claims, "málaefni vár eru brýn ok góð" (ch. 2)),<sup>117</sup> much is made of the accidental nature of

<sup>114</sup> *ÍF* XII, 370. "I made up my mind, when Skarpheðinn said to me I myself had smeared tar on my head, and had a strip of turf cut, and said me to have become so afraid that Þórólfr Loptsson carried me in his meal-sacks onto his ship and brought me thus to Iceland, that I would not take up a case on his part."

<sup>115</sup> See Robert Cook's notes to his translation, *Njal's saga* (London: Penguin, 2001), p. 331 nn. 3, 5.

<sup>116</sup> *ÍF* XI, 85. 'Because he lived nearest.'

<sup>117</sup> *ÍF* XI, 89. "The grounds of our lawsuit are just and good." There are no extant laws covering the exact situation, but see K § 186: *Gg* Ib, 94 and St § 411: *Gg* II, 463 (on burning grass); K § 219: *Gg* Ib, 137 (on handling fire); K § 92: *Gg* Ia, 166 (on accidental damage).

the damage and of their selfishness and greed, both in owning the woodland in the first place and in persisting with the claim. Eventually, Qlkofri manages to enlist the help of the *goði* Þorsteinn Síðu-Hallsson and his brother-in-law Broddi Bjarnarson, upon whose advice Qlkofri is able to persuade the *goðar* to accept a settlement rather than pursuing the case in the law-courts. He then tricks them into allowing Þorsteinn and Broddi to announce the terms. An insultingly low amount is awarded, and Broddi goes on to roundly abuse and insult the six chieftains. As I pointed out in Chapter 1, Skapti himself is accused of having composed a love poem for the wife of his kinsman Ormr, an offence punishable by full outlawry and again, something that, if true, medieval Icelanders may have wished to suppress about their lawspeaker.

*Qlkofra þáttr* has been suggested as the inspiration for *Bandamanna saga*, the only one of the *Íslendingasögur* to be described in modern scholarship as a satire. The Saga-Age events of *Bandamanna saga* are widely accepted to have been invented by the author to provide a setting for his social commentary, a rather thinly-veiled criticism of the greedy, corrupt and overbearing behaviour of the chieftain class of his own day.<sup>118</sup> The Saga-Age *goðar* named in *Bandamanna saga* and in *Qlkofra þáttr* are unlikely, therefore, to personally be the subjects of the authors' attacks. It is possible that Skapti is meant to represent a real-life thirteenth-century lawspeaker, a contemporary of the author, whom he explicitly wished to condemn. It seems more likely, however, that Skapti's position is actually somewhat incidental to the *þáttr*. While I do not wish to suggest that lawspeakers were above abusing their position, or indeed above being criticised, it should be borne in mind that Skapti does not actually manipulate the law in the *þáttr*, albeit that the justice of the legitimacy of the *goðar*'s claim is questioned. He is indistinguishable from the other five chieftains after the sole mention of his title on his introduction to the saga. If an attack on the office of lawspeaker was intended, it would surely have been made more obvious, and the title repeated more often. I would suggest, rather, that Skapti was chosen because he was a well-known Saga-Age figure and *Íslendingasögur* character, and further, that he is explicitly named with his title, because, as I have demonstrated, his lawspeakership was inextricably tied in with his identity.

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<sup>118</sup> See e.g. E. Paul Durrenberger and Jonathan Wilcox, 'Humor as a Guide to Social Change: *Bandamanna saga* and Heroic Values', in *From Sagas to Society: Comparative Approaches to Early Iceland*, ed. by Gísli Pálsson (Enfield Lock: Hisarlik, 1992), pp. 111-23, *passim*.

The Saga Age is generally held to end c.1030, though of course this is neither exact nor uniformly the case. Using this date, however, Skapti is technically the last lawspeaker within our period of interest in this section. Nevertheless, he is not the latest lawspeaker to be mentioned in the *Íslendingasögur*, and it is worth noting briefly the few instances in which post-Saga-Age lawspeakers are referred to.

#### 8. Steinn Þorgestsson (1031-33)

Steinn is the third lawspeaker to feature in *Grettis saga*, putting in two appearances, like his predecessors Þorkell and Skapti, in connection with legal matters. Like the other lawspeakers in the saga, he is said to be a 'vitr maðr' and he, too, is sympathetic to Grettir.<sup>119</sup> He declares that no man should be an outlaw for longer than twenty winters even if he commits further acts of outlawry during his exile (ch. 77), and later will not allow the outlaw-price to be paid for Grettir as he rules he was killed through acts of sorcery. He then declares that all sorcerers should be outlawed (ch. 84). These pieces of legislation are not attributed to Steinn elsewhere.

#### 9. Þorkell Tjörvason (1034-53)

Virtually nothing is known about the lawspeaker Þorkell Tjörvason, despite his having held the office for twenty summers. Hence is it not certain that the Þorkell Tjörvason making a lone appearance (without the title) in *Ljósvetninga saga* is in fact the same man as the lawspeaker, although it seems likely: he is said to be a grandson of Þorgeirr, and is mentioned as the father of one Hrólfr, holder of the Ljósavatn *goðorð* (ch. 30). Gísli Sigurðsson thinks that 'it is highly surprising, that if this Þorkell really had held the distinguished position of lawspeaker, that *Ljósvetninga saga* should make no mention of this fact', but owns that 'cultivation of the law seems to have run in families'.<sup>120</sup> Moreover, as we have seen, *Ljósvetninga saga* makes no particular effort to associate Þorgeirr himself with the title of lawspeaker, so it is perhaps not as surprising as Gísli suggests that this lone mention of Þorkell would be silent as to his position.

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<sup>119</sup> *ÍF* VII, 244. 'Wise man'.

<sup>120</sup> *The Medieval Icelandic Saga*, p. 71.

### 10. Gellir Bølverksson (1054-62)

Gellir himself is not mentioned anywhere in the *Íslendingasögur*, although one Eyjólfur Bølverksson features in *Njáls saga*, with a genealogy which, by comparison to *Landnámabók*, would make him Gellir's half-brother.<sup>121</sup> Eyjólfur is said to be 'inn þriði mestur lögmaður á Íslandi',<sup>122</sup> but acts on Flosi's behalf in the burning suit and is killed in the battle at the Alþing (chs. 138-145). It may seem surprising that the author of *Njáls saga* passes up this golden opportunity to refer to another lawspeaker, Gellir; but intriguingly, Eyjólfur is not attested in other sources. This of course does not mean he did not exist; it seems entirely likely that two brothers could both be trained as legal experts, and given Eyjólfur's negative portrayal in *Njáls saga*, it could be that he was conveniently 'forgotten' by the compilers of *Landnámabók*. The author of *Njáls saga* could also have kept silent on Eyjólfur's kinship to Gellir so as not to tarnish the latter's reputation (although a negative comment at Eyjólfur's introduction to the saga also attacks his family in general – 'hann var féggjarn sem aðrir frændr hans'<sup>123</sup> – and as we saw with Skapti, the author is not averse to mocking lawspeakers). However, as I shall argue in the next chapter, *Njáls saga* seems to have been written in anticipation of a particularly legally-minded audience. In this light, it could also be that the author, himself clearly knowledgeable in details of legal history, invented the character – not unlike Glúmr Óleifsson – and gave him a genuine legal pedigree, either to satisfy his own diligent quest for authenticity, or as an 'in-joke' directed at the more esoteric members of his audience who would be able to make the connection. This might suggest that Gellir and his lawspeakership were better known than is indicated by his infrequent and little-detailed appearances in the extant sources.

### 12. Kolbeinn Flosason (1066-71)

As was noted in the *Landnámabók* section, Kolbeinn is another lawspeaker whose historical identity is unclear. However, a 'Kolbeinn lögsoðgumaður' is mentioned in *Þorsteins þáttur stangarhoggs* as having married the granddaughter of one of the main

<sup>121</sup> *Njal* ch. 138; cf. Gellir's genealogy in *Landnámabók* (S 129, H 101).

<sup>122</sup> *ÍF* XII, 363. 'The third greatest lawyer in Iceland.'

<sup>123</sup> *Ibid.* 'He was greedy like others of his kinsmen.'

characters. In this instance, Kolbeinn's position appears to be impressive enough to draw attention to, and to be more significant than his own family background, which is not detailed.

#### 21. *Finnr Hallsson (1139-45)*

A priest named Finn Hallsson appears in the same genealogy in *Þorsteins þáttr stangarhöggs* as Kolbeinn Flosason; Snorri Sturluson is also mentioned. Finn, however, is not given the title of lawspeaker here, and the genealogical details provided for him differ from those in *Landnámabók*; consequently it is not certain that this does in fact refer to the Finn Hallsson *prestr* who was also lawspeaker.<sup>124</sup>

#### 28. *Snorri Sturluson (1215-18 and 1222-31)*

Snorri is mentioned in genealogies in three *Íslendingasögur*, although he is never specifically denoted as lawspeaker. As he was widely known among his contemporaries for many reasons, it can be assumed that Snorri is not invoked because of his lawspeakership in particular.

#### 34. *Sturla Þórðarson (1251)*<sup>125</sup>

Sturla is referred to on three separate occasions in *Grettis saga*, twice with the title of *lögmaðr*, as a source for various details: 'Þá hafði hann [i.e. Grettir] fimmtán vetr eða sextán í sekð verit, at því sem Sturla Þórðarson hefir sagt' (ch. 69).<sup>126</sup> This has led to the suggestion that Sturla might have composed an earlier version of the saga (the

<sup>124</sup> See Gísli Sigurðsson, *The Medieval Icelandic Saga*, p. 80 n. 27.

<sup>125</sup> Sturla also held the new office of *Lögmaðr* after the end of the Commonwealth, from 1272-76 in the South and East, and until 1282 in the North and West (Jón Sigurðsson, 'Lögsögumanna tal', p.4). See also the section of this chapter on *Sturlunga saga*.

<sup>126</sup> *ÍF* VII, 226. 'By then he had been fifteen or sixteen winters in outlawry, according to what Sturla Þórðarson has said.'

extant version is dated to c.1310-20).<sup>127</sup> In any case, Sturla is treated with respect as a legal authority, and, like the other lawspeakers referred to in the saga, as a supporter of Grettir: ‘Hefir Sturla lögmaðr svá sagt, at engi sekr maðr þykkir honum jafnmikill fyrir sér hafa verit sem Grettir inn sterki’ (ch. 93).<sup>128</sup>

## SECTION II: CONCLUSIONS

On the whole, there are surprisingly few references to lawspeakers in the *Íslendingasögur*, especially in the light of the iconic role that, as I noted in the introduction to this chapter, is often assumed for them. As can be seen from Table 2.4, a number of the *Íslendingasögur* refer to lawspeakers only in a genealogical context, even if they play no other role in the action of the saga. In these cases, the lawspeaker is almost always identified with his title, the exceptions being Þorgeirr *Ljósvetningagoði* Þorkelsson, who, as I have shown, is a well-known saga character for whom the lawspeakership is a minor part of his identity, in comparison to his other activities; and Snorri Sturluson, who, likewise, was a well-known figure for reasons other than his time in office.

Of course, the saga genealogy was not merely a faithful account of all the members of a character’s family, but a way of linking him with the beginnings of Icelandic society and with important ancestors or descendants, who could be reckoned through both the male and female lines. It could also provide an opportunity for the thirteenth-century descendants of settlers or saga characters to demonstrate their own lineages. It seems a reasonable assumption that a lawspeaker in the family would be worth drawing attention to, and on the face of it, the genealogical appearances of titled lawspeakers in the *Íslendingasögur* seems to bear this theory out.

However, the inference can only be taken so far. Although the number of lawspeakers referred to in this way is not insignificant, neither is it considerable. While, when a postholder is mentioned, it is usually made explicit with the use of the title, it is

<sup>127</sup> Faulkes, ‘Introduction’ to *Three Icelandic Outlaw Sagas*, p. xvi.

<sup>128</sup> *ÍF* VII, 289. ‘Sturla lögmaðr has so said that no outlawed man seems to him to have been equally as great as Grettir the strong.’

in fact more common that the lawspeaker is not mentioned at all. Gísli Sigurðsson has observed that even *Njáls saga*, with its penchant for legal history, fails to note in a mention of one Surtr of Kirkjubœr that he was the father of Sighvatr the lawspeaker.<sup>129</sup>

Even less common are stories centred around the figure of the lawspeaker. In the vast majority of cases, lawspeakers are introduced to a saga for the specific purpose of performing some legal role; their appearances are thus usually brief. In these cases they are token figures without any distinctly drawn character portraits, although the traits of wisdom, knowledge and good intentions are often highlighted, and seem to be stock characteristics to be attributed to lawspeakers – perhaps an affirmation that, at least in general terms, the office of lawspeaker carried with it positive connotations.

I think it is also significant that even though individual lawspeakers were not beyond being criticised or satirised, there are no occurrences in the *Íslendingasögur* in which the lawspeaker is shown to exploit his position and manipulate the law for his own means. Although corrupt chieftains can be shown to be able to manipulate the law, there are no instances of a lawspeaker deliberately giving false advice or conspiring to affect the outcome of a case. This seems to me to be another positive reflection on the office, at least as it was perceived to have been in the Saga Age by the thirteenth-century *Íslendingasögur* authors. There would seem to be a huge potential, in instances of the lawspeaker being consulted on lesser-known points of law, for him to declare whatever he wished to be law.<sup>130</sup> Of course, it would be difficult to prove that he was being dishonest, particularly in the pre-codification Saga Age, but the saga authors do not have any complaints that they suspect this to have been the case.

Away from the office in general, though, there do not appear to have been many strong traditions which filtered down about the personality of individual lawspeakers. There are a few, possibly spurious, associations of lawspeakers with particular laws, but

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<sup>129</sup> *The Medieval Icelandic Saga*, p. 76.

<sup>130</sup> Cf. Jón Viðar Sigurðsson's observation that 'four of the first six Lawspeakers were chieftains. After that, chieftains only sporadically became Lawspeakers, which might indicate that this was not regarded as a particularly desirable combination' (*Chieftains and Power*, p. 90). While lawspeakers did not have a judicial role, lawspeaker-chieftains would have a potential conflict of interest in giving advice in cases involving their *þingmenn*.

this is not a frequent feature of the *Íslendingasögur*,<sup>131</sup> and reinforces what was observed on the matter in the previous section. While the bynames of Þorkell *máni* and Þórarinn *Ragabróðir* are clearly part of their traditional identity, this seems to be more a habitual association than a trigger for any anecdotes. Nevertheless, it should not be forgotten, nor the significance of the fact underestimated, that the *Íslendingasögur* are limited in their range to a particular time period, and that two lawspeakers – Þorgeirr and Skapti – held office for a combined total of forty-four summers at the very heart of this period. The potential for appearances by other lawspeakers is thus restricted, and indeed it is these two, out of all the lawspeakers, who figure most commonly in the *Íslendingasögur*. It is also these two who are the only lawspeakers to have any sort of *Íslendingasögur* personality, beyond token legal expert – but as we have seen, this personality is not necessarily consistent across the range of the *Íslendingasögur* they appear in.

Their roles are prominent enough, I think, that one can come away from the *Íslendingasögur* with the superficial impression that Þorgeirr Þorkelsson was a powerful *goði* – though, perhaps excepting *Njáls saga*, one would have to make an effort to remember his lawspeakership – and that Skapti, uniquely, was a well-known lawspeaker. Beyond this, however, it is difficult to construct a clear identity for either. The picture of the wise Þorgeirr and his fundamental role in the conversion, painted in *Íslendingabók*, and so familiar to the modern reader, is jarring among the *Íslendingasögur* when it is drawn upon in *Njáls saga*. To the *Íslendingasögur*, Þorgeirr was *goði at Ljósavatni* – but even in this role he is not as vivid and memorable a personality as some other well-known saga characters: Snorri *goði*, for instance, or perhaps Unnr/Auðr *inn djúpúðga*. As has been stated, it is not the place of the *Íslendingasögur* to document conversion history; it is not that they misremember Þorgeirr's role in the event, they just do not speak of it. Yet it is still difficult to reconcile what appear to be two very different traditions circulating about Þorgeirr, and while I do not wish to draw any too-clearly delineated distinctions between audiences, perhaps one tradition – Conversion-Þorgeirr – was the preserve of a learned, and/or ecclesiastical community; the other – *goði*-Þorgeirr – that of popular folk-tale and secular concerns.

<sup>131</sup> Some sagas do discuss the adoption of new laws but do not attribute them to any particular figure: see, for example, *Eyrb* ch. 38 on the prosecution of killings, or *Gunnl* ch. 11 on the abolishment of duels.

There was evidently widespread knowledge of Skapti's name right down to the thirteenth century (and of course beyond), and the fact that he was lawspeaker was clearly a fundamental part of his traditional identity. The saga authors, however, apparently felt free to manipulate his character to suit their needs, and holding the post certainly did not guarantee him any overarching respect, or even make him immune to attack, though it is possible that some of the less favourable traditions about him were suppressed, to be revealed to us now only in tantalising snatches in the mockery of his fellow characters. These incidents do suggest, however, that there were more memories of Skapti in circulation than have survived. In fact, especially if we also take into account the evidence of *Íslendingabók* and the details I sketched out for him as lawspeaker-poet in Chapter 1, there is almost enough material for an 'immanent saga' of Skapti Þóroddsson;<sup>132</sup> and what with his holding of the *Qlfus goðorð*, outlawing of important chieftains, establishment of the Fifth Court, skaldic career, potential affair with the wife of a kinsman, and being smuggled into Iceland covered in tar and flour, it would be interesting indeed. Nonetheless, he remains by some distance the only one of the lawspeakers in the genres of writing examined so far about whom this can be said.

If the *Íslendingasögur* in general make little use of individual lawspeakers, though, lawspeakers in general are drawn upon effectively by some individual sagas. I have already discussed the possibility that the author of *Njáls saga* went out of his way to mention the names of lawspeakers, even if he was not committed to portraying them all in an unblemished light. As an outlaw saga, *Grettis saga* also displays a fascination for the law, although unlike *Njáls saga*, it is not the technical workings of the law and details of legal history that the author is interested in, but what it means to be outside the law.<sup>133</sup> The saga's reference to four different lawspeakers is illuminating. Three of them, Þorkell *máni*, Skapti Þóroddsson, and Steinn Þorgestsson, are introduced purely because of their legal role, not as characters who happened to be involved in the events of the saga; and Sturla Þórðarson is referred to as a later commentator on events. The audience is left in no doubt as to the position of these four men; they are given their title on almost every appearance.

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<sup>132</sup> The concept of the immanent saga was first posited by Carol J. Clover in 'The Long Prose Form', *Arkiv för nordisk filologi*, 101 (1986), 10-39. See also John Miles Foley, *Immanent Art: From Structure to Meaning in Traditional Oral Epic* (Bloomington: Indiana University Press, 1991), and for a good recent case study of how underlying traditions about a particular figure were drawn on in different Old Norse works see Gísli Sigurðsson, 'The Immanent Saga of Guðmundr ríki', trans. by Nicholas Jones, in Quinn, Heslop and Wills (eds.), *Learning and Understanding*, pp. 201-18.

<sup>133</sup> See also my section on outlaws in Chapter 3.

This succession of wise legal experts, all of whom come out firmly in support of Grettir, demonstrate the unjustness, perhaps even unlawfulness, of his outlawry. Even if the letter of the law states that Grettir should be exiled, those most learned in its spirit disagree with the sentence. Importantly, it is in fact the overbearingness of the chieftains, not the findings of the lawspeaker, which leads to this result. The appearance of Þorkell *máni* in the early chapters of the saga demonstrates the law working as it should: he is shown to be wise and authoritative in his role. This acts as a contrast to those lawspeakers contemporary to Grettir, who are clearly still respected by the narrator, but whose power to effect a just outcome has been weakened by the greed of the chieftains. Together with my argument that Skapti's gift of Glámr to Grettir was symptomatic of the role of the law in Grettir's downfall, *Grettis saga* thus seems to use the figure of the lawspeaker to represent and comment on the law in general. In themselves, the lawspeakers and the law are forces for good, but they become increasingly helpless in the context of a changing society in which less noble factors become ever more prominent.<sup>134</sup>

Overall, then, lawspeakers do not form a major part of the subject matter of the *Íslendingasögur*, even though, as the next chapter will explore in more detail, these are filled with legal content and legal themes. But, as I have noted at several points, the *Íslendingasögur* do not often provide superfluous detail for its own sake. Just as I suggested that giving Þorgeirr his title of lawspeaker could be misleading, when it had no bearing on his role in the sagas he comes into, so bringing any lawspeaker into a saga could be misleading unless he was to perform a specific legal function in it. Lawspeakers do come into the sagas in an advice-giving capacity, but because postholders had no judicial authority and could not influence the outcome of lawsuits, they were not major players – at least in their official role – in the conflicts that the sagas commemorate. It was those that were – the lawyers and arbitrators – that it was more important to remember and record in these particular narratives.<sup>135</sup>

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<sup>134</sup> Cf. Kathryn Hume's suggestion that Grettir is a social exile not just because of his outlawry but because he was born too late, and would have been better suited to the heroic society of his grandfather Qnundr *tréfótr* ('The Thematic Design of *Grettis saga*', *Journal of English and Germanic Philology*, 73:4 (1974), 469-86).

<sup>135</sup> The portrayal of both lawyers and arbitrators in the *Íslendingasögur* will be explored further in Chapter 3 of this thesis.

The *Íslendingasögur* allow us a perspective on the office and its holders in the Saga Age as had filtered down through two or three centuries of tradition and been brought to written form in the thirteenth century. This could provide a way for thirteenth-century authors, and audiences, to debate social issues which may have concerned them, but in terms of a (perceived) simpler past with a different code of conduct. Yet at the same time, writers were producing works about their own society and experiences, creating a record less coloured by tradition and with less room to project desired conjectures about their past or their social context. In the following section, therefore, I turn to the *samtíðarsögur*, ‘contemporary sagas’, to examine how the lawspeakership and the men in office during the politically turbulent latter part of the Commonwealth period were viewed and portrayed in contemporary reality rather than idealised reminiscence.

### SECTION III: LAWSPEAKERS IN THE *SAMTÍÐARSÖGUR*

#### *The biskupa sögur*

*Hungrvaka* is in fact the only source amongst the *biskupa sögur* for several of the lawspeakers holding office in this time period, which can be attributed to the fact that it falls firmly into the subcategory ‘historical works’, as opposed to the other traditional subcategory of *biskupa sögur*, ‘saints’ lives’, which focus more nearly on the lives of single, individual bishops.<sup>136</sup> The text of *Hungrvaka* covers the first five bishops of Skálholt and was written at or very near to the see in the early part of the thirteenth century, perhaps between 1206-20.<sup>137</sup> It makes reference to more lawspeakers than any of the other *biskupa sögur*, seven in all.<sup>138</sup> With two exceptions, however, to which I shall return later, mentions of the lawspeakers here are restricted to the

<sup>136</sup> See further Ásdís Egilsdóttir, ‘Biskupa sögur’, in Pulsiano, pp. 45-46.

<sup>137</sup> Paul Bibire, ‘Hungrvaka’, in *ibid.*, p. 307.

<sup>138</sup> All references in *ÍF XVI*: for Gellir Bólverksson, see ch. 3, p. 13; Markús Skeggjason, ch. 4, p. 17, and ch. 5, p. 22; Úlfheðinn Gunnarsson, ch. 5, p. 22; Bergþórr Hrafnson, ch. 7, p. 27; Hrafn Úlfheðinsson, ch. 8, p. 33 [NB the manuscript actually reads, ‘andlat [...] Úlfheðins lögsoğumanns’, but chronologically this must be a scribal error, and the death of Hrafn’s father Úlfheðinn is referred to earlier in the text, as noted above (see further *ÍF XVI*, 33)]; Finnr Hallsson, ch. 8, p. 33; Gizurr Hallsson, ch. 1, p. 3, ch. 6, p. 25, ch. 9, p. 35, and ch. 10, p. 37.

recording of their deaths as part of lists of events occurring during the episcopacy of each bishop. The lawspeakers are usually identified as such, showing that, whatever their other achievements or reasons for renown, it is their identity as holders of the office rather than as individual men which the author considers to be noteworthy in this context. Moreover, other figures recorded in such lists include kings of England, Norway and Denmark; archbishops; and major Icelandic chieftains, comparison to whom reveals the high status of the office of lawspeaker (ch. 5):

Í byskupsdómi Gizurar byskups urðu mörð stórtíðendi: Líflát ins helga Knúts konungs á Fjóni ok Benedikts bróður hans, Vilhjálms Englandskonungs, andlát Óláfs konungs kyrra ok Hákonar Magnússonar í Nóregi, fall Magnúss konungs berbeins vestr á Írlandi á Úlztíri, [...] andlát Óláfs konungs Magnússonar í Nóregi, líflát Magnúss jarls ins helga, andlát lögsoğumanna, Markúss ok Úlfheðins, ok Teits Ísleifssonar ok annarra sona Ísleifs byskups.<sup>139</sup>

*Hungrvaka* thus continues the trend seen in other historical works of recording lawspeakers' details in chronicle fashion, although they are not themselves temporal referents as in *Íslendingabók*. There are three lawspeakers, however, who play a greater role in the action of the *biskupa sögur*, and I shall examine these in more detail below.

#### *Markús Skeggjason (1084-1107)*

Markús appears in *Hungrvaka*, as in *Íslendingabók*, thanks to his role in the introduction of the tithe law. This is naturally a very important matter for the Church: 'hefir eigi annarr slíkr grundvöllr verit auðræða ok høgenda í Skálaholti sem tíundargjaldit' (ch. 4).<sup>140</sup> Unsurprisingly, he is therefore portrayed in a very positive light, as 'inn mesti spekingr ok skáld', whose 'ráðleitni' and 'fortölur spakligar' were instrumental in the acceptance of this law (ch. 4).<sup>141</sup> I noted in Chapter 1 that when Markús is listed as a court poet in the Kringla version of *Skáldatal*, he is denoted as

<sup>139</sup> *ÍF* XVI, 22. 'During the episcopacy of bishop Gizurr many great tidings occurred: the deaths of the holy King Knútr at Fünen, and of his brother Benedikt, and of William, King of England, the deaths of King Óláfr *kyrr* and Hákon Magnússon in Norway, the fall of King Magnús *berbeinn* west in Ireland at Ulster [...] the death of King Óláfr Magnússon in Norway, the death of Jarl Magnús *inn helgi*, the deaths of the lawspeakers, Markús and Úlfheðinn, and of Teitr Ísleifsson and another of Bishop Ísleifr's sons.'

<sup>140</sup> *ÍF* XVI, 17. 'There has not been another such foundation for wealth and profit in Skálaholt as the tithe-payment.'

<sup>141</sup> *Ibid.* 'The greatest wise man and skald'; 'sagacity'; 'wise persuasions'.

‘lǫgsogomaðr [sic]’. It is noteworthy that, appearing as a lawspeaker in *Hungrvaka*, he is denoted as ‘skáld’. This suggests that Markús’ traditional identity was closely tied to both his roles, to the extent that the compilers of *Hungrvaka* and *Skáldatal* could not help drawing attention even to the one which was not relevant in their context, which, as we have already seen, is something of a rarity in medieval Icelandic writing. Markús is one of only a few lawspeakers who receive such a distinctive and consistent portrayal.

Markús is also associated with the introduction of the tithe law in *Jóns saga ins helga* (ch. 6), although here the author makes only minor changes in his account to the corresponding passage in his source, *Íslendingabók*,<sup>142</sup> therefore nothing new is added to our picture of Markús.

#### *Gizurr Hallsson (1181-1202)*

Gizurr Hallsson is a relatively significant character in the *biskupa sögur*, particularly by comparison to the other lawspeakers, and, indeed, other important lay chieftains of the time.<sup>143</sup> However, this is more influenced by his personal connections with the Church, and in particular the see at Skálholt, than by his position as lawspeaker. His great-grandfather was Ísleifr Gizurarson, Iceland’s first native bishop, and his grandfather Gizurr Ísleifsson, who succeeded Ísleifr;<sup>144</sup> Gizurr’s own father, the priest Hallr Teitsson, was also elected bishop but died in 1150 before his consecration,<sup>145</sup> and Gizurr himself was fostered as a child by Bishop Þorlákr Rúnolfsson at Skálholt. The passage describing this event in *Hungrvaka* testifies to Gizurr’s importance within Icelandic society:

<sup>142</sup> The textual history of *Jóns saga* is not straightforward: see further Peter Foote, ‘Jóns saga ens helga’ in Pulsiano, p. 345; however, Ari is directly referenced at this point in *Jóns saga*.

<sup>143</sup> He appears in: *Hungrvaka* chs. 1, 6, 9, 10; *Þorláks saga A* chs. 10, 18, 19; *Þorláks saga B* chs. 11, 33, 34, 35, 36; *Jarteinabók I* ch. 12; *Jarteinabók II* ch. 177; *Páls saga* chs. 2, 4, 6, 10, 12, 20.

<sup>144</sup> Ísleifr was consecrated in 1056 and died in office in 1080. Gizurr was consecrated two years after his father’s death, as bishop of all Iceland, but became the first bishop of Skálholt when the see of Hólar was established in the Northern Quarter in 1106. See Jón Jóhannesson, *A History*, pp. 145-153, 363, 367.

<sup>145</sup> Jón Jóhannesson, *A History*, p. 232.

Þorlákr byskup bauð barnfóstr Halli Teitssyni í Haukadal, ok fór þá Gizurr, sonr Halls, í Skálaholt, ok var byskup við hann svá ástúðligr sem hann væri hans sonr, ok spáði honum þat er síðarr gekk eptir, at slíkr merkismaðr myndi trautt finnask á Íslandi sem hann var, ok varð á því raun síðan (ch. 6).<sup>146</sup>

Gizurr did in fact go on to hold the Haukdælir *goðorð* and was the first of that family to hold the office of lawspeaker.<sup>147</sup> Indeed, Orri Vésteinsson states that Gizurr and Jón Loptsson were ‘probably the two most powerful chieftains in Iceland in the latter half of the twelfth century’.<sup>148</sup> It is significant, then, that the lawspeakership was evidently considered by Gizurr a position worth having, among his many other political and social roles and networks.

Gizurr maintained close connections with the bishops of Skálaholt beyond his childhood, as the *biskupa sögur* attest. He is described as one of Bishop Klængr’s ‘vinir traustastir’ (*Hungrvaka* ch. 10),<sup>149</sup> he is at the death-bed of Bishop Þorlákr Þórhallsson, and makes a speech at his funeral (*Þorláks saga A* chs. 18-19, *Þorláks saga B* chs. 33-35), and he is also often in attendance at Skálaholt during Bishop Páll’s episcopacy (*Páls saga* chs. 2, 4).<sup>150</sup> This, together with the fact that he is cited as a direct oral informant of the author of *Hungrvaka*,<sup>151</sup> makes it unsurprising that he is presented in an extremely positive light throughout the *biskupa sögur* in which he appears. He is described as ‘inn fróða mann’ (*Hungrvaka* ch. 1), as one of the ‘mestum manngersemum á Íslandi’ (*Hungrvaka* ch. 9), and as ‘mikill höfðingi, vitr ok góðgjarn’ (*Þorláks saga A* ch. 18), among several similar examples – in fact he is rarely

<sup>146</sup> *ÍF* XVI, 25. ‘Bishop Þorlákr offered to foster a child of Hallr Teitsson from Haukadalr, and therefore Gizurr, Hallr’s son, went to Skálaholt, and the bishop was as loving to him as if he were his own son, and foretold of him that which later came to pass, that such an important man would scarcely be found in Iceland as he would be, and that later proved to be the case.’

<sup>147</sup> Representatives of the Haukdælir alternated in the office with members of the Sturlung circle from this point until the end of the Commonwealth (Gísli Sigurðsson, *The Medieval Icelandic Saga*, pp. 60-64, 89).

<sup>148</sup> *The Christianization of Iceland*, p. 162.

<sup>149</sup> *ÍF* XVI, 37. ‘Most trusted friends.’ Klængr was bishop 1152-76 (Jón Jóhanesson, *A History*, p. 369).

<sup>150</sup> Þorlákr was bishop 1178-93 and Páll 1195-1211 (Jón Jóhanesson, *A History*, p. 369). Gizurr died in 1206.

<sup>151</sup> *Hungrvaka* (ch. 1): ‘Hefi ek af því þenna bækling saman settan, at eigi falli mér með öllu ór minni þat er ek heyrða af þessu máli segja inn fróða mann Gizur Hallsson, ok enn nokkurar menn aðra merkiliga hafa í frásögn fært’ (*ÍF* XVI, 3). (‘I have put together this little book for this reason, that nothing completely falls from my memory of that which I have heard said of these matters by the wise man Gizurr Hallsson, and what certain other remarkable men have set down in narrative.’)

mentioned in the *biskupa sögur* without some such glowing aside.<sup>152</sup> He is even said to be inspired in speech by the Holy Spirit ('Þá mælti Gizurr þat ørendi er auðsýnt má vera att inn helgi andi hefir með honum mælt' (*Þorláks saga A* ch. 18)),<sup>153</sup> and experiences the miraculous recovery of his horse after invoking Þorlákr after the latter's death (*Jarteinabók I* ch. 12).

In contrast to this spiritual depiction, however, Gizurr, together with four other important chieftains, was attacked in a letter of c. 1179-81 from Archbishop Eysteinn of Niðaróss (modern Trondheim) for his conduct in his personal life, in particular his extra-marital children.<sup>154</sup> Such matters are nowhere referred to in the *biskupa sögur*. On the one hand, concepts of sexual morality appear to have remained somewhat more lenient in Iceland than in other Christian countries, and Gizurr's behaviour is likely to have been considered nothing out of the ordinary – the Norwegian Eysteinn would perhaps have been much more concerned about such conduct than his Icelandic contemporaries.<sup>155</sup> Although the *biskupa sögur* turn a blind eye to Gizurr's indiscretions, however, *Hungrvaka* refers to a certain unnamed lawspeaker whose un-Christian standards of morality were a source of trouble to Bishop Ísleifr, and symptomatic of the wider moral issues in society (ch. 2):

Má þat af því merkja nokkut í hverjum nauðum hann hefir verit fyrir sakir ótrú ok óhlýðni ok ósiða sinna undirmanna, at lög[sögu]maðrinn átti mœðgur tvær.<sup>156</sup>

This suggests that the Icelandic bishops, and the authors of their sagas, were in fact troubled by such behaviour.<sup>157</sup> Historians have debated the identity of the lawspeaker in

<sup>152</sup> *ÍF* XVI, 3, 35, 80. 'The wise man'; 'greatest treasures of men in Iceland'; 'great *hofðingi*, wise and benevolent'.

<sup>153</sup> *ÍF* XVI, 81. 'Then Gizurr pronounced that speech in which it can be seen that the Holy Spirit spoke with him.'

<sup>154</sup> The letter is printed in *DI I*, 260-64; see also Jón Jóhannesson, *A History*, p. 187; Orri Vésteinsson, *The Christianization of Iceland*, p. 169.

<sup>155</sup> Jenny M. Jochens, 'The Church and Sexuality in Medieval Iceland', *Journal of Medieval History* 6 (1980), 377-92; Orri Vésteinsson, *The Christianization of Iceland*, p. 172.

<sup>156</sup> *ÍF* XVI, 8. 'From this can be observed something of the difficulties he [i.e. Bishop Ísleifr] had for reason of the faithlessness and disobedience and immorality of those under him: that the lawspeaker had to wife a mother and daughter.' (Angle brackets in original.)

question: if, as the passage earlier implies, it refers to the period immediately following Ísleifr's return to Iceland after his consecration, this would be Gellir Bólverksson (1052-64 and 1072-74), although there were three further lawspeakers during Ísleifr's episcopacy.<sup>158</sup> However, it seems to me that it is the fact that it is a lawspeaker being referred to that is significant, not who he actually was – the author deliberately does not reveal his name, because he is not concerned with the behaviour of the particular individual. The office is used to demonstrate the extent of the situation: what kind of state must the rest of society have been in if even the *lawspeaker* is behaving in this way? This perhaps reflects not only a hope that such a prominent public figure would set a good example, but also the expectation that one with the qualities to be elected lawspeaker would also be morally upstanding. It should be borne in mind, then, that the *biskupa sögur* are demonstrably selective as to what they reveal. In Gizurr's case, therefore, the overt emphasis of his positive qualities is likely a manifestation, at least in part, of his position as an influential figure at Skálholt and intimate friend of the bishops. The authors were hardly likely to risk offending the Haukdælir family or tarnishing the image of the bishops by giving the impression that they associated with men of questionable morals. The author of *Hungrvaka*, in particular, would not have wished to cast aspersions on his source and acquaintance.

Gizurr is only explicitly identified as lawspeaker on one occasion in the *biskupa sögur*, despite the frequency with which he appears. This occurs in *Páls saga*, in an account of the establishment of a law concerning the regulation of measurements following a proposal by Bishop Páll (ch. 10).<sup>159</sup> As this is a legal matter, Gizurr's position is directly significant here, whereas in his other appearances the fact that he held the office of lawspeaker bears no relevance on his activities within the narrative.

Gizurr's role in the *biskupa sögur* thus allows some insight into the life and activities of the kind of man likely to be elected lawspeaker in the late twelfth century.

<sup>157</sup> Cf. *Hungrvaka* (ch. 7): 'Margir hofðingjar váru Þorkáki byskupi óhægir fyrir sakir sinnar óhlýðni, en sumir í óráðvendi ok lagabrotum' (*ÍF XVI*, 27-28). ('Many *hofðingjar* were a difficulty to Bishop Þorkáki for the reason of their disobedience, and some were dishonest and law-breakers.') Also cited in Gísli Sigurðsson, *The Medieval Icelandic Saga*, p. 70 n. 21 and p. 72 n. 23.

<sup>158</sup> Namely Gunnarr Þorgrímsson (1063-65 and 1075), Kolbeinn Flosason (1066-71), and Sighvatr Surtsson (1076-83). Gellir is chosen as the most likely candidate by Jón Sigurðsson, 'Lögsögumanna tal', p. 18, and by the editors of *Hungrvaka* in *ÍF XVI*, 8 n. 5. See further Gísli Sigurðsson, *The Medieval Icelandic Saga*, p. 72 n. 23.

<sup>159</sup> For the law on the regulation of measurements see St § 261: *Gg II*, 288-89.

However, as we have seen, his depiction here seems to be strongly coloured by the texts' ecclesiastical orientation and distinctly pro-Gizurr bias. Moreover, given that Gizurr only appears in this collection of sagas when in contact with a bishop, his secular activities outside of the world of Skálaholt are not evidenced, and the picture is therefore very restricted.

*Hallr Gizurason (1203-09)*

The same is true for the final lawspeaker to appear in the *biskupa sögur*, Gizurr's son Hallr, a priest who later became abbot, first of Helgafell and then Þykkvibær.<sup>160</sup> Hallr is mentioned less frequently than his father and generally without the same fawning terms of description. He usually appears as a presence at Skálaholt,<sup>161</sup> although his miraculous recovery from bronchitis (*kverkamein*) after the intervention of St. Þorlákr is described in *Jarteinabók I* (ch. 34). Hallr's lawspeakership is not referred to in the corpus.

In summary, then, the only *biskupa saga* to show an interest in the office of lawspeaker is the historically-minded *Hungrvaka*, which lists the deaths of holders of the office among other events of historical significance occurring during the episcopacy of each bishop discussed in the text. Otherwise, the *biskupa sögur* continue the trend seen elsewhere in medieval Icelandic literature, of identifying a lawspeaker with his title only if it has a bearing on the subject under discussion, namely when a legal matter is being described. Although Gizurr Hallsson appears several times in a number of *biskupa sögur*, the authors do not feel it necessary to acknowledge his lawspeakership for its own sake, and indeed, as one of the two most powerful men in Iceland, his various accomplishments and sources of power would have been well known. The lawspeakership was merely one aspect of his status, and while clearly one the Haukdælir felt worth having it was not the reason for it.

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<sup>160</sup> Jón Jóhannesson, *A History*, p. 233.

<sup>161</sup> E.g. *Þorláks saga A* ch. 82; *Þorláks saga C* ch. 60; *Páls saga* ch. 10.

The *biskupa sögur* do provide us with some details of the circumstances of men who were elected to the office in the late twelfth and early thirteenth centuries, but the overall picture is both limited in scope and coloured by the texts' clerical persuasion. Markús, whose term of office occurred more than a century earlier than the writing of the *biskupa sögur*, and whose portrayal is thus already influenced by tradition, appears only in connection with the creation of the tithe law. Although this means we are not able to gain any further details about him, it is important that his identity as skald as well as lawspeaker is so strong in customary memory that it is mentioned by the author of *Hungrvaka* even though it has no bearing on the matter in hand. Although the Haukdælir lawspeakers appearing in the sagas were closer contemporaries of their authors, and Gizurr, in particular, is deliberately portrayed in an extremely favourable light, this is due to the links between the Haukdælir family and the see at Skálholt, and is not related to the fact that he held office. We cannot, therefore, necessarily view the depiction of Gizurr and Hallr in the *biskupa sögur* as a reflection of contemporary perceptions of the office of lawspeaker more generally. The following section will therefore turn to another branch of the *samtíðarsögur*: *Sturlunga saga*.

### *Sturlunga saga*

The title *Sturlunga saga* designates a compilation of texts by different authors, made c.1300. The centrepiece is *Íslendinga saga* (more than 100,000 words of the compilation's total of c.260,000), written by Sturla Þórðarson, himself of course lawspeaker in 1251.<sup>162</sup> The compiler of *Sturlunga* is often suggested as Þórðr Narfason of Skarð,<sup>163</sup> an acquaintance of Sturla's who probably studied law under him in 1271-72.<sup>164</sup> The component sagas cover the period of Icelandic history from 1117-1264, the

<sup>162</sup> Peter Hallberg, 'Sturlunga saga', in Pulsiano, pp. 616-18; this also gives details of the other texts in the compilation.

<sup>163</sup> E.g. Guðrún Nórdal, 'The Contemporary Sagas and their Social Context', in Clunies Ross (ed.), *Old Icelandic Literature and Society*, pp. 221-41 (p. 221); R. George Thomas, 'Introduction' to *Sturlunga Saga*, trans. by Julia H. McGrew and R. George Thomas, 2 vols. (New York: Twayne, 1970-74), I, 13-45 (p. 18); Úlfar Bragason, 'The Politics of Genealogies in *Sturlunga saga*', trans. by Anna H. Yates, in *Scandinavia and Europe 800-1350: Contact, Conflict and Coexistence*, ed. by Jonathan Adams and Katherine Holman (Turnhout: Brepols, 2004), pp. 309-21 (pp. 315, 319-20).

<sup>164</sup> *Sturlu þáttir* (ch. 3): 'Var [Sturla] þá skipaðr lögmaðr yfir allt Ísland [...] Tók hann þá við búi um haustit í Fagradal [...] Þann vetr var með Sturlu Þórðr Narfason' (SS II, 235). ('Sturla was then assigned as lawman over all Iceland [...] he then, in the autumn, took over the farmstead at Fagradalr [...] That winter Þórðr Narfason was with Sturla.')

latter part of which is known as the *Sturlungaöld*, after the politically pre-eminent Sturlung family. There is disagreement as to when to place the beginning of the *Sturlungaöld*; scholars have suggested variously 1200 (the separation of clerical and secular power, with the Church coming under foreign control); 1220 (the rise of the Sturlungar and the beginnings of the involvement of the Norwegian monarchy in Icelandic affairs); or 1235 (Sturla Sighvatsson's attempts to bring Iceland under the control of Norway and the beginning of the worst period of civil instability).<sup>165</sup> Because many of the events described in the texts occurred within the living memory of the authors – who were often eye-witnesses or more directly involved in the action – the collection will be examined here for the insight it allows into contemporary attitudes towards the office of lawspeaker. Rather than reflecting on shared traditions reaching back to the 'golden' Saga Age, as was the case with the *Íslendingasögur*, the *Sturlunga* authors were dwelling on their own experiences and realities.

During this period of internal strife, the law of the Commonwealth was unable to keep in check the ambitions of the most powerful chieftains. When described in *Sturlunga saga*, scenes at the Alþing are often disastrous, increasingly resulting in arguments and fighting.<sup>166</sup> Historians of the *Sturlungaöld* agree that the power-accumulating activities of the chieftains and their followers demonstrate a 'profound disregard for the laws of Iceland', which would result in 'a cynical disregard for the very concept of law itself'.<sup>167</sup>

It should follow, then, that the figure of the lawspeaker must have seemed somewhat superfluous: he would recite an Assembly Procedure no-one would follow, and a series of laws people would pay lip-service to if they happened to suit their purpose, and otherwise not at all. Even his potential advice-giving role, seen on occasions in the *Íslendingasögur*, would be redundant if parties arrived with firm ideas about what they would accept from a settlement, and refused to compromise on anything else: the actual legal position perhaps no longer seemed particularly an issue. Yet, as has been noted, the two most powerful families – the Sturlungar and the

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<sup>165</sup> Helgi Þorláksson, 'Sturlung Age', in Pulsiano, pp. 615-16.

<sup>166</sup> See further Tranter, *Sturlunga Saga, passim*. This subject will be explored in more detail in Chapter 3 of the present thesis.

<sup>167</sup> Thomas, 'Introduction', p. 29. See also Simpson, 'Sturla Þórðarson', p. 8.

Haukdælir – kept their representatives in office from the term of Gizurr Hallsson, beginning in 1181, until the end of the Commonwealth, suggesting that the office did retain some prestige and significance.

Of course, *Sturlunga saga* contains accounts of the activities of men who held the lawspeakership at some point in their life, but who were also heavily involved in the political struggles and feuding which are the main focus of the collection – perhaps most obviously the members of the Sturlung clan: Snorri Sturluson, Óláfr Þórðarson, and Sturla Þórðarson. While a great deal of information is to be gained from *Sturlunga saga* about the lives and behaviour of these men, much of it is not relevant to our purposes here: the sagas cover a much greater time span than their individual lawspeakerships, and the holding of the office is thus often not a factor in events. This discussion will accordingly be restricted to occasions on which lawspeakers are explicitly identified as such.

Nineteen different individuals are referred to as lawspeaker in the collection, including all of those who held office after Gizurr Hallsson, with the exception of Styrmir Kárason (1210-14 and 1232-35). Styrmir does feature in *Sturlunga saga* through his connections with Snorri Sturluson and the estate at Reykjaholt, but his two terms of office are not referred to. In fact, there is only one other lawspeaker after Markús Skeggjason (1084-1107) and up to Þorleifr Ketilsson (1263-65) who does not appear at all in the collection.<sup>168</sup> This is interesting, and perhaps somewhat surprising, in itself, considering the scarcity of references to the office in other sources. However, the nature of these references and the reasons for the inclusion of the lawspeakers vary from individual to individual, and these will be explored in what follows. Once again, Table 2.5, overleaf, provides a summary of the appearances of lawspeakers in the *Sturlunga* collection.

<sup>168</sup> Namely Gunnarr Úlfheðinsson (1146-55); somewhat strangely, Gunnarr's brother, father and grandfather were also all lawspeakers, and all are mentioned on several occasions in the collection, but Gunnarr himself does not feature. As was mentioned earlier in this chapter, the same is true in *Landnámabók*.

Table 2.5: *Lawspeakers in Sturlunga saga*

		Geimundar þátr heljarskins	Þorgils saga ok Hafliði	Ættartölur	Haukdæla þátr	Sturlu saga	Prests saga Guðmundar góða	Guðmundar saga dýra	Hrafn saga Sveinbjarnasonar	Íslendinga saga	Þorðar saga kakala	Svinfellinga saga	Sturlu þátr	Number of texts
4	Þorkell Þorsteinsson	<b>G</b>												1
11	Gunnarr Þorgrímsson							<b>G</b>						2
16	Markús Skeggjason				<b>H</b>					<b>G</b>				2
17	Úlfheðinn Gunnarsson			<b>G</b>	<b>H</b>			<b>G</b>						3
18	Bergþórr Hrafnsson				<b>H</b>									1
19	Guðmundr Þorgeirsson					<b>G</b>								1
20	Hrafn Úlfheðinsson			<b>G</b>				<b>G</b>						2
21	Finnr Hallsson		<b>X</b>											1
23	Snorri Húnbogason	<b>G</b>				<b>G</b>				<b>G</b>				3
24	Styrkár Oddason						<b>H</b>	<b>G</b>						2
25	Gizurr Hallsson				<b>H</b>	<b>X</b>	<b>H/X</b>	<b>G</b>						4
26	Hallr Gizurason								<b>L</b>					1
27	Styrmir Kárason									<b>X</b>				1
28	Snorri Sturluson									<b>X/L</b>				1
29	Teitr Þorvaldsson									<b>L</b>	<b>L</b>			2
33	Óláfr Þorðarson									<b>X</b>	<b>L</b>			2
34	Sturla Þorðarson	<b>G</b>								<b>X</b>		<b>L</b>	<b>X/L</b>	4
36	Teitr Einarsson											<b>L</b>		1
37	Ketill Þorláksson			<b>G</b>	<b>G</b>			<b>G</b>						3
38	Þórleifr Ketilsson												<b>H</b>	1
40	Jón Einarsson												<b>H</b>	1
<b>Number of lawspeakers</b>		<b>3</b>	<b>1</b>	<b>3</b>	<b>5</b>	<b>3</b>	<b>2</b>	<b>6</b>	<b>1</b>	<b>7</b>	<b>2</b>	<b>2</b>	<b>3</b>	

**G** = Genealogical reference  
**H** = Historical reference  
**X** = Involved in action of saga  
**L** = Legal role

Text in bold denotes a lawspeaker explicitly identified as such; text in italics denotes that the lawspeaker is named without his title.

As can be seen, genealogical mentions make up a significant number of references to lawspeakers identified as such. These may be understood in the same way as those I have discussed in relation to other texts, such as *Landnámabók* and the *Íslendingasögur*: a lawspeaker in the family is worth pointing out. In fact, one of the reasons for the identification of the compiler as Þorðr Narfason of Skarð are his

references to his own family, including his grandfather Snorri Húnbogason, lawspeaker 1156-70.<sup>169</sup> The passage from *Guðmundar saga dýra* quoted above is also continued to form a genealogy tracing down to himself and his brothers: ‘Sigríðr, dóttir Halls Hrafnssonar, var móðir Guðlaugar, móður Ketils prests Þorlákssonar, móðurföður Narfasonar’.<sup>170</sup> (It is rather strange that among this catalogue of lawspeakers, it is not pointed out that Ketill Þorláksson also held the office (1259-62), although, admittedly, he is identified as lawspeaker elsewhere in the collection.)<sup>171</sup> As a scholar and lawman himself, Þórðr would have good reason to wish to demonstrate his impressive legal pedigree and implied inheritance of lawspeaker-like traits.<sup>172</sup>

The chieftain Gizurr Hallsson appears in the *Sturlunga* collection primarily for the same reason he does in the *biskupa sögur* (albeit less frequently, given that he lived just before the start of the *Sturlungaöld* proper): because of his role as a prominent figure in the political scene of his time, rather than because of his lawspeakership. However, in his appearance in *Haukdæla þáttr*, a short text which itself is really an extended genealogy giving a historical account of significant members of the Haukdælir family, he is clearly identified as lawspeaker. This passage links him both with scholarly achievements in general and with literary accomplishments specifically (ch. 4):

Hallr Teitsson átti Þuríði, dóttur Þorgeirs á Mýri. Gizurr lögsögumaðr var sonr þeira. Hann bjó í Haukadal eftir föður sinn. Hann var bæði vitr ok málsnjallr. Hann var stallari Sigurðar konungs. Hann var ok inn bezt klerkr, þeira er hér á landi hafa verit. Oft fór hann af landi brott ok var betr metinn í Róma en nökkurr íslenzkr maðr fyrr honum af mennt sinni ok framkvæmð. Honum varð víða kunnigt um suðrlöndin, ok þar af gerði hann bók þá, er heitir *Flos peregrinationis*.<sup>173</sup>

<sup>169</sup> E.g. Úlfar Bragason, ‘The Politics of Genealogies’, pp. 319-20.

<sup>170</sup> *SS* I, 160. ‘Sigríðr, the daughter of Hallr Hrafnsson, was the mother of Guðlaugr, the mother of Ketill Þorláksson the priest, grandfather of the Narfasons.’

<sup>171</sup> E.g. *Ættartölur* ch. 7; *Haukdæla þáttr* ch. 5.

<sup>172</sup> On the use of genealogical literature to demonstrate and legitimise family traits see Clunies Ross, ‘Old Norse Textual Worlds’, p. 383.

<sup>173</sup> *SS* I, 60. ‘Hallr Teitsson married Þuríðr, the daughter of Þorgeirr from Mýrr. Gizurr the lawspeaker was their son. He lived in Haukadalr after his father. He was both wise and eloquent. He was the marshal of King Sigurðr. He was also the best scholar that there has been in this land. He often went abroad and was better thought of in Rome than any other Icelander before him because of his accomplishments and prowess. He had wide knowledge of the southlands [i.e. Saxony and Germany], and made a book about them, which is called *Flos peregrinationis*.’

This reveals something of a new side to Gizurr, which does not really occur elsewhere in the literature, though, as we have seen, his wisdom and learning are not infrequently alluded to in the *biskupa sögur*, particularly *Hungrvaka*. However, a reference to him in the ending of *Veraldar saga* has led some scholars to suggest he was responsible for its composition, although this is tenuous;<sup>174</sup> more credibly, *Flateyjarbók* states that he edited Gunnlaugr Leifsson's *Óláfs saga Tryggvasonar*:

Ok síðan segist Gunnlaugr sýnt hafa sögu Ólafs konungs Gizuri Hallssyni, ok hafði sagðr Gizurr hjá sér þá bók um tvau ár, en síðan sem hon kom aftr til bróður Gunnlaugs, emenderaði hann hana sjálf, þar sem Gizuri þótti þess þurfa.<sup>175</sup>

In the *biskupa sögur*, even if he does not quite qualify for the superlatives attributed to him by *Haukdæla þáttr*, Gizurr's learning and wisdom are not in doubt. However, his role as an Icelandic chieftain and major player in events are the dominant strands in his identity as depicted there, and indeed elsewhere in *Sturlunga*. This, on the other hand, does not figure in *Haukdæla þáttr* – here, his intellectual activities are highlighted as the most important reason for his renown. While the *þáttr*'s obvious Haukdælir-bias must be taken into account, it remains that, in the eyes of the author, Gizurr's lawspeakership, wisdom, eloquence, learning and literary ability – as well as the effect of these on his reputation – are clearly all related aspects of a larger field of accomplishment. The *þáttr* thus allows a glimpse of a more scholarly Gizurr, whose interests and intellectual proclivities are similar to those of the thirteenth-century lawspeaker-poets I explored in Chapter 1. It seems that the legal and the literary also combine in intellectual communities outside the Sturlung circle.

The historical intent of the texts further accounts for several instances of lawspeakers named with their title, where, as we have seen in other historically-minded works, they are included in annalistic form in scene-setting sections:

<sup>174</sup> Jakob Benediktsson, 'Veraldar saga', in Pulsiano, p. 690.

<sup>175</sup> Sigurður Nordal and others (eds.), *Flateyjarbók*, I, 575. 'And later Gunnlaugr says he showed the saga of King Óláfr to Gizurr Hallsson, and said Gizurr had the book with him for two years, and later when it came back to Brother Gunnlaugr, Gizurr had amended it himself, where he thought it necessary.'

Þá er Guðmundr var tólf vetra [...] Þá brann Björgyn um vetrinn [...] Veginn Einarr Grímsson ok brenndr bær Helga Skaftasonar [...] Tók lögsögn Styrkár Oddason.<sup>176</sup>

As we have seen in *Hungrvaka*, for example, the holders of the office are invoked in these instances to provide a chronological framework for the events described. This does suggest a willingness to continue Ari's methodology of using the lawspeakership to provide a time frame for Icelandic history, and, perhaps, presupposes some knowledge on the part of the sagas' audiences as to the order of the lawspeakers. However, these texts were conceived of as written works which used written sources; they are learned pieces aiming to create a record of factual events, not popular stories based on older oral traditions as are the *Íslendingasögur*.<sup>177</sup> It does not, therefore, necessarily mean that being given the information that Styrkár became lawspeaker would help the everyday Icelander get a fixed sense of the temporal location of events. It is more likely a reflection of the authors', or compiler's, interest in Icelandic history and knowledge of the conventions of earlier written historiographical sources.

Lawspeakers are also used to provide other sorts of background information, as in the following passage from *Guðmundar saga dýra* (ch. 1):

Þar var þá gott bóndaval í dalnum. Þá bjó í Fellsmúla Sigurðr Styrkárson lögsögumanns, en á Grenjaðarstöðum Eyjólftr, sonr Halls Hrafns sonar lög[sögu]manns, Úlfheðins sonar lög[sögu]manns, Gunnars sonar lög[sögu]manns.<sup>178</sup>

Here, the office seems to be invoked as proof of excellence. Similarly, there are certain positive characteristics attributed to lawspeakers in *Sturlunga* which match those applied in the *Íslendingasögur*: 'Teitr [var] lög[sögu]maðr, vitr maðr ok góðgjarn'.<sup>179</sup>

<sup>176</sup> *Prestssaga Guðmundar goða* (ch. 5): SS I, 124. 'When Guðmundr was twelve winters old [...] Bergen burned in the winter [...] Einarr Grímsson died and Helgi Skaptason's farm burned [...] Styrkár Oddason took the lawspeakership.'

<sup>177</sup> The compiler's *Formáli* ('Introduction') states that, in the writing of *Íslendinga saga*, Sturla drew on both eye witness accounts and 'bréfum þeim, er þeir rituðu, er þeim váru samtíða, er sögurnar eru frá' (SS I, 115). ('Those documents which were written by those who lived at the same time as the sagas are about.')

<sup>178</sup> SS I, 160. 'There were then excellent farmers to be found in the dales. At Fellsmúli lived Sigurðr son of Styrkár the lawspeaker, and at Grenjarstaðir lived Eyjólftr, son of Hallr son of Hrafn the lawspeaker, son of Úlfheðinn the lawspeaker, son of Gunnarr the lawspeaker.'

<sup>179</sup> *Þórðar saga kakala* (ch. 8): SS II, 17. 'Teitr [was] the lawspeaker, a wise and well-intentioned man.'

These suggest a set of commonly-held positive associations that apply universally to the concept of the office and its holders rather than, necessarily, to the specific individuals – indeed, they are verging on the formulaic epithet.

The types of reference discussed so far suggest that the institution of the lawspeakership still held significance and positive connotations in the Icelandic mentality, even if, in practical terms, the role and status of the holder at the Alþing was diminished. I will now, however, turn away from these more generalised references and to occasions when actors in the saga are identified as lawspeaker, in order to examine perceptions of the office as it was actually functioning during this period.

Although Table 2.5 seems to suggest that several lawspeakers play a legal role in the collection, this is almost without exception limited to references to them taking up or holding the lawspeakership. On a very few occasions, they may have a brief walk-on part:

Nú er Hrafn spurði þetta, sendir hann menn suðr um land til Halls lögsögumanns, mágs síns, ok Þorvalds Gizurarsonar, bróður Halls, ok hafði ráð við þá, hversu hann skyldi þetta mál leiðrétta við Þorvald. En þeir lögðu þat til, at hann byggi mál til á hendr Þorvaldi ok þeim mönnum, er neytt höfðu af hvalnum, til Dýrafjarðarþings ok sæki þar at lögum.<sup>180</sup>

Instances like this one, where Hallr does seem to be brought into the narrative in order to give legal advice, are both rare and probably largely coincidental: while the authors of the *Íslendingasögur* could choose to introduce a lawspeaker to give advice in a fictionalised context, Hallr is here almost certainly introduced because he really was a kinsman of Hrafn, and the visit really did happen. Unlike the *Íslendingasögur*, there are no instances in *Sturlunga* where lawspeakers play a sustained legal role. This, of course, is telling in itself: the lawspeaker's role (as lawspeaker) in the political struggles of the period, and consequently in the *samtíðarsögur* which document it, was negligible.

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<sup>180</sup> *Hrafns saga Sveinbjarnarsonar* (ch. 16): SS I, 220. 'Now when Hrafn heard this, he sent men south to Hallr the lawspeaker, his kinsman, and to Þorvaldr Gizurarson, Hallr's brother, and held counsel with them as to how he could resolve this case against Þorvaldr. And they suggested that he prepare a case against Þorvaldr and those men who had had profit from the whale, and take it to the Dýrafjörðr þing and prosecute it at law.'

*Íslendinga saga* demonstrates that this was an attitude felt even by serving lawspeakers themselves. The first reference to Snorri Sturluson's lawspeakership comes in the statement that, in 1230 (ch. 79):

Þetta sumar var kyrrt ok friðr góðr á Íslandi. Lítil þingreið. Snorri reið eigi til þings, en lét Styrmir prest inn fróða ríða til þings með lögsögn.<sup>181</sup>

Snorri evidently feels that there will be no-one or no issue important enough to merit his presence, and sends a deputy to perform his duties for him. It was not as though he was sending just anyone in his place, however: Styrmir had already been lawspeaker for a four-year period (1210-14), and regained the office for a second term two years after filling in for Snorri. He was thus a reliable replacement, and one unlikely to have provoked much concern (and perhaps the use of Styrmir's byname *inn fróði*, 'the learned', is a reminder of his credentials). Indeed, Snorri's absence does not appear to have been a source of consternation, as no further comment is made on the matter – perhaps because no-one else of any consequence attended either. Nevertheless, the incident both implies a rather flippant attitude on Snorri's part, and suggests that the personal power of the individual serving as lawspeaker was now perceived as much weakened – a perception which Snorri's action no doubt contributed to. The lawspeaker is no longer the ultimate legal authority, indispensable for his unique skills and training, but someone who could be replaced for seemingly little reason. Again, compare Skapti, whom I suggested may have been unwilling to travel to the king's court, so seriously did he take his duties at home. Perhaps, in the thirteenth century, the impact of literacy, and likely even more so the growing sense of futility surrounding the resolution of disputes through law, meant that the lawspeakership was a drastically changed undertaking compared to what it had been in the eleventh.

There is only one other reference to Snorri's lawspeakership in *Íslendinga saga* – in fact in the whole *Sturlunga* collection – which again, is connected to the discharging of his duties (conversely here it is said to be the very reason he attends the Alþing: 'Snorri var á þingi at vanða sínum, því at hann hafði lögsögn' (ch. 90)).<sup>182</sup> On

<sup>181</sup> SS I, 342. 'That summer was quiet and there was good peace in Iceland. Few rode to the þing. Snorri did not ride to the þing, but had Styrmir *inn fróði* the priest ride to the þing with the lawspeakership.'

<sup>182</sup> SS I, 362. 'Snorri was at the þing as was his custom, because he had the lawspeakership.'

the other hand, *Íslendinga saga* illustrates exactly how he builds up his personal power and wealth, describing in detail how and when he acquires his various *goðorð*, *þingmenn*, property, and supporters. His election to the lawspeakership, however, is not mentioned as part of this. It does not appear, therefore, that the lawspeakership is seen as a significant addition to the sources of Snorri's power. This perhaps goes some way to explain why he or someone close to him may have compiled the *lögsögumannatal*, as a nostalgic wish to commemorate an ancient tradition which was now under threat – not at all dissimilar reasons, in fact, to those he himself gives for his compilation of the *Edda*. The apparent ambivalence of Snorri and his contemporaries towards the practical realities of his own lawspeakership and its role in public life makes a poignant contrast to his private, intellectual interest in the history and tradition surrounding the office.

The holding of the lawspeakership is later shown again not to be a compelling reason for attendance at the Alþing:

Sturla Þórðarson hafði þá lögsögn. Hann reið þá eigi til þings ok þeir Hrafn fyrir ófriði (ch. 166).<sup>183</sup>

This is, of course, an eminently sensible move on Sturla's part, given that he is heavily embroiled in a feud with Hrafn at this juncture. After Snorri's earlier absence for much less serious reasons it cannot have been surprising that Sturla remained at home in this year. But when the lawspeaker cannot get to the Alþing because of the 'ófriði', the office seems doomed indeed. In fact, elsewhere in *Sturlunga*, the chieftain Þórðr *kakali* seems to be able to take an autocratic role in the election of the new lawspeaker:

En Þórðr réð einn öllu á þinginu. Hann tók til lög[sögu]manns Ólaf hvítaskáld Þórðarson.<sup>184</sup>

Unfortunately, the saga is not more explicit as to the extent to which Þórðr felt that having Óláfr, his cousin, as lawspeaker, would benefit him personally – unlike

<sup>183</sup> *SS* I, 479. 'Sturla Þórðarson then had the lawspeakership. He did not ride to the *þing*, nor did Hrafn and his followers, because of the hostilities.'

<sup>184</sup> *Þórðar saga kakala* (ch. 48): *SS* II, 85. 'And Þórðr alone ruled all at the *þing*. He received as lawspeaker Óláfr hvítaskáld Þórðarson.'

*Íslendinga saga*'s description of the Northern Quarter *goði* Kolbeinn Tumason's nomination of Guðmundr Arason to be the new bishop of Hólar: 'Ok váru þau orðtök margra manna, at Kolbeinn vildi því Guðmund til biskups kjósa, at hann þóttist þá ráða bæði leikmönnum ok kennimönnum fyrir norðan land' (ch. 12).<sup>185</sup> Óláfr's appointment to the office, however, demonstrates the extent to which the most powerful chieftains were able to go unchallenged at the supposedly democratic Alþing – consider also Sturla's observation, 'mönnum þótti þat in mesta nýjung, ef nökkurir menn vildi deila þingdeildum við Oddaverja í þann tíma'.<sup>186</sup> The legal system has completely broken down, so it is in every way dominated by the most powerful chieftains, a situation encapsulated by Þórðr's control of the lawspeakership.

Rather than end on such a gloomy note, however, I wish to discuss one final component of *Sturlunga*, *Sturlu þáttur*, for its neat demonstration of how skills in storytelling and poetic composition were linked with wisdom and spiritual enlightenment, and, in turn, with legal ability. The text in fact exists only in the Reykjarfjarðarbók redaction of *Sturlunga*, of c.1400, although Ólafía Einarsdóttir has argued that at least part of it was also included in the original compilation.<sup>187</sup> The *þáttur* describes events in Sturla Þórðarson's life, beginning during his feud with Hrafn Oddason, which leads to his exile in Norway, and ending with his death, but the main focus is on the years 1262-63, when Sturla leaves Iceland and establishes himself at the Norwegian court.

When Sturla first arrives in Norway he is faced with the animosity of King Magnús, resulting from the hostilities between the Sturlungar and Magnús's father King Hákon. In order to overcome this, Sturla's ally, Gautr, introduces him to the king placing emphasis on his poetic renown: "Þessi maðr er Sturla skáld Þórðarson [...] ek

<sup>185</sup> SS I, 238. 'And it was the comment of many men, that Kolbeinn wished Guðmundr to be chosen bishop for the reason that he thought that he himself would then control both laymen and clergymen in the Northern Quarter.'

<sup>186</sup> *Íslendinga saga* (ch. 7): SS I, 236. 'It seemed to men the greatest novelty if certain men wished to contest arguments at the þing against the Oddaverjar at that time.'

<sup>187</sup> 'Om de to håndskrifter af Sturlunga saga', *Arkiv för nordisk filologi*, 83 (1968), 74-78; cited in Marlene Ciklamini, 'Veiled Meaning and Narrative Modes in *Sturlu þáttur*', *Arkiv för nordisk filologi*, 99 (1984), 139-50 (p. 139 n. 2). The compilation exists in two manuscripts, Króksfjarðarbók (Reykjavík, Stofnun Árna Magnússonar, AM 122a fol, c.1360-70), and Reykjarfjarðarbók (Reykjavík, Stofnun Árna Magnússonar, AM 122b fol), neither of which is now complete. Although neither preserves the original text, the earlier manuscript is believed to be closer (Peter Hallberg, 'Sturlunga saga', p. 616; R. George Thomas, 'Introduction', p. 18).

hygg, at hann muni hafa yðr kvæði at færa ok svá föður yðrum” (ch. 2).<sup>188</sup> This *hofuðlausn* motif – the use of literary ability and eloquence in order to gain favour (and indeed save one’s life) – is continued later in the chapter when the queen overhears Sturla telling a saga to a crowd of men, ‘betr ok fróðligar en nökkurr þeira hafði fyrr heyrt’, and asks him to repeat it for her and the king the following morning.<sup>189</sup> After his recital, the queen and court believe him to be ‘fróðr maðr ok vitr’.<sup>190</sup> Sturla senses that the king is also warming towards him and offers to recite the poem he has composed about him, after which the king gives him his friendship. The following day, after Sturla has presented another poem which he had composed about King Hákon, Magnús states, “Þat ætla ek, at þú kveðir betr en páfinn”.<sup>191</sup> Marlene Ciklamini has discussed this statement in terms of ‘the medieval notion that eloquence is both a divinely inspired gift and a sign of integrity’.<sup>192</sup> Sturla is thus able to prove himself through his compositional and oral talents. Some time later, when Sturla has become an advisor to Magnús, the king ‘skipaði honum þann vanda at setja saman sögu Hákonar konungs’ – the product of which was discussed briefly in Chapter 1.<sup>193</sup> In the end, of course, it is Sturla who conveys to Iceland *Járnsiða*, Magnús’ new law code for the country, and is appointed as *lögmaðr* by the king, something made explicit by the *þátttr*.

*Sturlu þátttr* demonstrates on a larger scale the notions demonstrated in the short passage about Gizurr Hallsson from *Haukdæla þátttr* which was examined above. Sturla’s accomplishments in the composition and oral recitation of poetry and stories serve as evidence of wider intellectual ability and moral integrity. The correlation between literature and law is personified in Sturla, by the fact that his literary skill ultimately leads to his appointment as Lawman of Iceland.

<sup>188</sup> SS II, 231. “This man is Sturla Þórðarson the skald [...] I think that he must have poems to present to you and to your father also.”

<sup>189</sup> SS II, 232. ‘Better and more knowledgeable than any of them had heard before.’ On the use of the *hofuðlausn* motif see further Ciklamini, ‘Veiled Meaning’, p. 148-50.

<sup>190</sup> SS II, 233. ‘A learned and wise man.’

<sup>191</sup> SS II, 234. “I think that you recite better than the pope.” As well as ‘to recite’, *kveða* carries the meanings and ‘to compose aloud’ and ‘to say, speak’ (Richard Cleasby and Guðbrand Vigfusson, *An Icelandic-English Dictionary*, 2<sup>nd</sup> edition, with a supplement by Sir William A. Craigie (Oxford: Clarendon, 1957), pp. 360-61). See also Ciklamini, ‘Veiled Meaning’, pp. 149-50, who interprets Magnús’ words as an allusion to ‘Sturla’s devotion to Saint Peter and to the commonly held belief that the saint, God’s vicar, spoke in the words of the pope.’

<sup>192</sup> ‘Veiled Meaning’, p. 140.

<sup>193</sup> SS II, 234. ‘Assigned it to him to work carefully to set down the saga of King Hákon.’

### SECTION III: CONCLUSIONS

The *samtíðarsögur* reveal a conflict between the concept of the lawspeakership and the reality. In the abstract, the office still seems to have been respected, considered a high-status and renowned position whose holders were worthy figures from whom to trace a line of descent; whose deaths were remembered and noted; or whose terms of office stood alongside the reigns of kings in marking history. In such generalised references, lawspeakers are attributed positive qualities, notably wisdom and learning; that these are stock characteristics also used in the *Íslendingasögur* demonstrates that such traits were automatically associated with and expected from incumbents of the office.

On the other hand, the collection also shows that the harsh realities of thirteenth-century Icelandic political life made the lawspeakership almost an irrelevance. Yes, the office was held by some of the most important figures of the time. But the silence of the *samtíðarsögur* as to any actions these men performed as lawspeaker, their failure even to identify them as postholders on the majority of occasions, illustrates that the lawspeakership was seen as an insignificant part of their power. While the authors (or compiler) are careful to describe their accumulation of *goðorð*, wealth and *þingmenn*, they do not show the election to the lawspeakership as a major landmark in the acquisition of political supremacy. Moreover, we see also that these men had other factors to contend with which took priority over the demands of the job, so that even those who demonstrate a reverence for the office and its traditions through their personal pursuits, could, in their public role, fail to carry out even its most basic of duties, attendance at the Alþing.

### CONCLUSIONS

As conclusions have been drawn about the different genres of writing within each section, I will keep my comments brief here. Overall, though, in the portrayal of the lawspeakership and its holders there is a tension between ideal and reality evident in perhaps all the sources. The institution, as such, is revered and valued; it carries positive connotations in the Icelandic mentality. When it came to remembering and telling

stories about individual lawspeakers, however, it seems that they were not, after all, considered particularly *söguligt*, ‘saga-worthy’. This is true both of the *Íslendingasögur*, who do not base their narratives around the figure of the lawspeaker, and of the *samtíðarsögur*, who perhaps had little upon which to base any tales they might wish to relate.

There are certain tendencies shared by all the sources: trends of referring to lawspeakers in historical and genealogical contexts, and of using the title only when it is relevant to the matter under discussion. In temporal and genealogical references, the title is relevant as an indicator as to why the individual is mentioned; in the narrative parts of the sagas it is rarely attributed simply for the sake of ‘title-dropping’, to indicate or emphasise status, but is a clear signpost of impending legal activity.

Few lawspeakers emerge from the sources with a clear personality, or at least a clear personality as lawspeaker. In the later period, this can best be explained for two reasons. First, the role, in the thirteenth century, apparently offered trivial scope for action; it seems to have become a nominal title with little practical significance. Holders who were not otherwise important figures thus had little opportunity to make themselves memorable. And second, those who did have other sources of power inevitably became known for these reasons. With figures such as Gizurr, Snorri, and Sturla, we learn much about their lives from the *samtíðarsögur*, but one has to look rather closely to notice they were lawspeakers at all.

There are perhaps only two lawspeakers who are distinctly remembered as such in tradition: Skapti Þóroddsson and Markús Skeggjason. Fittingly, the two are united in what is perhaps the most fundamental and universally associated trait of the office, by *Kristni saga*’s description of Markús: ‘Hann hefir vitrastr verit lögmannna á Íslandi annarr an Skapti’ (ch. 10).<sup>194</sup>

Rather contrary to expectation, this chapter has demonstrated that the sources are, at best, contradictory as to the nature and power of the office and the respect offered to its holders. The bleak reality of the nature of the office in the thirteenth century, which we can see depicted in the *samtíðarsögur*, seems to have meant that

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<sup>194</sup> *ÍF* XV(2), 40. ‘He was the wisest lawspeaker in Iceland other than Skapti.’

even for *Íslendingasögur* authors the Golden Saga Age was not, in terms of the lawspeakership, quite so golden after all. The unique Icelandic institution of the lawspeakership, then, seems to have been doomed in the thirteenth century, dwindling in importance in practical terms until finally, in 1271, it was abolished, to be replaced with a new office to which incumbents were appointed by a foreign king. Perhaps little wonder, in the end, that the sources can muster only a halfhearted enthusiasm.

However, depicting events at the last hour of the Commonwealth, *Sturlu þátr* shines through this apparent darkness: all is not lost for the lawspeakership, in spite of everything. For in Sturla, Iceland gained a Lawman who had not only been lawspeaker before, but who, as we have seen, appreciated the spirit of the office and its traditions, even if circumstances had made him powerless to respect the reality. Moreover, he encapsulates the curious but persistent interrelationship between law and literature, and specifically between lawspeakers and literature, which I have demonstrated throughout this chapter and the previous one. So while the lawspeakership may nominally have failed, disappearing as a feature of Icelandic life, surely its spirit – enduringly associated with wisdom, learning and good intentions – lived on.

## CHAPTER 3:

### LAW IN LITERATURE

Thus far in this thesis I have examined in broad terms the multifaceted cultural relationship between the legal and the literary, illustrating how they interacted in various social spheres. In Chapter 1 I demonstrated the inseparability of law and literature in intellectual and textual communities, while in Chapter 2 I began to take a more literary-analytical approach in investigating the social role of the office of lawspeaker through its portrayal in various types of medieval Icelandic writing. In this chapter, I wish to draw these findings and approaches together, continuing and focussing the methodology of literary analysis in a study of the use of legal elements in the *Íslendingasögur*, in order to investigate the way in which the legal system was debated in the literary communities which produced and received these texts. After all, as Miller pithily observes, ‘the saga genre itself attests to the cultural obsession with law’.<sup>1</sup> My work will contribute a fundamental but hitherto largely overlooked perspective – a literary reading – to the study of the role of the legal in the sagas, previous work on which, as was described in the Introduction, has been primarily undertaken from legal or socio-historical angles.

As the focus of this thesis is on Commonwealth-period Iceland, I have concentrated mainly on the pre-1300 *Íslendingasögur*, those composed during or at least within living memory of the period before the introduction of the Norwegian law-codes. (An exception is made for the outlaw sagas, for their obvious relevance to this thesis.) I have stuck more strictly to this cut-off date in the ‘statistical’ investigations of compositional technique, for example in the tables of common elements in *þing*-scenes and of the use of ‘legalities’ in the sagas, where representations of Commonwealth legal practices may be distorted by later misunderstandings or changing narrative techniques. I have also excluded *Heiðarvíga saga* from these on account of the problematic extant text of its early part.<sup>2</sup> If more general features of interest can be drawn from the later

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<sup>1</sup> Miller, *Bloodtaking*, p. 227.

<sup>2</sup> The first fifteen chapters of the only extant manuscript of *Heiðarvíga saga* were lost in the fire in Copenhagen in 1728. The text was subsequently reconstructed from the notes and memory of the copyist Jón Ólafsson, but cannot be considered completely reliable.

sagas, however, I have allowed them into the discussion, although not if earlier examples can be preferred. I have also discounted any sections of the narrative set away from Iceland – *Egils saga*, for example, may seem underrepresented, but many of its legal issues arise in Norway – because I wish to explore the way the authors and audiences of the *Íslendingasögur* contemplated and commented upon their own legal system and its role in their own society.

Theodore M. Andersson states: ‘It is a very nearly universal rule [...] that a saga is built around a conflict’.<sup>3</sup> This is developed by Jesse Byock: ‘Legalistic disputes, often governing the way in which saga narrative advances, are an essential element in medieval Iceland’s form of prose storytelling’.<sup>4</sup> In fact, it is a commonplace in discussions of the *Íslendingasögur* to make an observation along the lines that ‘a saga without lawsuits, law making, execution of sentences, [or] transmission of oral law-lore is simply unthinkable’.<sup>5</sup> Clearly, it is nothing new to observe that the law plays an important role in saga narrative. In this chapter, though, I wish to offer a fuller and more nuanced reading of the legal in the *Íslendingasögur*.

I have divided the chapter into three sections, each one focussing on a particular legally-themed component of saga narrative: character (lawyers and outlaws); location (the *þing*); and register (citation of or reference to specific laws and legal procedures, which I have termed ‘legalities’). These sections are, to some extent, discrete, and, as will become clear, I have taken differing approaches in each, in order to illustrate various aspects of the saga authors’ methodology. At the same time, however, they work together to provide the most comprehensive study so far undertaken of the literary portrayal of legal themes in the *Íslendingasögur*.

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<sup>3</sup> *The Icelandic Family Saga: An Analytic Reading* (Cambridge, MA: Harvard University Press, 1967), p. 11.

<sup>4</sup> ‘Inheritance and Ambition in *Eyrbyggja saga*’, in *Sagas of the Icelanders: A Book of Essays*, ed. by John Tucker (New York: Garland, 1989), pp. 185-205 (p. 190).

<sup>5</sup> Martina Stein-Wilkeshuis, ‘Laws in Medieval Iceland’, *Journal of Medieval History*, 12:1 (1986), 37-53, p. 40. See also e.g. Henry Ordower, ‘Exploring the Literary Function of Law and Litigation in *Njal’s Saga*’, *Cardozo Studies in Law and Literature*, 3 (1991), 41-61 (pp. 41, 42); Vésteinn Ólason, *Dialogues with the Viking Age: Narration and Representation in the Sagas of the Icelanders*, trans. by Andrew Wawn (Reykjavík: Heimskringla, 1998), p. 65.

The structure of the chapter means that I am able to draw out common patterns and trends in the use of legal elements as building blocks of saga narrative. At the same time, however, I will argue that generalisations about the role of the legal in the sagas such as those cited above are, in fact, *too* general, and oversimplify a subtle and complex position to the point of being misleading. I will therefore frequently highlight idiomatic usages in individual sagas, and, in particular, will trace throughout all of my main sections the treatment of these features in two contrasting sagas, *Laxdæla saga* and *Njáls saga*. In turn, this will feed back tellingly into the picture of the *Íslendingasögur* overall, for while it is, again, nothing new to observe *Njáls saga*'s exceptionality in the prominence it gives to law, I wish to illustrate the extent to which it in fact conditions our perception of the legal in the sagas.

## SECTION IA: LAWYERS

In an article entitled 'Lawyers in the Old Icelandic Family Sagas: Heroes, Villains, and Authors', Alan Berger maintains that, in the manner of 'outlaw sagas' and 'poet sagas', certain of the *Íslendingasögur* could fittingly be described as 'lawyer sagas'.<sup>6</sup> He suggests that the *Íslendingasögur* lawyer may be a stock character type created by the saga author to lend credibility to the details of a plot based around a legal dispute: 'if episodes are to turn on points of law, then heroes and villains must be made lawyers to accommodate such conflicts'.<sup>7</sup> Unfortunately, much of Berger's article fails to investigate this theory directly, exploring instead the claim – equally interesting and important, but not what was promised in his title – that saga authors treated the law as raw material for their stories, a 'catalogue of conflicts' from which they could develop 'realistic but fictional' disputes.<sup>8</sup> In fact, he gives just one brief example of a character who seems to have been purposely furnished with legal skills by a saga author: 'Helgi Droplaugarson seems to have been known to tradition as a ferocious fighter, but the author of *Droplaugarsona saga* made him a lawyer to handle a series of legal conflicts which finally issued in battle'.<sup>9</sup> In this section, therefore, I wish to examine further the

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<sup>6</sup> *Saga-Book*, 20 (1978-79), pp. 70-79 (p. 70).

<sup>7</sup> *Ibid.*, p. 78.

<sup>8</sup> *Ibid.*, pp. 79, 72.

<sup>9</sup> *Ibid.*, pp. 78-79.

appearance and function of ‘lawyers’ in the sagas: just who is the *Íslendingasögur* lawyer? And what attitudes towards legal practitioners can be discerned from saga narrative?

Although he makes Helgi Droplaugarson a lonely figure in supporting his argument, Berger’s claim is indisputably one for which ample evidence can be obtained from the *Íslendingasögur*, at least to the extent that a wide variety of characters can be found there acting in legal cases: as well as numerous instances of *goðar* and prominent *bændr*, there are ordinary farmers, fourteen-year-old boys (*Grett* ch. 16), even women (*Eyrb* ch. 38 – although in this instance the narrator is quick to point out that the law was soon altered to prevent such a disaster from happening again). Doubtless this reflected life – the very set-up of the legal system meant that most people (women too, in certain cases) probably found themselves caught up in some stage of the legal process from time to time.<sup>10</sup> It was not too much of a stretch, therefore, for a narrator to involve any of his characters in legal cases if need be. But I think it needs to be recognised more clearly that the Modern English word ‘lawyer’ can in fact be used to cover several rather different types of *Íslendingasögur* character, and that distinctions are sharply drawn by the narrators themselves. As well as the ‘occasional lawyer’, the ordinary *bóndi* who finds himself bound by obligation to act in a legal case whether or not he has any particular legal skill, there are two particular types of *Íslendingasögur* lawyer: those with legal expertise, and those with legal experience. These talents may overlap, but they are certainly and markedly not interchangeable in the minds of the narrators, and it is the differences between the two which I wish to explore in the following pages.

William Ian Miller acknowledges that the term *lögmaðr* ‘appears to have been reserved only for men of special talent’, and that the legal training of many *goðar* – which needed only to be adequate to enable them to aid their *þingmenn* in legal cases –

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<sup>10</sup> In *Grágás*, there are certain instances in which women are recognised as a principal, although they could not act in court and would be expected to transfer cases to a male kinsman. They also had legal rights of inheritance and property ownership (including *goðorð*, although they could not act in the role); were included in the responsibility for maintenance of dependents and tithe-payments; and could undergo ordeal and be prosecuted and outlawed. In the *Íslendingasögur*, there are several instances of women initiating divorce; in *Njáls saga*, the lawspeaker Þórarinn *Ragabróðir* agrees that it is lawful for Hallgerðr to announce her own betrothal to Glúmr (ch. 13). Source criticisms already noted should of course be borne in mind. See further *Laws* II, 402-03, and references to *Grágás* therein; Frank, ‘Marriage’, p. 478; Miller, *Bloodtaking*, pp. 24, 27; Miller, ‘Of Outlaws’, p. 2082 n. 7.

was not automatically sufficient to qualify them for the epithet.<sup>11</sup> At the same time, however, he claims that ‘no evidence suggests that special status was accorded the different aspects of legal wisdom and skill’.<sup>12</sup> Arguably, legal *skill* in medieval Iceland did not necessarily require a deep knowledge and understanding of the law, but entailed an ability to succeed in legal cases – which, as I will demonstrate, involved more than being technically correct in the minutiae of the law, or more even than having the law on one’s side. In this case, I think almost *all* the evidence makes this differentiation, and that people with special ability in either regard were recognised and celebrated quite differently.

*Grágás* itself highlights the distinction: it uses the term ‘*lögmaðr*’ to describe those men the lawspeaker was allowed to consult before his annual recitation of the law if he felt his own knowledge was unsatisfactory,<sup>13</sup> and, as was cited in Chapter 1, the legal experts from whose dictation written legal texts could supplement *Haflíðaskrá*, as long as they did not contradict it.<sup>14</sup> Interestingly, though, the term is not used in *Grágás* of the men who sat on the *lögretta*, whose job it was to decide and create the law. The *lögretta*, at least in theory, consisted of the forty-eight regional *goðar*, the bishops, and the lawspeaker, all of whom sat on the *miðpallr*, ‘middle bench’; each *goði* also brought along two advisors, who could give counsel but who did not have a vote.<sup>15</sup> ‘*Lögréttuþátrr*’ refers to these as ‘*lögretto menn*’, or even just ‘*menn*’, or, when referring to matters only applicable to the middle bench, ‘*goðar*’.<sup>16</sup> *Lögretta* membership was automatic, based on the fact that one controlled a *goðorð* rather than on merit, and therefore while at least some degree of legal skill was, in practice, a useful attribute for the successful *goði*, as will be explored further below, legal expertise could not be guaranteed in members of the *lögretta*, their role in legislation notwithstanding.

Miller claims further that ‘numerous people counted as *lögmennt* or *lagamennt*’, and that ‘the sagas take great care to note when people were known for their legal

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<sup>11</sup> *Bloodtaking*, p. 226.

<sup>12</sup> *Ibid.*, p. 358 n. 13.

<sup>13</sup> K § 116: *Gg* Ia, 209.

<sup>14</sup> K § 117: *Gg* Ia, 213.

<sup>15</sup> K § 117: *Gg* Ia, 211.

<sup>16</sup> K § 117: *Gg* Ia, 211-17.

expertise, even when the talent did not figure into the plot'.<sup>17</sup> As I demonstrated throughout Chapter 2, it is in fact very rare for the sagas to introduce unnecessary detail, so this might suggest either a formulaic character attribute or, as Miller implies, a particular reverence for legal ability as being in itself 'almost always sagaworthy'.<sup>18</sup> However, of Miller's five examples for this latter claim, only two come from the *Íslendingasögur*, and these refer to the introductory portraits of Mǫrðr *gigja* in *Njáls saga* and Arnkell *goði* in *Eyrbyggja saga*, both of whose legal expertise seems to me to be a significant factor in their roles in their respective sagas. I would argue, rather, that the *Íslendingasögur* are actually very sparing and deliberate in their acknowledgement of legal expertise, and that a similar precise, specialised sense as implied by *Grágás*, denoting especial knowledge of the law coupled with implied wisdom and sagacity, can be detected in *Íslendingasögur* usage.

In fact, little more than a handful of *Íslendingasögur* characters are awarded the epithet *lögmaðr* or *lagamaðr* (the latter is a semantically equivalent term used by some scribes to avoid confusion after the office of *Lögmaðr* replaced the Commonwealth-period *Lögsögumaðr*).<sup>19</sup> There are only five characters so titled outside *Njáls saga*: Halli Sigurðsson in *Valla-Ljóts saga*; Arnkell *goði* in *Eyrbyggja saga*; Helgi Droplaugarson in *Fljótsdæla saga*; Bersi of Hvammr in *Finnboga saga*; and finally, hinting that legal ability could have aroused feelings more erotic than mere respect, in her enigmatic response to the question which of her four husbands she loved most, Guðrún Ósvífrsdóttir replies, 'Þórðr Ingunnarson var maðr þeira vitrastr ok lagamaðr mestr' (*Lax* ch. 78).<sup>20</sup> Unsurprisingly, however, *Njáls saga* – dubbed 'the veritable lawyer's saga' by Heusler<sup>21</sup> – provides a further seven: Mǫrðr *gigja*, Eyjólfur Bolverksson,

<sup>17</sup> *Bloodtaking*, pp. 226-27.

<sup>18</sup> *Ibid.*, p. 227.

<sup>19</sup> See *ÍF* XII, 5, n. 3. There are 42 citations of 'lögmaður' in *Íslendingasögur: Orðstöðulykill og texti – The Complete Sagas of Icelanders with Lemmatised Concordance* CD-ROM (Reykjavík: Mál og menning, 1996). 16 of these appear to be anachronistic usages of the term instead of *lögsögumaðr* (though the lawspeaker would of course qualify for the descriptive term anyway). A further 7 can be discounted as anomalous uses in the late *Svarfdæla saga* and *Hávarðar saga Ísfirðings*, where it appears to refer to some sort of local official. 6 are generalised instances, such as 'Flosi kvezk eigi vita skyn á, hverir lögmenn væri mestir' (*Njál* ch. 138: *ÍF* XII, 364) ('Flosi said he didn't know which legal experts were greatest'). There are 5 citations of 'lagamaður'. The *ONP* records 110 citations of *lögmaðr* (which is, again, likely to be heavily weighted by references to the office) and 18 citations of *lagamaðr*.

<sup>20</sup> *ÍF* V, 228. 'Þórðr Ingunnarson was the wisest man among them, and the greatest lawyer.'

<sup>21</sup> *Das Strafrecht*, p. 13. ('Die wahre Juristensaga.')

Þórhallr Ásgrímsson, Njáll himself, the lawspeakers Þórarinn *Ragabróðir* and Skapti, and Skapti's father Þóroddr. Þorkell Geitisson is also nominated by Flosi when the latter is asked to think of great *lögmen*n (ch. 138). In fact, not content with more than doubling the *Íslendingasögur* quota of *lögmen*n, *Njáls saga* also insists on emphasising the superlative supremacy of its lawyers: Þórhallr Ásgrímsson and Eyjólfur Þólværksson are both referred to as 'inn þriðji mestr lögmaðr á Íslandi'<sup>22</sup> (actually a slight demotion for Þórhallr, who early in the saga is called 'mestr lögmaðr á Íslandi'),<sup>23</sup> while of Mjörðr *gigja* it is said that he was 'svá mikill lögmaðr, at engir þóttu lögligir dómar dæmðir, nema hann væri við',<sup>24</sup> and of Njáll himself: 'Hann var lögmaðr svá mikill, at engi fannsk hans jafningi'.<sup>25</sup>

With the possible exception of Þórðr, to whom I shall return later (and perhaps also Þóroddr, who is anyway only identified in comparison with his son Skapti),<sup>26</sup> the legal expertise of these men has some bearing on the narrative; moreover, and crucially, their abilities are usually displayed in a capacity beyond merely acting in court (although many of them are, of course, successful in this regard too). Njáll, for example, is shown as a teacher to Þórhallr, and, as was noted in the previous chapter, directs Skapti on the institution of the Fifth Court – this may be an act of authorial license but is still a nice reflex of the *Grágás* definition, which has *lögmen*n advising the lawspeaker. Mjörðr *gigja* 'mælti lögskil at vanða sínum' in the *lögrett*a (*Njál* ch. 2),<sup>27</sup> Halli acts as counsellor to the chieftain Guðmundr *ríki* (*V-L* ch. 2). Generalised references in the *Íslendingasögur*, too, confirm this precise sense of sagacity and expertise away from the courtroom: consider *Laxdæla*'s 'þetta mál var rannsakað af lögmonnum' (ch. 25),<sup>28</sup> for example, or Jökull's ironic comment upon hearing that his

<sup>22</sup> *ÍF* XII, 279, 359, 363. 'One of the three greatest legal experts in Iceland.'

<sup>23</sup> *ÍF* XII, 74. 'Greatest legal expert in Iceland.'

<sup>24</sup> *ÍF* XII, 5. 'Such a great legal expert, that no-one thought judgements lawfully judged, unless he was involved.'

<sup>25</sup> *ÍF* XII, 57. 'He was such a great legal expert, that his equal could not be found.'

<sup>26</sup> *Njál* (ch. 56): 'Þeir váru höfðingar miklir feðgar ok lögmen miklir' (*ÍF* XII, 141). ('They were great *höfðingar*, father and son, and great legal experts.')

<sup>27</sup> *ÍF* XII, 8. 'Spoke of legal matters, as was his custom.'

<sup>28</sup> *ÍF* V, 71. 'This matter was examined by legal experts.'

kinsman Ingólfr has been summoned to the Húnavatnsþing: “þótt vér sém eigi lögmen, þá munu vér eyða málit með øxarhómrum” (*Vatn* ch. 37).<sup>29</sup>

Even in characters who do not quite achieve recognition as *lögmen*, the possession of advanced legal knowledge of this sort seems to have been regarded as worthy of note. The adjectives *lögkænn* and *lögvittr* also seem to imply an intellectual expertise in the law away from its practical application in court: two characters in *Barðar saga*, for example, are awarded such a description after undergoing particular training (chs. 10, 11). While the few instances of these terms in the corpus makes it difficult to determine with confidence any nuanced semantics, their very rarity simultaneously suggests that they were not bestowed lightly.<sup>30</sup> Legal expertise is not a formulaic attribute blithely and randomly administered by saga narrators; such a description really distinguishes those granted it, marking them as exceptional.

Jón Viðar Sigurðsson maintains that ‘although the legal knowledge of the chieftains is rarely mentioned, most of them were well versed in the law. This was taken for granted and there was no need to mention it.’<sup>31</sup> On the contrary, I would suggest that almost the opposite is true: the legal knowledge of the *goðar* is not often mentioned in the sagas because it was not often considerable: when a *goði*’s legal expertise is outstanding, the sagas *do* highlight it, as in Arnkell *goði* of *Eyrbyggja saga* (ch. 12):

Hann var manna mestr ok sterkastr, lagamaðr mikill ok forvitri. Hann var góðr drengr ok umfram alla menn aðra þar í sveit at vinsældum ok harðfengi; hann var ok hofgoði ok átti marga þingmenn.<sup>32</sup>

We may recall, too, Jón Viðar’s observation, cited in Chapter 2, that ‘chieftains only sporadically became Lawspeakers’ – perhaps one reason for this was that most chieftains actually lacked the expertise and training to qualify them for the post.

<sup>29</sup> *ÍF* VIII, 99. “Although we may not be legal experts, we will invalidate their case with the backs of our axes.”

<sup>30</sup> *Íslendingasögur: Orðstöðulykill og texti* cites 6 instances of *lögkænn* (cf. 14 in the *ONP*); 5 of *lögvittr* (*ONP* 7).

<sup>31</sup> *Chieftains and Power*, p. 90.

<sup>32</sup> *ÍF* IV, 20. ‘Arnkell was the greatest of men and the strongest, a great legal expert and very wise. He was a very valiant man, popular with all the other men in the district, and bold; he was also a *hofgoði* [‘temple-chieftain’] and had many *þingmenn*.’

The usual reason given for assuming the legal expertise of chieftains is that they had to act in legal cases on behalf of their *þingmenn*.<sup>33</sup> But when *þingmenn* approached their *goði* for help, they usually already knew their legal position, that they had been wronged according to law. The major problems faced by the lower-status *bændr* in the legal system are in abundant evidence in the *Íslendingasögur*: the assumption that superior physical force could be a decisive factor in lawsuits, and that arbitrated decisions would favour the party with the greatest political sway. So, in *Grettis saga* Þóroddr brings his case against Atli for the slaying of Þorbjörn to the Alþing rather than the Húnavatnsþing ‘fyrir frændum Atla; hugði hann, at hér myndi hans mál síðr fyrir borð borit’ (ch. 51),<sup>34</sup> while in *Droplaugarsona saga* it is explicitly stated that Helgi Droplaugarson is able to insist on self-judgement because his opponents ‘hafði ekki lið til at ónýta mál fyrir þeim’ (ch. 5).<sup>35</sup> What *þingmenn* primarily needed from their *goði*, therefore, was not legal advice but the support and status that he could command: the force of numbers that would ensure their case was heard and not driven out of court, and the political clout to ensure that decisions and compromises were negotiated in a manner that was as satisfactory as possible to both sides.<sup>36</sup>

I do not, of course, wish to suggest that *goðar* were completely ignorant of the law; if nothing else, continually taking on cases for their *þingmenn* would provide them with familiarity with the most common types of dispute, the kinds of case it would be practical for them to know about. Moreover, those *goðar* who sat on the *lögretta* were legally required to listen to the lawspeaker’s recital or forfeited their opinion on legal arguments that arose in that summer’s Alþing – if they did not, alternatively, send two men in their place, to listen for them.<sup>37</sup> But it is significant, too, that, as was articulated above, *Grágás* prescribes that each of the *goðar* who sat on the *miðpallr* in the *lögretta* – i.e. those who had voting rights in legislative matters – were to bring two advisors with them to its sessions. I have already noted that, in *Valla-Ljóts saga*, Guðmundr *ríki*

<sup>33</sup> E.g. Jón Viðar Sigurðsson, *Chieftains and Power*, p. 90; Miller, *Bloodtaking*, p. 226.

<sup>34</sup> *ÍF* VII, 163. ‘Because of Atli’s kinsmen; he thought that here [i.e. at the Alþing] his case would be less likely to be thrown overboard.’ See also my discussion of mediators at the Alþing in the section on *þing*-sites, below.

<sup>35</sup> *ÍF* XI, 150. ‘Did not have the support to quash his case.’ See also e.g. *Ljóts* ch. 4, *V-G* ch. 24, etc.

<sup>36</sup> See also e.g. Byock, ‘Inheritance and Ambition’, p. 190; *Medieval Iceland*, p. 124; Gunnar Karlsson, ‘*Goðar* and *Höfðingjar* in Medieval Iceland’, *Saga-Book*, 19 (1977), 358-70 (p. 363); Miller, *Bloodtaking*, p. 234, etc.

<sup>37</sup> K § 117: *Gg* 1a, 216.

engages the services of Halli in his own legal dealings (and, in fact, in the same saga the *goði* Ljótr himself openly admits, “Eigi kann ek löginn vel”).<sup>38</sup> The point is that the *goðar* were not single-handedly expected to have all the answers. They could take advice from those more expert than they were themselves. As *Njáls saga* demonstrates, even in the midst of court cases legal advice could be sought from external consultants.<sup>39</sup>

The case of Sámur Bjarnason in *Hrafnkels saga* provides a perfect illustration of the power politics involved in bringing a case to court. In status Sámur is an ordinary *bóndi*, though he is introduced to the narrative as ‘lögkænn’.<sup>40</sup> Although holding out little hope, he agrees, reluctantly, to take on a case for his uncle, Þorbjörn, against the chieftain Hrafnkell, an ‘ójafnaðarmaður mikill’,<sup>41</sup> who ‘hafi alla menn hrakit af málaferlum þeim, er við hann hafa haft’ (ch. 3).<sup>42</sup> Just when ‘flestir höfðingjar, þeir er váru á Íslandi’ have refused to help Sámur, the mysterious Þorkell Þjóstarsson from the Vestfirðir asks him what he needs.<sup>43</sup> “Liðsinnis ok afla höfðingja”, Sámur replies, “því at vit eigum málum at skipta við Hrafnkel goða [...] en vit megum vel hlíta okkrum flutningu með þínu fulltingi” (ch. 4).<sup>44</sup> Later, taking the matter to Þorkell’s brother Þorgeirr, who controls the Þjóstarssons’ *goðorð*, he reiterates, “styrk þurfum vit af höfðingjum, en málaflutning á ek undir mér” (ch. 4).<sup>45</sup> Sámur is aware that his own legal skills are superior to those a *goði* could offer him, but he is afraid he will not get the chance to utilise them. However, the backing of the Þjóstarssons secured, Sámur is able to take his case to court (ch. 4):

Sámur gekk þá djarfliga at dóminum. Hann hefr þegar upp váttnefnu ok sótti mál sitt at réttum landslögum á hendr Hrafnkeli goða, miskviðalaust með sköruligum

<sup>38</sup> *ÍF* IX, 241. “I do not know the laws well.”

<sup>39</sup> *Njál* chs. 142-44. This scene is explored in detail in the section on legalities, below.

<sup>40</sup> *ÍF* XI, 100.

<sup>41</sup> *ÍF* XI, 99. ‘A very unfair and overbearing man.’

<sup>42</sup> *ÍF* XI, 110. ‘Had destroyed all the lawsuits of those who had brought them against him.’

<sup>43</sup> *ÍF* XI, 109. ‘Most of the *höfðingjar* in Iceland.’

<sup>44</sup> *ÍF* XI, 112. “The support and strength of *höfðingjar*”; “because we have a case to contend with Hrafnkell *goði*, and we can rely well on our pleading with your help”.

<sup>45</sup> *ÍF* XI, 115. “We need the strength of *höfðingjar*, but I have the pleading of the case under control.”

flutningi [...] Sámr sótti málit í dóm, þangat til er Hrafnkeli var boðit [til] varnar [...] Rómr varð mikill at máli Sáms.<sup>46</sup>

True to form, when Hrafnkell hears the case is going well for Sámr, ‘ætlaði hann at hleyfa upp dóminum fyrir Sámi ok hrekja hann af málinu’.<sup>47</sup> However, the Þjóstarssons’ following makes it impossible for him to get near; meanwhile, Sámr ‘sótti málit til fullra laga’, and Hrafnkell is outlawed.<sup>48</sup>

It is significant here that the narrator emphasises both that Hrafnkell is a *goði*, and that it is thanks to Sámr’s confident and faultless pleading that ‘kvazk engi vilja lögsvorn fram bera fyrir Hrafnkel’.<sup>49</sup> Legal suits did not entirely have to be about brute force or political influence: as long as a case reached court, the ability to make a good impression was clearly a crucial factor in the outcome. As Sámr demonstrates, a talent for public speaking was a decisive advantage. Indeed, it is surely significant that the same word, ‘mál’, means both the faculty of speech, and lawsuits or legal cases.<sup>50</sup> I do not wish to suggest that *goðar* were only about physical strength: naturally, not all *bændr* or *þingmenn* would have been as fluent a speaker or as knowledgeable a lawyer as Sámr Bjarnarson, while many *goðar* may well have been articulate and eloquent – charisma was doubtless a valuable factor in a *goði*’s social and political success. There were, of course, many instances in which *goðar* did take on the actual pleading of cases, and there is a nice illustration in the *samtíðarsögur* that *goðar* were measured on their ability to speak well: Oddr Þorgilsson, in *Sturlu saga*, is described as ‘vitr maðr ok manna snjallastr í máli’,<sup>51</sup> in contrast to his successor to the *goðorð*, Einarr: ‘engi var hann lagamaðr ok blestr í máli’ (ch. 6).<sup>52</sup>

<sup>46</sup> ÍF XI, 116. ‘Sámr then went boldly to the court. He immediately named witnesses and prosecuted his case against Hrafnkell *goði* according to the true law of the land, without making any slip in the proceedings and with magnificent pleading [...] Sámr prosecuted his case in the court until Hrafnkell was invited to make his defence [...] There was great applause at Sámr’s speech.’

<sup>47</sup> ÍF XI, 117. ‘He intended to charge up to the court in front of Sámr and drive him off the case.’

<sup>48</sup> ÍF XI, 117. ‘Prosecuted his case to the full extent of the law.’

<sup>49</sup> ÍF XI, 116-17. ‘No-one was willing to bring forth a defence for Hrafnkell.’

<sup>50</sup> Recall, too, the connection between lawspeakers and poets drawn in Chapter 1, or Sturla’s head-ransoming, highlighted in Chapter 2, thanks to his ability to tell *\*Huldar saga* ‘betr ok fróðligar en nökkurr þeira hafði fyrr heyrt, er þar váru’ (*Sturlu þáttur* (ch. 2): SS II, 232). (‘Better and more cleverly than any of those who were there had heard before’).

<sup>51</sup> SS I, 68. ‘A wise man and of all men most eloquent in speech.’

<sup>52</sup> Ibid. ‘He was not a lawyer, and lisped in his speech.’

As I will explain later in this chapter, it is probable that it was often difficult to be certain over the intricacies of what was and was not lawful, and while a *goði* or other party involved in pleading a case would not wish to gain a reputation for excessive trickery or untrustworthiness by completely inventing articles of law, the ability to make a case confidently and compellingly may often have been more persuasive than presenting a technically more correct argument ineffectively. In fact, in expressing his vision for the Fifth Court, Njáll declares, “Hér skal ok svá, ef aðrir sækja rétt, en aðrir rangt, þá skal eptir þeim dæma, er rétt fara með sókn” (*Njál* ch. 97),<sup>53</sup> while, in a less extreme example, in *Droplaugarsona saga* everyone present laughs when Helgi Droplaugarson makes a mistake in his pleading (ch. 8). Elsewhere in *Njáls saga*, the crowd of onlookers in the Burning case even begin to form moral judgements, or at least character assessments, on the basis of the lawyers’ legal skills, so that at one moment, ‘lofuðu nú allir mjök Eyjólf ok kǫlluðu engan mundu þurfa við hann at reyna lǫgkœni’,<sup>54</sup> but at the next, he is accused of ‘fara með lǫgvillur einar ok rangyndi’.<sup>55</sup> Given that so many court cases apparently turned not on the defendant’s guilt or innocence but on the technicalities of the cases presented by the prosecution and defence, medieval Icelanders appreciated that ‘the justice of the decision which may be reached [...] is not the primary concern of the great lawyer’<sup>56</sup> – and they appreciated great lawyers whatever their ethical stance regarding justice.<sup>57</sup>

A reputation as one able to put on a good performance in court, then, could be something as highly prized as a reputation for legal expertise. In *Heiðarvíga saga*, Snorri *goði* tricks Þorgísl Arason into pledging peace to his enemies through flattery, saying he has heard persistent rumours ‘at engi maðr mæli jafnvel fyrir griðum sem þú ok önnur lǫgskil’ (ch. 33).<sup>58</sup> This is reinforced by the lexical evidence, too. There are

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<sup>53</sup> *ÍF* XII, 244. ‘Here it shall be like this: if one side pleads correctly, and the other wrongly, the judgement shall go in favour of those who proceed correctly with the case.’

<sup>54</sup> *ÍF* XII, 386. ‘Now all praised Eyjólf highly and said there would be no use anyone challenging his skill at law.’

<sup>55</sup> *ÍF* XII, 389. ‘Continuing only with wrongful procedures and unfair dealings.’

<sup>56</sup> Richard F. Allen, *Fire and Iron: Critical Approaches to Njáls saga* (Pittsburgh: University of Pittsburgh Press, 1971), p. 138.

<sup>57</sup> Cf. Byock’s observations on the legal process: ‘In Iceland legal decisions were not primarily governed by moral concepts. The goal of legal resolution was to return the community to a workable arrangement and not to determine who committed a crime or how it was done’ (*Feud*, p. 102).

<sup>58</sup> *ÍF* III, 312. ‘That no man can recite the peace-speech or other legal pleadings as well as you.’

certain terms used in the *Íslendingasögur* which appear to imply legal experience – i.e. success in court – as a quality distinct from legal expertise – i.e. knowledge of the law. These include *málamaðr*, *sakamaðr*, and *málafylgjumaðr* or *málafylgismaðr*, as well as circumlocutory phrases such as ‘Qzurr [...] mjök hafðr við mál manna’ (*Drop* ch. 3),<sup>59</sup> all of which seem to imply (successful) participation in a large number of lawsuits.<sup>60</sup> That this was a different ability than having knowledge of the law is evidenced in the fact that some characters are attributed both qualities: ‘Mqrðr gigja [...] var ríkr hqfðingi ok málafylgjumaðr mikill ok [...] mikill lqgmaðr’ (*Njál* ch. 1).<sup>61</sup> But like those terms denoting particular legal expertise, these, suggesting particular legal experience, are rarely conferred, and may be bestowed upon both *goðar* and *bændr*. Once again, this is not a routine skill, nor one expected from certain social roles: it is worthy of note in those who possess it.

There is always an exception to the rule, though, and as I intimated in the introduction to this chapter, it is often *Laxdæla saga*. As I will show throughout this chapter, the narrator of *Laxdæla* has a peculiar habit of dutifully referring to legal elements almost purely formulaically, as if he, rather like the modern-day scholars cited earlier, considers them vital components of a saga; he, however, seems to have little interest in them himself. His treatment of lawyers is no exception:

Þorkell Eyjólfsson gerðisk hqfðingi mikill; helt hann sér mjök til vinsælda ok virðingar. Hann var maðr heraðríkr ok málamaðr mikill; þingdeilda hans er hér þó ekki getit. Þorkell var ríkastr maðr í Breiðafirði.<sup>62</sup>

Here, the narrator seems to think it necessary to mention that his character was successful in legal matters in order to convey a positive portrait of a well-rounded chieftain, but actually has no interest whatsoever in pursuing the potential of this fact to

<sup>59</sup> *ÍF* XI, 143. ‘Hæd many lawsuits against people.’

<sup>60</sup> *Íslendingasögur: Orðstöðulykill og texti* cites 4 instances of *málamaðr* (cf. 19 in the *ONP*), 1 of *sakamaðr* (*ONP* 4), 1 of *málafylgjumaðr* (*ONP* 4) and 1 of *málafylgismaðr* (*ONP* 3).

<sup>61</sup> *ÍF* XII, 5. ‘Mqrðr gigja was a powerful *hqfðingi*, a great pursuer of lawsuits and [...] a great legal expert.’

<sup>62</sup> *ÍF* V, 204. ‘Þorkell Eyjólfsson became a great *hqfðingi*; he gained for himself much popularity and esteem. He was very influential in the district and a great participator in lawsuits; his dealings at the *þing* are not, however, mentioned here. Þorkell was the most powerful man in Breiðafjörðr.’

introduce any of his legal cases into the plot. Note too that, as was mentioned above, *Laxdæla*'s Þórðr Ingunnarson is the only *Íslendingasögur* *lögmaðr* not to be seen in action in any legal matters. On the other hand, though, perhaps the exception proves the rule: the fact that the narrator chooses to highlight the legal abilities of certain characters shows that they were respected as significant and noteworthy skills, even though he does not wish to exploit the opportunity to bring legal disputes into his saga.

Indeed, outstanding legal capability – whether expertise or experience – was likely something remembered and celebrated in tradition: perhaps the narrator of *Laxdæla* was faithfully recounting something he and his audience already knew about his characters, even though his own stories about them did not draw on this part of their life. On the other hand, while it would be no surprise to find that the author of *Njáls saga* was especially interested in recounting stories about characters known to tradition as lawyers, his liberal use of superlatives rather gives him away in the probability that he invented at least some of his legal experts – his setting up of the battle of wits in the court scene between two of ‘inn þriði mestr lögmennt á Íslandi’, for example, is a clear literary device.

The vast amount of legal action contained in the *Íslendingasögur* requires a wide variety of characters to act in ‘lawyerly’ roles: advising their kinsmen, taking up a suit, and pleading in court. As Berger suggests, saga authors probably felt free to attribute such actions when the plot demanded. The narrator of *Vatnsdæla saga* confirms Andersson's observation that it was conflict that made a good story: ‘eigi er hér getit þingdeilda [Ingimundar], at hann ætti stórmálum at skipta við menn, því at hann varð samhuga við flesta ok óágangsamr’ (ch. 17).<sup>63</sup> But while details of Ingimundr's apparently mundane, peaceful and trouble-calming court cases may be lost to us, his reputation as one who participated in many great lawsuits has persisted. The *Íslendingasögur* celebrate both those who possessed exceptional legal knowledge and those with an exceptional ability to present a case well. Whether lawyers created plot lines, or plot lines created lawyers, legal skill was saga-worthy, and the *Íslendingasögur* mark as special those men who had outstanding talents in the legal field.

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<sup>63</sup> *ÍF* VIII, 47. ‘Nothing is mentioned here of Ingimundr's dealings at the *þing*, that he engaged in great legal cases against men, because he was agreeable towards most people and not aggressive.’

## SECTION IB: OUTLAWS

As is the case in other medieval cultures, a fascination for the figure of the outlaw is evinced in medieval Icelandic literature. Unlike other medieval cultures, though, for whom the outlaw was a heroic symbol of rebellion against an unjust and oppressive system of governance, in Iceland the laws these men were outside were not imposed from above, but were, supposedly, those of the community; they were sentenced not by corrupt, ‘perennially disliked and feared’ authority figures,<sup>64</sup> but at the *Alþing*, the General Assembly. What does it mean, then, for the notion that, in Commonwealth-period Iceland, ‘the “law” was synonymous with “society”’,<sup>65</sup> if outlaws were celebrated as heroes, just as in, for instance, fourteenth-century England?

In fact there are two very different – even opposing – images of outlaws to be gained from the *Íslendingasögur*, which contribute to saga narrative in two very different ways. On the one hand, there are ‘nuisance’ figures: the ruthless (though often hapless) criminals who terrorise the neighbourhoods stealing sheep and other provisions in order to survive, and who have bit-parts in saga narrative; on the other, there are brave, noble, clever, but ill-fated individuals, three of whom became the idealised heroes of their own sagas. In this section I will examine medieval Icelandic attitudes to outlaws as portrayed in literature; and in investigating how (and if) these two contradictory images can be reconciled, will consider whether outlaws really were celebrated because of their ‘otherness’ to the law and norms of society.

First, however, it is worth taking the time to establish the most important legal details of outlawry – at least according to *Grágás*. Losing a case meant one of only three possible punishments through law, depending on the nature of the crime: a monetary fine; a sentence of *fjörbaugsgarðr*, commonly known as ‘lesser outlawry’; or a sentence of *skóggangr*, ‘full outlawry’. *Fjörbaugsgarðr* meant payment of a fine known as the *fjörbaugr* (non-payment resulted in full outlawry), forfeit of property, and exile from Iceland for three years. However, as long as the *fjörbaugsmadr* fulfilled the heavily-regulated conditions imposed upon him, he was in fact protected by the law. For

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<sup>64</sup> Barbara Hanawalt, ‘Ballads and Bandits: Fourteenth-Century Outlaws and the Robin Hood Poems’, in *Robin Hood: An Anthology of Scholarship and Criticism*, ed. by Stephen Knight (Cambridge: D.S. Brewer, 1999), pp. 263-84 (p. 281) (rpt. from *Chaucer’s England: Literature in Historical Context*, ed. by Barbara A. Hanawalt (Minneapolis: University of Minnesota Press, 1992), pp. 154-75).

<sup>65</sup> Hastrup, ‘Establishing an Ethnicity’, p. 72.

example, he was granted three years from the date of his sentence in order to obtain passage abroad, during which time he was allowed three residences, not further than a day's travel apart, at which, and on the road between which, he was immune; similarly, he was protected by Icelandic law when abroad. He was also allowed assistance in finding passage.<sup>66</sup> The *skóggangs-* or *skógarmaðr* ('full outlaw', lit. 'forest-goer' or 'man of the forest'), however, forfeited life and property: *Grágás* apparently requires the prosecutor to kill his outlaw, if the chance arose,<sup>67</sup> but he could be killed by anyone at any time with impunity; indeed, a price was often placed on his head as a reward for his slaying, while those already under a sentence of outlawry could be freed from it by killing other outlaws.<sup>68</sup> Moreover, a penalty of lesser outlawry was prescribed for anyone giving assistance to such men, even for helping them to get abroad,<sup>69</sup> although in certain cases the *logréttu* could relax the *skógarmaðr*'s sentence to permanent exile, in which case he was permitted passage.<sup>70</sup> Miller has observed that obtaining an outlawry sentence was an effective weapon in the feud even if one ultimately meant to pursue blood vengeance over legal means of victory: not only did outlawing one's opponent first detach him from his support base, it also removed the worry of legal reprisals (though of course the kinsmen of an outlawed man may have felt the duty to avenge in kind as strongly as ever).<sup>71</sup> Finally, both lesser- and full outlaws were subject to a *féransdómr* ('confiscation court'), held two weeks after the *þing* at which the outlaw was sentenced, when his property was disqualified and goods taken as compensation or to pay off debts.<sup>72</sup>

<sup>66</sup> On lesser outlawry see K §§ 51-53, 55, 67: *Gg Ia*, 87-92, 94-96, 118-19.

<sup>67</sup> K § 110: *Gg Ia*, 189. Miller broadly accepts much of *Grágás*' detail on outlawry, but notes that 'the currency or validity of this [...] provision is problematic' (*Bloodtaking*, p. 234).

<sup>68</sup> K §§ 55, 110: *Gg Ia*, 94-96, 187-90.

<sup>69</sup> K §§ 73, 110: *Gg Ia*, 122-23, 187-90.

<sup>70</sup> K § 55: *Gg Ia*, 95-96.

<sup>71</sup> *Bloodtaking*, pp. 238-39.

<sup>72</sup> K §§ 48-51: *Gg Ia*, 83-88. For critiques of *Grágás*' definitions of outlawry, see Gwyn Jones, 'Fjörbaugsgarðr', *Medium Ævum*, 9 (1940), 155-63, and Agneta Breisch, 'Frid och fredlöshet – Law and Outlawry: Social Ties and Outcasts in Early Medieval Iceland' in *Samtíðarsögur: The Contemporary Sagas: Preprints of the Ninth International Saga Conference, Akureyri 31.7 – 6.8 1994* [anon. eds.] (Reykjavík: Oddi, 1994), pp. 138-45. It is worth noting some of Breisch's observations on changes through time here: 'The fundamental principle of outlawry, a spatial, horizontal exclusion from society, changed during the *Sturlunga* age. Society's vertical expulsion downwards became the most important element in the punishment of outlawry and *féransdómr* became a means of impoverishing one's opponents [...] A geographically specific outlawry developed where the outlaw could be *heraðssekr* [i.e. outlawed from the district] [...] The more frequent [sentence of] *sekr* during the *Sturlunga* age [as

The troublesome reality of the presence of lawbreakers, deprived of their property and forcibly estranged from kinsmen and friends, hiding out in the Icelandic countryside and struggling to survive, is clearly imagined in the sagas. In *Laxdæla saga*, Stigandi is outlawed for sorcery and ‘gerðisk [...] illr viðreignar’ (ch. 38).<sup>73</sup> *Vatnsdæla saga* laments: ‘Útilegumenn ok ránsmenn váru mjök í þenna tíma bæði suðr ok norðr, svá at nálíga mátti engi á sínu halda’ (ch. 41).<sup>74</sup> In *Eyrbyggja saga*, Óspakr and his men, outlawed at the Þórsnesþing, are joined by a villainous outlaw and together ravage the countryside, raiding and pillaging throughout the winter, including at the farmstead of one Álfr, who has received some of Óspakr’s goods in compensation for wrongs done to him (chs. 59-62). Even the eponymous heroes of the outlaw sagas are shown to cause trouble to the communities near their hideouts: the people of Mýrar are said to regard Grettir a ‘mikill vágestr’ (*Grett* ch. 58),<sup>75</sup> while the people of Hrutafjörðr hire another outlaw, a certain Grímr, to kill him (ch. 55: Grímr is, of course, unsuccessful).

As this latter example shows, such ruthless and desperate men did have their uses. In medieval England, also, sheltering an outlaw was a felony, and Barbara Hanawalt has found that in the fourteenth century, ‘receiving known felons was the most common charge against the nobility in court records’.<sup>76</sup> Outlaws had little to lose and much to gain, and this was exploited by those who had something to offer them. Far from being penalised for giving shelter, as the law prescribes, *Íslendingasögur goðar*, like the English nobility, are often seen offering protection to outlaws in return for the completion of unsavoury tasks, such as the killing of the *goði*’s opponents. Frederick Amory has discussed the figure of the *flugumaðr*, which he translates as ‘outlaw-assassin’,<sup>77</sup> although I have also found instances of the term applied to non-outlawed hired assassins.<sup>78</sup> Often, however, *flugumenn* are indeed outlaws, looking for the

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opposed to *skóggangr* ...] demonstrates that the most important form of punishment was [...] the actual conviction itself. This became primarily an issue of social and economic degradation’ (p. 142).

<sup>73</sup> *ÍF* V, 108. ‘Became [...] difficult to deal with.’

<sup>74</sup> *ÍF* VIII, 107. ‘Outlaws and robbers were much in evidence at that time, both in the south and the north, so that people could barely hold their own.’

<sup>75</sup> *ÍF* VII, 187. ‘Very harmful guest.’

<sup>76</sup> ‘Ballads and Bandits’, p. 275.

<sup>77</sup> ‘The Medieval Icelandic Outlaw: Life-style, Saga, and Legend’, in Gísli Pálsson (ed.) *From Sagas to Society*, pp. 189-203.

<sup>78</sup> E.g. *Ljós* ch. 17; *Reyk* ch. 2; *Vatn* ch. 40.

protection of a *goði*. In the *Íslendingasögur*, their lifespan tends to be at best a couple of chapters: they are introduced to the story upon being hired; sent to attack an opponent; outwitted or outmatched in strength by their intended target; and killed and not heard of again.<sup>79</sup> The assassination target is often the hero of the piece; the *flugumaðr* provides a conveniently disposable character against whom he can prove his superior cunning, prowess and strength. At the same time, however, *Íslendingasögur flugumenn* are not quite the reckless, terrifying killers we may expect: rather, they are somewhat hapless and incompetent; comedic figures of contempt. Perhaps this is one way in which medieval Icelanders dealt with the real threat posed by outlaws: by transforming them into unthreatening figures to be laughed at and scorned rather than feared.

*Íslendingasögur flugumenn* are depersonalised, stock characters who perform a particular literary function. The literary fascination with outlaws clearly ran much deeper than this, however, leading to the production of three extant sagas whose central figures are outlawed: *Gísla saga*, *Grettis saga*, and *Harðar saga ok Hólmverja*. *Gísla saga* is generally thought to have been composed in the middle of the thirteenth century or just before, while the extant versions of the other two are later: *Grettis saga* is generally dated to c.1310-20 and *Harðar saga* to sometime in the fourteenth century.<sup>80</sup> These three ‘outlaw sagas’ present a second type of literary outlaw character: far from being persons needing strict laws to control them, as suggested by *Grágás* and translated into the nuisance figures seen in the *Íslendingasögur* examples given above, these men are noble, admirable heroes worthy of their own sagas. This apparent inconsistency can perhaps be explained in part by the increasing fictionalisation of the heroic outlaw figure – it has often been noted that *Grettis saga* is a particularly self-consciously literary work,<sup>81</sup> while the eponymous hero of *Harðar saga* is thought by

<sup>79</sup> See e.g. *Grett* chs. 55, 56; *Reyk* chs. 22, 26; *Vatn* ch. 39.

<sup>80</sup> See e.g. Vésteinn Ólason, ‘Family Sagas’, in McTurk (ed.) *A Companion*, pp. 101-118 (pp. 114-15). Kirsten Hastrup views as significant the dating of the extant version of *Grettis saga* to a time when ‘the community of Icelanders [was] embedded [...] in the larger order of the Kingdom of Norway’. She does thus attribute to the ‘noble bandit’, ‘a power of revolt against the (illegitimate) authorities’ (‘Tracing Tradition – An Anthropological Perspective on *Grettis saga Ásmundarsonar*’, in *Structure and Meaning in Old Norse Literature*, ed. by John Lindow, Lars Lönnroth and Gerd Weber, The Viking Collection, 3 (Odense: Odense University Press, 1986), pp. 281-313 (pp. 305-06)). However, while this may account for Grettir’s enduring popularity in the long term, as I shall discuss below, stories about him were clearly in circulation before the loss of independence, and, as will be seen, I do not believe the internal evidence of the saga particularly encourages such a reading.

<sup>81</sup> Laurence de Looze, ‘The Outlaw Poet, The Poetic Outlaw: Self-Consciousness in *Grettis saga Ásmundarsonar*’, *Arkiv för nordisk filologi*, 106 (1991), 85-103; Heather O’Donoghue, *Skaldic Verse and the Poetics of Saga Narrative* (Oxford: Oxford University Press, 2005), esp. ch. 4.

some scholars to be an entirely fictional creation.<sup>82</sup> As the legends of these individuals developed, they became idealised, further and further removed from the less attractive reality.

Heather O'Donoghue observes, and I agree with her, that 'there is an undeniable potential for and element of glamour in the literary portrayal of the life of an outlaw'.<sup>83</sup> Paradoxically, though, the far-from-glamorous realities of life for the Icelandic outlaw may be among the reasons why those who survived it so long came to be celebrated. It is natural and understandable that a grim fascination and respect would be provoked, in a world where kinship- and friendship-networks seem so vital to everyday existence, for those who have fallen outside such bonds, especially if this can be attributed to some tragic flaw of character or the machinations of a third party. The concept of a solitary existence and its effect on the mindset of the outlaw is thoroughly explored in these sagas; strikingly, as O'Donoghue has recently demonstrated, through the skaldic verse attributed to the protagonists.<sup>84</sup> On top of this, the outlaws' ability to survive the harsh Icelandic conditions is impressive. Where 'all of the [Robin Hood] ballads take place in the 'greenwood' in May and June',<sup>85</sup> the sagas are less romantic, more realistic. The length of time for which Gísli and Grettir survived as outlaws is emphasised as worthy of note on more than one occasion.<sup>86</sup> Meanwhile, the Hólmverjar are brought down by their willingness, even desperation, to believe in the mainlanders' offer of a truce, because they 'váru fúsir í burt ok leiddist þar at vera' (*Harð* ch. 34), even though they have formed their own island community and are not living in solitary exile.<sup>87</sup>

Amory has discussed the place of outlaws *within* society and not just outside it, suggesting that 'when a man was outlawed in Iceland [...] he did not leave a social void behind him as the full severity of the law would have us believe'.<sup>88</sup> He shows that in

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<sup>82</sup> Anthony Faulkes, 'Introduction' to *Three Icelandic Outlaw Sagas*, p. xxv.

<sup>83</sup> *Skaldic Verse*, p. 216.

<sup>84</sup> *Ibid.*, *passim*.

<sup>85</sup> Hanawalt, 'Ballads and Bandits', p. 276.

<sup>86</sup> E.g. *Grett* ch. 93, *Gísl* ch. 22.

<sup>87</sup> *ÍF* XIII, 83. 'Were eager to get away and were tired of being there.'

<sup>88</sup> 'The Medieval Icelandic Outlaw', p. 199.

saga practice, those falling under a sentence of outlawry frequently retain the relationships they have with kinsmen and friends, and can often count on their help. Indeed, he notes that ‘instances in the sagas of the enforcement of prohibitions in *Grágás* against aiding and abetting of outlaws are negligible’, criticising Miller’s assessment that ‘legal reprisal for aiding outlaws was common fare in the sagas’ as not backed up by saga evidence.<sup>89</sup> Amory’s observations may well reflect reality, especially given the lack of variety of legal punishments – a verdict of outlawry was hardly a rarity, and it is unlikely that men so sentenced would suddenly be completely ostracised by their existing social networks, particularly when the deeds for which they were outlawed could often have been in the fulfilment of some other social obligation, such as Gísli’s avenging of his sworn brother, Vésteinn. As Amory indicates, *Grágás*’ provisions against aiding outlaws are not an issue in most *Íslendingasögur*: outlaws’ allies do not nobly disregard such laws with no thought for their own safety, they just do not consider them at all. What Amory fails to note, however, is the way in which the authors of the outlaw sagas exploit these laws. Both Gísli and Grettir seem to encounter an inordinate number of strictly law-abiding citizens for whom the threat of legal reprisal severely limits the assistance they will offer.<sup>90</sup> This is at the heart of their legend: their severance from society and its effect on their psyche is the very issue the authors wish to explore,<sup>91</sup> rather than their transgression of the laws or rebellion against the system.

It is this fact, that the outlaw sagas are personality-focused, that allows for the heroicisation of their main characters. While their outlaw status drives the fascination underlying their stories, Gísli, Grettir and Hǫrður are individuals who transcend the generic label of ‘outlaw’. All three are in fact explicitly distanced from other outlaws by the saga narrators, not least by the use of comparatives and superlatives, backed up by frequent reiteration that such opinions were held in general report and/or, as I noted of Grettir in Chapter 2, by legal experts or other wise men.<sup>92</sup> Moreover, in his interactions

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<sup>89</sup> *Ibid.*, pp. 192-93 and n.10; Miller, *Bloodtaking*, p. 238.

<sup>90</sup> E.g. *Gísl* chs. 19, 21, 23; *Grett* chs. 47, 54, 58.

<sup>91</sup> See e.g. William Ian Miller, ‘Home and Homelessness in the Middle of Nowhere’, in *Home and Homelessness in the Medieval and Renaissance World*, ed. by Nicholas Howe (Notre Dame: University of Notre Dame Press, 2004), pp. 125-42.

<sup>92</sup> This will be returned to later in this section.

with other outlaws, Grettir does not conceive of himself as inhabiting the same sphere. When Grímr arrives on his assassination mission under the pretence of seeking Grettir's help, a suspicious Grettir muses, “‘eru þér [...] vansénir, skógarmenninir’” (ch. 55).<sup>93</sup> This distancing is repeated at the end of the episode, when Grettir has killed Grímr in self-defence: ‘En nú þóttisk Grettir sjá, hvat þat var, at taka við skógarmönnum’,<sup>94</sup> and in the next chapter, when the pattern is repeated with the appearance of Þórir *rauðskeggr*, with the same intent and plan: “‘Nú mun ek eigi á þat hættu optar, at taka við skógarmönnum’”, says Grettir.<sup>95</sup> Hǫrðr, too, is set apart from the other ‘óskilamenn’ (‘dubious characters’) around him, contrasting the almost obsessively moral stance he adopts towards further crime with, for instance, the likes of Þorgeirr *gyrðilskeggi*: ‘hann var einn tillagaverstr af öllum Hólmverjum ok fýsti allra illvirkja’.<sup>96</sup>

This is not, however, to make light of or attempt to disguise the protagonists' outlaw status. This thesis is not the place for a thorough exposition of the outlaw sagas, but in considering medieval Icelandic attitudes towards outlawry and, by extension, the law, I wish to focus here on the representation of two specific key events common to all three: firstly, the deeds for which Grettir, Gísli and Hǫrðr are outlawed, and the sentencing itself, and secondly, their eventual defeat and death.

The burning which leads to Grettir's (full) outlawry is accidental and stems from an attempted good deed, his fetching of fire for his shipwrecked companions (*Grett* ch. 38).<sup>97</sup> Out of the country at the time of the Alþing at which the case is brought, he is outlawed without the opportunity to raise a defence, and, as I noted in Chapter 2, against the advice of the lawspeaker, Skapti Þóroddsson. We are told that ‘margir mæltu, at þetta væri meir gort af kappi en eptir lögum’ (ch. 46).<sup>98</sup> It is thus intimated

<sup>93</sup> *ÍF* VII, 179. “‘You are [...] difficult to make out, you outlaws.’”

<sup>94</sup> *ÍF* VII, 180. ‘Now Grettir thought he understood what it meant to take in outlaws.’

<sup>95</sup> *ÍF* VII, 181. “‘I will not take that risk more often, to take in outlaws.’”

<sup>96</sup> *ÍF* XIII, 65. ‘He had the most underhand plans of all the Hólmverjar and was most eager of all to do bad deeds.’

<sup>97</sup> The adolescent Grettir had previously been sentenced to lesser outlawry for the killing of a man over a dispute about a lost knapsack (ch. 16).

<sup>98</sup> *ÍF* VII, 147. ‘Many said that this was done more out of belligerence than according to the laws.’

that the narrator – as well as, apparently, many of the saga characters – considers Grettir’s sentence of outlawry to be unjust.

However, outlawry has, in many ways, a positive effect on Grettir’s character, and he is shown through his actions to come into his own. As the narrator concludes: ‘í sekð var hann vel nítján vetr ok kom opt í stórar mannaunir ok helt ávallt vel trú sína’ (ch. 82).<sup>99</sup> His outlawry, and his life, end on the island of Drangey in the company of his loyal brother Illugi. The role of sorcery in his defeat is emphasised: by the time his attackers turn up, Grettir is already close to death from a wound which has become infected through the sorcery of Þorbjörn’s nurse. Grettir shows no fear, however: as his enemies begin to break down his door, he notes placidly, “[Hann] knýr heldr fast [...] ok óþyrmiliga” (ch. 82).<sup>100</sup> He manages to kill – emphatically – two men, before, completely debilitated by his wounds, he himself is slain. Even then, his attackers cannot get him to release his weapon until they cut off his hand.

Gísli is outlawed for the slaying of Þórgrímr, his sister’s husband; yet the crime is one he was duty-bound to commit, to avenge his foster-brother Vésteinn. Again, the narrator seems to regret that he should be punished for the deed, even – unusually – making his own comment on Gísli’s moment of versified self-incrimination: ‘Gísli kvað þá vísu, er æva skyldi’ (*Gísl* ch. 18).<sup>101</sup> Gísli is able to recruit his wife’s uncles to bring his defence, but they prove to be utterly ineffective – the very antithesis of the celebrated lawyers I discussed in the previous section – and achieve nothing but their own social ridicule: ‘kalla menn, at þeir hafi illa borit sik, svá at þeim hafi næsta í allt skap komit, áðr en létti’ (ch. 21).<sup>102</sup> While Gísli’s outlawry is not suggested to be unjust in the same way as Grettir’s, then, there is still a definite sense that it could, and perhaps should, have been avoided, were it not for the contemptible behaviour of others.

<sup>99</sup> *ÍF* VII, 262. ‘He was some nineteen winters in outlawry and often came up against great trials, and always kept his faith.’

<sup>100</sup> *ÍF* VII, 259. ‘[He] knocks rather hard [...] and roughly.’

<sup>101</sup> *ÍF* VI, 58. ‘Gísli then recited a verse, which he never should have.’

<sup>102</sup> *ÍF* VI, 67. ‘Men say that they bore themselves badly, so that they had come almost to tears, before it was over.’

Like Grettir, though, Gísli becomes a noble outlaw, and is given a chance to demonstrate the same positive qualities of cunning, strength, courage and determination, as is again summarised by the narrator at the moment of his death: ‘er þat alsagt, at hann hefir inn mesti hreystimaðr verit, þó at hann væri eigi í ǫllum hlutum gæfumaðr’ (ch. 36).<sup>103</sup> His last stand is truly heroic: ‘er þat alsagt, at engi hafi hér frægri vörn veitt verit af einum manni’ (ch. 36).<sup>104</sup> He single-handedly kills eight men, including one after he has had to tie his own bowels in with a shirt, so badly is he wounded; and injures several more. Like Grettir, he is staunch to the end: ‘svá hafa þeir sagt, at hann hogaði aldri, ok eigi sá þeir, at hogg hans væri minna it síðasta en it fyrsta’.<sup>105</sup> Note, once again, the prominence of the choric commentary in these assessments. Although Gísli is not defeated through sorcery, this has already been shown to have played a part in his downfall: he is unable to secure the help of a chieftain ‘en sakar þess trollskepar, er Þorgrímr nef hafði haft í seiðinum, ok atkvæða’ (ch. 21).<sup>106</sup>

Unlike the conceivably noble deeds for which Grettir and Gísli are punished, the curious incident for which Hǫrðr is outlawed appears to be a random, barely motivated act of killing and destruction. The episode begins with a demonstration of Hǫrðr’s noble behaviour, berating a workman for unduly killing a boy who had injured one of Hǫrðr’s horses. He then goes to the boy’s father, emphasising that the killing was against his will, and offers him self-judgment. The father replies that he has already transferred the legal rights in the case to Hǫrðr’s maternal uncle, Torfi, with whom Hǫrðr already has a troubled relationship. At this point, Hǫrðr seems to lose all sense of perspective and self-control, perpetrating particularly heinous crimes, burning and the killing of women (albeit indirectly): ‘Hann brá þá sverðinu Sótanaut ok hjó Auð sundr í tvá hluti ok húskarl hans. Svá var Hǫrðr þá reiðr orðinn, at hann brenndi bæinn ok allt andvirkit ok tvær kvinnur, er eigi vildu út ganga’ (ch. 21).<sup>107</sup> Like Gísli, Hǫrðr is let down by a

<sup>103</sup> *ÍF* VI, 115. ‘It is common report that he was the most valiant of men, although he was not in all things a lucky man.’

<sup>104</sup> *ÍF* VI, 116. ‘It is common report, that there has never been a more celebrated defence put up by one man.’

<sup>105</sup> *ÍF* VI, 115. ‘They said that he never drew back, and they could not see that his blows were less at the end than at the beginning.’

<sup>106</sup> *ÍF* VI, 69. ‘For the sake of the witchcraft which Þorgrímr *nef* worked through his sorcery and spells.’

<sup>107</sup> *ÍF* XIII, 56. ‘Then he drew the sword Sótanaut and struck Auðr asunder into two halves, as well as his servant. Hǫrðr became so enraged that he burned down the farmstead and all the haystacks, and two women who would not get out.’

kinsman at the *þing*: his brother-in-law, though offering him shelter, refuses to represent him, and so he is outlawed because no-one else will come forward to offer compensation on his behalf (ch. 22).

Hǫrðr's period of outlawry is a very different experience to that of Gísli and Grettir: his is not a solitary existence, but something closer to the experience of Robin Hood and his band of men. As soon as he is outlawed, we are told, 'öll hjón hans fóru með honum ok fylgðarmenn' (ch. 22).<sup>108</sup> When they move out to Hólm, they are joined by even greater numbers – other outlaws looking for safety in numbers and mutual aid, but also, perhaps, to form their own community, rejected as they now are by general society: 'þangat drifu nær allir óskilamenn ok svörðu eiða þeim Herði ok Geir at vera þeim hollir ok trúir ok hvern þeira öðrum.'<sup>109</sup> At the same time, though, this allows us to observe the arguably beneficial effect of outlawry on Hǫrðr's character, as was the case with Gísli and Grettir. Hǫrðr becomes apparently devoid of all criminal tendencies, desperately attempting to avoid committing any further crimes during his outlawry, and in fact actively disapproving of those of others, even those prompted by the survival instinct. Struggling for supplies, two of his band steal an ox from a neighbouring farm: 'Ok er þeir kómu heim í Botn, líkaði Herði allilla ok kveðst á burt skyldu, ef þeir vildi stela [...] Eigi vildi Hǫrðr láta neyta yxnisins, fyrr en maðr var sendr til Vatnshorns at segja it sanna um ferðir Geirs. Segja þat ok nökkurir menn, at Hǫrðr muni hafa bætt bónda at Vatnshorni fyrir menn sína ok yxni' (ch. 22).<sup>110</sup> The admirable qualities lauded in the other outlaw sagas are also brought to the fore in Hǫrðr: he, like Gísli and Grettir, puts up a heroic last stand, killing thirteen of his enemies before succumbing himself. Sorcery is again credited with a role in his eventual defeat: "Mikil tröll eiga hér hlut í".<sup>111</sup> Furthermore, we are once again offered the assessment of general report in a summary of Hǫrðr's life: 'allir lofuðu hreysti hans, bæði vinir hans ok óvinir, ok þykkir

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<sup>108</sup> *ÍF* XIII, 59. 'All his household and followers went with him.'

<sup>109</sup> *ÍF* XIII, 65. 'All the undesirables drifted there and swore oaths to Hǫrðr and Geirr to be loyal and true to them and to each other.'

<sup>110</sup> *ÍF* XIII, 60-61. 'And when they came home to Botn, Hǫrðr was very displeased and said he would leave if they were going to steal [...] Hǫrðr would not allow any use of the ox, until a man had been sent to Vatnshorn to tell the truth about Geirr's expedition. Some say that Hǫrðr must have compensated the farmer at Vatnshorn for his men and the ox.'

<sup>111</sup> *ÍF* XIII, 87. "Much witchcraft has had a part in this."

eigi honum samtíða á alla hluti röskvari maðr verit hafa ok vitrari en Hörðr, þó at hann væri eigi auðnumaðr' (ch. 36).<sup>112</sup>

There are thus some strikingly consistent elements to be perceived across the outlaw sagas, even in these brief summaries. There is a certain sense of doomed regret hanging over the sentences of all three men, as if they could have been avoided in other circumstances, yet are at the same time inexorable because of ill-luck and the failings of others. All three heroic outlaws are explicitly distanced from other outlaws, the nuisance figures whose unlawful activities are a scourge on the community. All three then demonstrate extreme courage, strength and valour in the face of their own inevitable deaths, which are contributed to in each case by some supernatural means. And further, all three are acknowledged as brave and valiant, with an emphasis on the universality of this view.

All of these features are highly significant in considering the attitude towards the law expressed by the outlaw sagas. The emphasis on the role of ill-luck and other supernatural elements erodes blame not only from the actions of the outlaws themselves but from the law and the legal system. In itself legal process has not failed them in forcing them outside its protection; forces external to humans and the social order are at play. This is underscored by the contrasting of outlaw-heroes with other, 'nuisance' outlaws, undesirables who clearly deserve their legal punishment and are condemned as law-breakers. Finally, the pervasiveness of the choric commentary, the voice of the community, which is sympathetic to and even admiring of these men, affirms that they are not, after all, alien to the norms and values of society.

This last point in particular can be developed still further, and it is profitable to conclude this section by doing so as it expounds another twist in medieval Icelandic literary-legal relations and connects rewardingly with issues explored in the first two chapters of this thesis. As was noted in Chapter 2, the lawspeaker Sturla Þórðarson is cited in *Grettis saga* as a character reference for Grettir, and it is worth now quoting the passage in more detail (ch. 93):

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<sup>112</sup> *ÍF* XIII, 88. 'Everyone, both his friends and his enemies, praised his valour, and it is thought that no-one of his time was a braver or wiser man than Hörðr, even if he was not a fortunate man.'

Hefir Sturla lögmaðr svá sagt, at engi sekr maðr þykkir honum jafnmikill fyrir sér hafa verit sem Grettir inn sterki [...] Honum þykkir hann vitrastr verit hafa, því at hann verit lengst í sekð einhverr manna ok varð aldri unninn, meðan hann var heill; þá aðra, at hann var sterkastr á landinu sinna jafnaldra ok meir lagðr til at koma af aprgöngum ok reimleikum en aðrir menn; sú in þriðja, at hans var hefnt út í Miklagarði, sem einskis annars íslenzks manns.<sup>113</sup>

I noted earlier that the high regard of the lawspeaker exonerated Grettir from being one antithetical to the law, and by extension society. And in *Harðar saga* (whose narrator is alone in a certain discomfort about his hero's outlawry: 'þá hafði Hqrðr níjtán vetr ok tuttugu, er hann var veginn, ok höfðu honum flestir tímar til heiðrs ok metnaðar gengit, utan þeir þrír vetr, er hann var í útlegð' (ch. 41)),<sup>114</sup> we find an extremely similar passage, this time attributed to the lawspeaker Styrmir Kárason (ch. 41):

Segir ok svá Styrmir prestr inn fróði, at honum þykkir [Hqrðr] hafa verit í meira lagi af sekum mönnum sakir vizku ok vápnfimi ok allrar atgervi; hins ok annars, at hann var svá mikils virðr útlendis, at jarlinn í Gautlandi gipti honum dóttur sína; þess ins þriðja, at eptir engan einn mann á Íslandi hafa jafnmargir menn verit í hefnd drepnir, ok urðu þeir allir ógildir'.<sup>115</sup>

The likelihood of the author of the extant version of *Harðar saga* borrowing from his illustrious precedents is great, and Anthony Faulkes notes that 'such references to statements by the learned men of the 12th and 13th centuries are not necessarily reliable attributions of authorship'.<sup>116</sup> However, there is reference to a 'saga Harðar Grímkelssonar ok Geirs' in the Sturlubók redaction of *Landnámabók*,<sup>117</sup> indicating the existence of a thirteenth-century version known in the Sturlung circle, and, given the literary and legal activities of these men highlighted so far in this thesis, we may well

<sup>113</sup> *ÍF* VII, 289-90. 'Sturla lögmaðr has so said that no outlawed man seems to him to have been equally great as Grettir inn sterki ('the strong') [...] He seems to him to have been the wisest, because he was longest in outlawry than any man, and was never overcome while he was fit; second, that he was the strongest in the country in his day and more put upon by ghouls and hauntings than other men; third, that he was avenged out in Miklagarðr [Constantinople], as no other Icelander had been.'

<sup>114</sup> *ÍF* XIII, 97. 'Hqrðr was thirty-nine, when he was killed, and most of his time brought him honour and esteem, except the three years he was in outlawry.'

<sup>115</sup> *ÍF* XIII, 97. 'The priest Styrmir inn fróði ('the learned') says Hqrðr seems to him to have been forefront among outlaws in terms of cleverness and ability to wield weapons and all accomplishments; second, that he was so greatly esteemed abroad, that the jarl in Gautland married his daughter to him; third, that for no man in Iceland have so many been killed in revenge, and they all went uncompensated.'

<sup>116</sup> 'Harðar saga', in Pulsiano, p. 269.

<sup>117</sup> S38 (also in H26). *ÍF* I, 76.

give credence to the possibility that Sturla and Styrmir composed earlier versions of these sagas, or at the very least took a great interest in them. In further support of this, we may note too that a third Sturlung lawspeaker, Óláfr Þórðarson, composed an *Aronsdrápa* about the thirteenth-century outlaw Aron Hjörleifsson, two stanzas of which are still extant;<sup>118</sup> Sturla also relates details of Aron's outlawry in *Íslendinga saga* (ch. 55).<sup>119</sup> It may well be that, even beyond their interest in the law in general, issues of outlawry and social exclusion were forefront in the minds of members of the Sturlung circle, considering their own prominent and perilous roles in the troubled politics of the time. It should not be forgotten that Sturla himself was exiled from Iceland during the submission to Norwegian rule.<sup>120</sup> Issues that the outlaw sagas ponder, then – circumstantially-driven isolation from society's prescribed boundaries, and a reluctance to criticise the law while recognising its inability to counter greater external forces – must have seemed particularly pertinent to their own times.

## SECTION II: ÞING-SCENES

In a slightly underwhelming statement, Vésteinn Ólason claims that 'the Thing is the second most important site in the saga world, if not the most important'.<sup>121</sup> In fact, he tallies 805 appearances of the word 'þing' in its various forms in the saga corpus,<sup>122</sup> a clear demonstration both of its importance to the structure of saga narrative and of its importance in the conceptual universe of the *Íslendingasögur*. Indeed, it is not difficult to appreciate why the Alþing, or the regional þing-meetings, made such attractive literary settings, beyond their necessity as factually-realistic locations for the playing

<sup>118</sup> This was listed in Appendix 1.1.

<sup>119</sup> There is also an *Arons saga Hjörleifssonar*, glorifying Aron's exploits, probably dating from the mid-fourteenth century. It is printed in *SS II*, 237-78 (though no manuscript evidence associates it with the *Sturlunga saga* compilation). See further John Porter, 'Some Aspects of *Arons saga Hjörleifssonar*', *Saga-Book*, 18:1 (1978-79), 136-66.

<sup>120</sup> Ciklamini, 'Sturla Þórðarson', p. 614.

<sup>121</sup> 'Topography and World View in *Njáls saga*, with Special Reference to the Function of the Thing', in *Guder på Jorden: Festskrift till Lars Lönnroth*, ed. by Stina Hansson and Mats Malm (Stockholm: Brutus Östlings Bokförlag Symposion, 2000), pp. 131-41 (p. 133). Vying for the title of 'most important site' is the Home.

<sup>122</sup> *Ibid.*, p. 141 n. 12.

out of certain phases in the conflicts the sagas describe. Firstly, the Alþing had been at the heart of medieval Icelandic literature from the earliest vernacular writing, being, like the lawspeaker, a central strand to Ari Þorgilsson's *Íslendingabók*. Ari makes the Alþing a pivotal point throughout early Icelandic history: the calendar was agreed at the Alþing, the division into Quarters was decided at the Alþing, the conversion to Christianity took place at the Alþing, and the Fifth Court was established at the Alþing.

Secondly, and probably more importantly to *Íslendingasögur* authors and audiences, the Alþing provided the potential for all the excitement and tension of an annual gathering, lasting two weeks in high summer, where people from all over the country came together – a particularly momentous and significant occasion in Saga-Age Iceland, when the population of a land of almost forty thousand square miles numbered perhaps only sixty to seventy thousand people.<sup>123</sup> It had the pomp and circumstance of formal ceremony and official business, with the lawspeaker reciting the laws of the land, and the *logrétta* meeting to discuss and ratify new laws. It had the tension and drama of legal cases, when conflicts could be resolved, or antagonisms exacerbated. It had the spectacle and scandal of reputations on the line, when chieftains stood to attain honour, prestige, and power, or suffer loss, humiliation, and defeat. Moreover, on top of all this, away from the official, legal, side of proceedings, it provided an arena to meet old friends and to make new ones, to drink, to play games and tell stories, to display one's status, to make business transactions, and to cement marriage alliances.

It is unsurprising, then, that Vésteinn's statistic confirms a pervasive role for the *þing* in the *Íslendingasögur*. This contrasts tellingly with Stephen Tranter's study on the role of the Alþing in *Sturlunga saga*. Not only is the Alþing's power as an institution for the restoration of social harmony shown to diminish throughout the *Sturlunga* compilation, as disputes increasingly fail to be resolved there, but symbolically, its narrative importance and centrality also decrease, in inverse proportion to the growing power of the leading chieftains. Tranter observes: 'in the opening sections of *Sturlunga* saga [...] the Alþing plays a central part. As the compilation progresses, however, the Alþing gradually retreats into the background.'<sup>124</sup> As he notes later, the Alþing is 'absolutely peripheral in the central work [*Íslendinga saga*]'.<sup>125</sup> Violence, and the threat

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<sup>123</sup> Byock, *Viking Age Iceland*, p. 55.

<sup>124</sup> *Sturlunga Saga*, p. 25.

<sup>125</sup> *Ibid.*, p. 62.

of it, are shown to become increasingly dominant as factors affecting the outcome of court cases, until disputes that once would have been played out at the Alþing increasingly come to take place elsewhere, particularly at the homesteads of the protagonists.

In *Sturlunga*, therefore, the Alþing's decreasing prominence in the narrative represents its decreasing prominence in Icelandic life. In this light, the omnipresence of the Alþing in the *Íslendingasögur* may be seen as a poignant attempt to emphasise the one-time existence of a society for which the Alþing itself, and the law more generally, were ever-present in the consciousness and lives of Icelanders. This theory finds clearest support in instances where *þing* are mentioned in the texts, but not as a necessary part of the plot. For example, I would add references to the annual *þing* to Vésteinn Ólason's list of temporal phrases which establish a saga's internal chronological order:<sup>126</sup> 'mannboð skyldi vera á Oddstøðum einni nótt síðar, en þat var litlu fyrir várþing' (*Drop* ch. 3);<sup>127</sup> 'Eptir þing um sumarit það Signý Grímkel, at hann leyfði henni at fara norðr til frænda sinna' (*Harð* ch. 8);<sup>128</sup> 'Á inu þriðja sumri, um alþing, kom skip á Eyrum' (*BjH* ch. 18).<sup>129</sup> In none of these examples, and many others like them, does mention of a *þing* lead up to (or conclude) a scene based there; rather, the phrase is used to locate other events in time. Meanwhile, the audience is given a subtle reminder of the influence of the law and a functioning legal system over the very rhythm of everyday life.

In this section, however, I wish to concentrate on scenes which *are* based at the Alþing, or at one of the regional *þing*-meetings. Information on the local *þing* has been deduced from the 'Þingskapabáttur' section of *Grágás* and from *Íslendingabók*:<sup>130</sup> a clear and extensive account can be found in Jesse Byock's *Viking Age Iceland*.<sup>131</sup> Essentially,

<sup>126</sup> *Dialogues with the Viking Age*, p. 96.

<sup>127</sup> *ÍF* XI, 144. 'There was to be a feast was at Oddastaðir one night later, and that was a little before the spring assembly.'

<sup>128</sup> *ÍF* XIII, 19. 'After the *þing* during the summer, Signý asked Grímkell for permission to leave and go north to her kinsmen.'

<sup>129</sup> *ÍF* III, 156. 'Three summers later, during the Alþing, a ship came to Eyri.'

<sup>130</sup> See especially K §§ 56-60: *Gg* Ia, 96-111.

<sup>131</sup> pp. 170-83. See also Gunnar Karlsson 'Social Institutions', in McTurk (ed.), *A Companion*, pp. 503-17; Miller, *Bloodtaking*, pp. 16-22.

these sources envisage three annual *várþing*, ‘spring assemblies’, in each Quarter (four in the Northern), each of which were held by three *goðar* and which had both administrative and judicial functions.<sup>132</sup> *Íslendingasögur* accounts, though, are not always consistent with this picture,<sup>133</sup> and it is unclear to what extent the *várþing* were still functioning in the thirteenth century. Moreover, the sagas do not always specify whether they are referring to the Alþing or a local *þing* at any given point, and for these reasons I have not differentiated between the two in what follows, although it is acknowledged that this passes up the opportunity to discern any nuanced portrayals of incidents taking place on the local or the national stage.

Studies of ‘scene’ in the sagas have inevitably been tied up with structural and compositional issues, although the structuralist approach has largely fallen out of favour since its heyday in the 1960s and 70s.<sup>134</sup> It is true that attempting to reduce the *Íslendingasögur* to a series of universal constituent parts risks producing a scheme either too generalised and vague to apply to individual sagas,<sup>135</sup> or too complex and scientific to be intelligible or recognisable as literary criticism,<sup>136</sup> and moreover can become ‘one-sided and [...] boring’,<sup>137</sup> and ‘of little avail in identifying the distinctive artistry of individual sagas’.<sup>138</sup> Nevertheless, if not taken to extremes, the structuralist approach can prove a profitable one in identifying patterns in saga narrative, which can be used both to explore prevailing concerns in the *Íslendingasögur* in general, and as a base from which to study the treatment of these themes in individual sagas. In what follows, therefore, I wish to draw upon certain aspects of this methodology.

<sup>132</sup> There were also autumn assemblies, called *leið*, with no judicial function but where news from the Alþing was passed on (see K § 61: *Gg* Ia, 111-12). Regionally-held Quarter assemblies (*fjórðungþing*) seem to have been an early feature but were quickly replaced by their equivalents at the Alþing, the Quarter Courts (*fjórðungsdómar*). See further Byock, *Viking Age Iceland*, pp. 171-83.

<sup>133</sup> See e.g. Jón Viðar Sigurðsson, *Chieftains and Power*, p. 172.

<sup>134</sup> A lucid and helpful overview of the structuralist approach and its history can be found in Lars Lönnroth, ‘Structuralist Approaches to Saga Literature’ in Quinn, Heslop and Wills (eds.), *Learning and Understanding*, pp. 63-73.

<sup>135</sup> E.g. Andersson’s groundbreaking but much-criticised *The Icelandic Family Saga*.

<sup>136</sup> E.g. Tommy Danielsson, *Om den isländske släktsagans uppbyggnad* (Uppsala: Almqvist & Wiksell, 1986), discussed in Lönnroth, ‘Structuralist Approaches’, pp. 71-73.

<sup>137</sup> Lönnroth, ‘Structuralist Approaches’, p. 73.

<sup>138</sup> Vésteinn Ólason, *Dialogues with the Viking Age*, p. 94.

The contributors to the debate have, however, failed to reach a complete consensus on how best to discuss units of saga narrative, which has resulted in some inconsistency in the definition of the term ‘scene’. The delineation of a single, fixed location for a narrative event would seem to be a crucial factor in recognising a ‘scene’,<sup>139</sup> and I think this is implicit, though often not overtly stated, in most discussions. Further to this, Richard Allen’s definition seems to me to be a succinct one: ‘a compact unit of significant action which has a beginning, middle and end’.<sup>140</sup> Carol Clover adopted the term as one she recognised as having widespread scholarly currency, and developed the concept of the ‘tripartite scene’, her definition of which draws on Wayne Booth’s distinction between narratorial ‘showing’ and ‘telling’.<sup>141</sup> For Clover, then, the scene ‘opens with a preface (executed in “telling” narration [...]); moves to the dramatic exchange or encounter (“showing” narration [...]); and ends with a conclusion (again in “telling” narration [...])’.<sup>142</sup> Clover goes on to explain that ‘the weight of each scene lies in its center part, which consists of the playing out of a miniature drama’.<sup>143</sup> In most studies, the major ‘ingredient’ of a scene – or at least of its central part, which amounts to the same thing – has been seen as dialogue.<sup>144</sup> Although they have not been given priority in structural analyses, however, scenes without direct speech can still be analysed according to the same schematic pattern; take, for example the small but perfectly formed *þing*-scene in *Eyrbyggja saga* (ch. 35):

[Preface:] En um várit eptir bjó Snorri goði til vígsmálit Hauks til Þórsnessþings, en Arnkell bjó frumhlaupit til óhelgi Hauki; ok fjølmenntu mjök hváirtveggju til þingsins  
 [Dramatic Encounter:] ok gengu með miklu kappi at þessum málum. En þær urðu málalykðir, at Haukr varð óheilagr at frumhlaupinu, ok ónýttusk mál fyrir Snorra goða,  
 [Conclusion:] ok riðu við þat heim af þinginu.<sup>145</sup>

<sup>139</sup> I am grateful to Tarrin Wills for this point.

<sup>140</sup> *Fire and Iron*, p. 65.

<sup>141</sup> Carol J. Clover, ‘Scene in Saga Composition’, *Arkiv för nordisk filologi*, 89 (1974), 57-83; Wayne Booth, *The Rhetoric of Fiction* (Chicago: Chicago University Press, 1961), esp. pp. 3-20.

<sup>142</sup> Clover, ‘Scene’, p. 59.

<sup>143</sup> *Ibid.*, p. 61.

<sup>144</sup> *Ibid.*; see also Lars Lönnroth, *Njáls saga: A Critical Introduction* (Berkeley: University of California Press, 1976), p. 44; Vésteinn Ólason, *Dialogues with the Viking Age*, p. 91.

<sup>145</sup> *ÍF* IV, 97. [Preface:] During the next spring Snorri goði prepared a case against Haukr for the Þórsnessþing, but Arnkell prepared the defence that Haukr’s act of assault [on Arnkell] meant he had died outside the protection of the law; and many people from both sides went to the *þing* [Central Encounter:]

Indeed, I have found that some interesting observations can be made from the differences between *þing*-scenes with and without direct speech, and so have drawn this distinction for parts of my own analysis.

In this section, I wish to look at the way in which *Íslendingasögur* authors utilised the *þing* as a setting for the action of their narratives. I am interested both in trends that can be perceived across the genre, and in individual saga usage. I do not aim primarily to contribute to the structuralist debate nor to speculate on the underlying compositional methods of the *Íslendingasögur* as a genre. To be clear, then, a *þing*-scene as defined here consists of an occurrence in *Íslendingasögur* narrative of a *þing*-meeting, regardless of its length and complexity. Even if different events occurring at different times are related – for instance, the setting up of booths on the first day, the presentation of a case at court the next, and a marriage proposal on a third, I have telescoped such events into one scene, provided they are not interrupted by action set completely away from the location of the *þing*. I have not insisted on a rigid adherence to the structure of the tripartite scene, with all three parts, preface, dramatic encounter, and conclusion, clearly present; some scenes have more obvious opening and closing markers than others, and as long as there is a clear temporal and locational shift in the narrative to a *þing*-meeting and away from it again at the end, it has been included.

Appendix 3.1, therefore, at the end of this chapter, shows the occurrences of common elements which may be incorporated into *þing*-scenes in the pre-1300 *Íslendingasögur* which make up my corpus.<sup>146</sup> I have excluded: any sections of narrative set outside Iceland; segments with only one element present; and generalisations such as, ‘[Þorvaldr] bað Guðrúnar Ósvífrsdóttur á alþingi, þá er hon var fimmtán vetra gömul’, where the Alþing is used to fill in background information rather than occurring as time and the plot progress.<sup>147</sup> The remaining data to be studied consists of 103 scenes, 67 of which contain direct speech (which I have termed ‘dramatic scenes’) and 36 of which do not (‘descriptive scenes’).

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and the case was zealously contested. And the outcome of the case was that Haukr had died unprotected by law because of the assault, and Snorri *goði*'s case was voided, [Conclusion] and with that they rode home from the *þing*.’

<sup>146</sup> Exceptions as stated in the chapter introduction.

<sup>147</sup> *Lax* (ch. 34): *ÍF* V, 93. ‘Þorvaldr asked for the hand of Guðrún Ósvífrsdóttir at the Alþing when she was fifteen years old.’

Table 3.1, on the following page, shows the total number of occurrences of each element, expressed as a percentage of their frequency in the two different types of scene, and by total number of appearances overall. The data has been rearranged in descending order on this basis, so that the most frequently occurring elements, and the least, can be seen at a glance, and the different types of scene can be compared and contrasted with each other. This data will be referred to throughout the rest of this discussion.

Table 3.1: Common elements in *bing*-scenes (totals)

Dramatic scenes (including dialogue)

	Subtotals	%
Riding home	44	66
Riding to <i>bing</i>	40	60
External arbitrators/mediators	28	42
Large numbers of followers	27	40
Explanation of terms/outcome by narrator	25	37
Time coming round	26	39
Going to courts/Assembly slope/Law Rock	24	36
Procedural details	22	33
No reference to actual court cases	21	31
Opportunity for social interaction	17	25
Formal pronouncement of outcome by characters	15	22
Looking for support (before <i>bing</i> )	14	21
Looking for support (at <i>bing</i> )	13	19
General statement about case(s) being conducted	13	19
Naming of witnesses	13	19
Case goes straight to settlement	13	19
Violence	13	19
Poetry	13	19
Crowded <i>bing</i>	12	18
Legal quotation/formulae / reference to actual law	12	18
Challenge of duel	11	16
Setting up booths	10	15
Statement about distribution of honour	10	15
Wooing/marriage transaction	8	12
Refusal to settle/accept terms (at least initially)	7	10
Case falls through	7	10
In court presentation of case/facts by characters	6	9
In court presentation of case/facts by narrator (only)	4	6
Games	3	4
Uneventful	2	3

Descriptive scenes (without dialogue)

	Subtotals	%
Explanation of terms/outcome by narrator	26	72
Riding home	18	50
Time coming round	14	39
Large numbers of followers	13	36
General statement about case(s) being conducted	12	33
Riding to <i>bing</i>	10	28
External arbitrators/mediators	10	28
Violence	7	19
Refusal to settle/accept terms (at least initially)	6	17
No reference to actual court cases	6	17
Opportunity for social interaction	6	17
Statement about distribution of honour	6	17
Legal quotation/formulae / reference to actual law	5	14
Case goes straight to settlement	4	11
Looking for support (before <i>bing</i> )	4	11
Procedural details	3	8
Poetry	3	8
Setting up booths	3	8
Looking for support (at <i>bing</i> )	2	6
In court presentation of case/facts by narrator (only)	2	6
Naming of witnesses	2	6
Case falls through	2	6
Games	2	6
Going to courts/Assembly slope/Law Rock	2	6
Crowded <i>bing</i>	1	3
Uneventful	1	3
Wooing/marriage transaction	1	3
In court presentation of case/facts by characters	1	3
Challenge of duel	0	0
Formal pronouncement of outcome by characters	0	0

Totals (descriptive and dramatic scenes combined)

	TOTALS	TOTAL %
Riding home	62	60
Explanation of terms/outcome by narrator	52	50
Riding to <i>bing</i>	50	49
Large numbers of followers	40	39
Time coming round	39	38
External arbitrators/mediators	38	37
No reference to actual court cases	27	26
General statement about case being conducted	25	24
Going to courts/Assembly slope/Law Rock	25	24
Procedural details	25	24
Opportunity for social interaction	23	22
Violence	20	19
Looking for support (before <i>bing</i> )	17	17
Case goes straight to settlement	17	17
Looking for support (at <i>bing</i> )	15	15
Legal quotation/formulae / reference to actual law	15	15
Naming of witnesses	15	15
Formal pronouncement of outcome by characters	15	15
Statement about distribution of honour	15	15
Poetry	15	15
Refusal to settle/accept terms (at least initially)	13	13
Crowded <i>bing</i>	13	13
Setting up booths	12	12
Challenge of duel	10	10
Case falls through	9	9
Wooing/marriage transaction	9	9
In court presentation of case/facts by characters	6	6
In court presentation of case/facts by narrator (only)	6	6
Games	5	5
Uneventful	3	3

Firstly, it is important to note that the three most frequently occurring elements overall comprises one of each of the elements of the tripartite scene. We have a prefatory statement: the characters riding to the *þing*, indicating a clear spatial and temporal shift in the narrative (note that the time for the *þing* coming round is also common, being the fifth most frequently occurring element; these elements often occur together – see further Appendix 3.1). There is a dramatic encounter: the explanation of the outcome of a case by the narrator; and a concluding statement: that the characters rode home, once again signalling a change of time and place. This is, of course, to some extent conditioned by the very definition of a scene – something which has a beginning, middle, and end – but my study is not just of whether *þing*-scenes have some sort of prefatory material, some sort of dramatic encounter, and some sort of concluding device (this would be self-evident); I have discerned more specific elements, which could have been expected to affect the distribution of the constituent parts: for example, had there been an even split in prefatory material between either the characters riding to the *þing* or the time for the *þing* coming round, which would have moved both down the table of frequency. However, as it is, *þing*-scenes can be seen to be extremely uniform across the sagas in their choice of prefatory and concluding material, and indeed in their most commonly occurring central encounter, which I shall discuss further below.

These opening and closing statements are usually expressed in formulaic phrases which are very close to those used in other kinds of scenes, as noted by Clover:<sup>148</sup> ‘Liðr nú fram at þingi’ (*V-L* ch. 8);<sup>149</sup> ‘Liðr nú þar til, er kemr annat þing’ (*Njál* ch. 97);<sup>150</sup> ‘Þorkell reið þá til þings’ (*Drop* ch. 13).<sup>151</sup> The narrator of *Njáls saga* is particularly careful about ending his *þing*-scenes neatly with the departure of the characters – every one of his nineteen *þing*-scenes ends with a variant of ‘ok síðan ríða menn heim af þingi’.<sup>152</sup> The narrator may wish to add further elements to the preface and conclusion, though, which are more specific to *þing*-scenes and which aid in creating atmosphere, heightening dramatic tension, or enhancing the narrative weight of the scene. In the prefatory elements, the setting up of booths is an example which has the additional

<sup>148</sup> ‘Scene’, pp. 62-63.

<sup>149</sup> *ÍF* IX, 257. ‘Time moves forward now towards the *þing*.’

<sup>150</sup> *ÍF* XII, 242. ‘Time now passes until the next *þing* comes round.’

<sup>151</sup> *ÍF* XI, 175. ‘Þorkell then rode to the *þing*.’ See Appendix 3.1 for further examples.

<sup>152</sup> *ÍF* XII, 28. ‘And then men ride home from the *þing*.’

function of symbolising the marking out of territory by the participants. Booths were a way of indicating one's power and status, perhaps through the richness of the furnishings, and certainly through the size of the camp.<sup>153</sup> In *Hrafnkels saga*, the relative positioning of Hrafnkell's camp and Sámur's reflects the confidence of each in their positions relative to each other in their impending lawsuit (ch. 3):

Sámur tjaldað búið yfir sínum mönnum, hvergi nær því, sem Austfirðingar eru vanir að tjalda, en nokkuru síðar kom Hrafnkell á þing. Hann tjaldað búið sína, svá sem hann var vanr, ok spurði, at Sámur var á þinginu. Honum þotti þat hlægiligt.<sup>154</sup>

By the conclusion of the court case, their positions have been reversed. It is Hrafnkell's stay that has been temporary: he goes home immediately after his defeat. The Alþing has become Sámur's territory: 'Sámur var á þingi ok gekk mjök uppstertr' (ch. 10).<sup>155</sup>

There can be twists to formulaic concluding devices, too, which provide extra information or anticipate what is to come. Neat and final endings to particular episodes of the narrative, as well as definite changes of pace and setting, can be signalled: 'Síðan fóru menn heim af þingi, ok var allt tíðendalaust' (*Lax* ch. 37);<sup>156</sup> 'Reið Gunnarr heim af þingi [...] Sitr Gunnarr nú heima í sœmð sinni' (*Njál* ch. 56);<sup>157</sup> 'Nú ríða menn heim af þingi [...] ok er kyrrt allt í heraðinu' (*V-G* ch. 25).<sup>158</sup> In contrast to the Alþing's increasing irrelevance and impotence in *Sturlunga*, examples such as these may be specifically intended to demonstrate that the Alþing has brought about a successful resolution of a dispute, or at least an end to that particular stage in the feud.<sup>159</sup> However,

<sup>153</sup> See e.g. *Egil* ch. 84, *Ljós* ch. 26.

<sup>154</sup> *ÍF* XI, 109. 'Sámur tented a booth for his men, nowhere near where the Austfirðingar were accustomed to pitch theirs, and a while later Hrafnkell came to the þing. He tented his booth exactly where he usually did, and found out that Sámur was at the þing. He found that laughable.'

<sup>155</sup> *ÍF* XI, 117. 'Sámur stayed at the þing and strutted about.'

<sup>156</sup> *ÍF* V, 103. 'Then people went home from the þing, and nothing newsworthy occurred.'

<sup>157</sup> *ÍF* XII, 145-46. 'Gunnarr rode home from the þing [...] Gunnar remained now at home in good honour.'

<sup>158</sup> *ÍF* IX, 85. 'Now men ride home from the þing [...] and all is quiet in the district.' See also e.g. *Drop* ch. 4, *Eyrb* ch. 31, *Njál* ch. 74.

<sup>159</sup> Also, e.g. *Eyrb* (ch. 27): 'Lauk svá þinginu, at þar var sæzk á öll mál' (*ÍF* IV, 70). ('The þing came to a close thus, that there were settlements in all the cases.')

with slight variation, such phrases can also be used to hint at the temporary nature of many 'resolutions', and forewarn the audience of trouble still to come: 'Fara menn nú heim af þingi, ok var nú kyrrt *um hríð*' (*Vápn* ch. 10, my emphasis).<sup>160</sup>

On the whole, though, the key part of scenes is the central encounter:<sup>161</sup> this carries the narrative weight and moves the plot along in some way. As can be seen, the most frequently occurring central element is an explanation of the outcome of a case by the narrator, being found in half of all *þing*-scenes. Such narratorial summaries can themselves appear in expanded or contracted form. At the end of the scene in *Njáls saga* in which Gunnarr is outlawed, after having presented Gizurr's case for the prosecution in long-winded technical detail, the narrator concludes merely: 'Eptir þat var gørt um málit ok kveðit á féggjöld, ok skyldi allt greitt þegar þar á þingi, en Gunnarr skyldi fara utan ok Kolskeggr ok vera í brautu þrjá vetr' (chs. 73-74).<sup>162</sup> Despite adding, for the benefit of those who may be in doubt about the conditions of lesser outlawry, 'En ef Gunnarr fœri eigi ok mætti hann komask, þá skyldi hann dræpr fyrir frændum ins vegna', he does use just one sentence to convey a fact which is highly significant in terms of the plot.<sup>163</sup> It concludes not just this scene, but a whole period of enmity between Gunnarr and the Otkelssons and Starkaðarsons. It also provides the starting point for the next significant Gunnarr-episode: his decision to disregard the sentence and his resultant death. (As will be illustrated further in the following section of this chapter, it is characteristic of the *Njáls saga* narrator to give little narrative weight to such a significant fact, while presenting the incidentals of the case – the legal technicalities – in such detail.)<sup>164</sup>

<sup>160</sup> *ÍF* IX, 45. 'People went home from the *þing*, and it was now quiet for a while.'

<sup>161</sup> Clover, 'Scene', pp. 61-62.

<sup>162</sup> *ÍF* XII, 180. 'After that the case was concluded and the payment stipulated, all of which was to be paid immediately at the *þing*, and Gunnarr and Kolskeggr were to go abroad and stay away for three winters.'

<sup>163</sup> *ÍF* XII, 180. 'And if Gunnarr did not leave when he was able to get away, then he could be killed by the kinsmen of the slain.'

<sup>164</sup> See also e.g. Lonnröth, *Njáls saga*, p. 55; Theodore Ziolkowski, *The Mirror of Justice: Literary Reflections of Legal Crises* (Princeton: Princeton University Press, 2003), pp. 55, 56.

In other scenes, on the other hand, great care is taken to enumerate the details of the settlements reached, as in *Eyrbyggja saga* (ch. 46):<sup>165</sup>

Þat er frá sagt sáttargørðinni, at mannalátum var saman jafnat ok atferðum; var þat jafn gørt, sár Þórðar blígs í Álptafirði ok sár Þórodds, sonar Snorra goða. En sár Más Hallvarðssonar ok hogg þat, er Steinþórr hjó til Snorra goða, þar kómu í móti þriggja manna víg, þeira er fellu í Álptafirði; en þau víg, er Styrr vá í hvárn flokk, váru jöfn látin; en á Vigrafirði var líkt látit víg Bergþórs ok sár þriggja Þorbrandssona, en víg Freysteins bófa kom á móti þeim manni, er áðr var ótaliðr ok látizk hafði af Steinþóri í Álptafirði. Þorleifi kimba var bætt fóthoggit. En sá maðr, er látizk hafði af Snorra goða í Álptafirði, kom fyrir frumhlaup þat, at Þorleifr kimbi hafði þar víg vakit. Síðan var saman jafnat annarra manna sárum ok bætt skakki, sá er á þótti vera, ok skilðusk menn sáttir á þinginu.<sup>166</sup>

Clearly, the amount of time spent detailing the settlements depends to some extent on the nature of the case: the above example involves two battles, so there are several deaths to be accounted for. The narrator's selection of detail tails off somewhat towards the end, however ('annarra manna sárar'; 'skakki sá er á þótti vera'); presumably he could have done something similar for the other balancings-out. In fact, his first clause gives the core information; the rest is, essentially, padding material which expands the scene.

Why, then, is such specific information provided? The battle of Álptafjörðr is not itself described in as much detail in the text; the details of the settlement therefore provide facts otherwise unknown to the audience. The battle of Vigrafjörðr, on the other hand, *is* vividly portrayed; it is therefore well-balanced to receive an equally detailed

<sup>165</sup> See also e.g. *Reykðæla saga* chs. 18, 24. The *Njáls saga* narrator is not, unsurprisingly, himself averse to providing such detail: see e.g. ch. 66. The *Laxðæla saga* narrator, on the other hand, displays his own characteristic refusal to provide legal detail (ch. 71): 'Eptir þat luku þeir fésekð; en eigi er á kveðit hér, hversu mikit þeir gerðu; frá því er sagt, at fé galzk vel, ok sættir váru vel haldnar' (*ÍF* V, 211). ('After that they concluded the payment, but it is not stated here how much it was; it is said about it that the money was paid properly, and the settlement held well.')

<sup>166</sup> *ÍF* IV, 131-32. 'This is said about the settlement, that the deaths and assaults were compared; the wounding of Þórðar blíg at Álptafjörðr and the wounding of Þóroddr, son of Snorri goði, were made equal. But the wounding of Már Hallvarðsson and the blow which Steinþórr struck at Snorri goði were set against the deaths of three men who fell at Álptafjörðr; and those killings which Styrr made on each side evened out. The killing of Bergþórr and the wounds of the three Þorbrandssons at Vigrafjörðr were equated; and the killing of Freysteinn bófi was set against a man who had not previously been counted and who had been killed by Steinþórr at Álptafjörðr. Compensation was paid to Þorleifr kimbi for the loss of his leg. The man who had been killed by Snorri goði at Álptafjörðr was matched with the unlawful assault with which Þorleifr kimbi had started the battle. Then the other men's wounds were compared and compensation paid for the disparities there were thought to be, and men parted reconciled from the þing.'

conclusion. In certain circumstances, pointing out who was balanced against whom could be used to give a posthumous indicator of the characters' relative status. The original audience would have been used to the 'balance-exchange model' of feud; they may have been keeping their own mental tally as the story unfolded, and could therefore have their deductions confirmed or refuted.<sup>167</sup> The detailing of such information may also have provided, for the particularly astute reader or listener, a hint of further feuding to come, if any *imbalance* could be perceived. Finally, the narrators may have wished to ensure 'closure': with everyone accounted for, a clean transition could be made to the next stage in the plot.

The differing frequencies of occurrence of narratorial summaries, and not just their length or detail, provides a particularly interesting contrast between 'dramatic' and 'descriptive' scenes, and is one of the most significant differences between the two types. Conveying this information is, as we would expect, a typical reason for the utilisation of a *þing*-scene at all, and 'descriptive' scenes, those without 'showing' narration and which consequently tend to be more compressed, are particularly appropriate when the narrator wishes to convey the basic facts of a particular stage in a conflict narrative relatively briefly, and move on.<sup>168</sup> It is unsurprising, therefore, that this element occurs in 72% of 'descriptive' scenes. What is perhaps more interesting is the fact that this is relatively often built up into a 'scene' at all, rather than just stated as the outcome in a descriptive passage at the end of another scene, perhaps a conflict scene. *Íslendingasögur* narrators seem to have felt the need to mark *þing* as definite stages of the narrative and of the conflict they are describing, even if there was no need to dwell on the particulars of the meeting by using 'showing' narration.

Although the narratorial summary of the outcome is still the fifth most frequent element in 'dramatic' scenes, it occurs in only 39% of these. This is partly to be explained, of course, by the fact that the same information can be conveyed in other ways using 'showing' narration: it can be revealed in exchanges between the participants, or one of the characters may formally announce the outcome, as happens in 22% of 'dramatic' scenes. On the other hand, this relatively low figure is also an indicator of the fact that *þing*-scenes have a broader range of functions than conveying information about legal cases. This can be coupled with what is surely one of the more

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<sup>167</sup> Miller, *Bloodtaking*, pp. 183-85.

<sup>168</sup> E.g. *BjH* chs. 16, 17; *Drop* ch. 5; *Fljót* ch. 2; *Grett* chs. 27, 44, *Njál* ch. 97.

surprising findings from my data: how few detailed legal dealings or actual court cases are shown to take place at the *þing*. The presentation of the facts of a case before the court by either the characters or the narrator – and in these categories I have tended to err on the side of overinclusion to any reference to even some of the most basic facts – occurs in only 12% of *þing*-scenes overall, and this is heavily weighted by *Njáls saga*, the great court scene of which is discussed in detail in the next section of this chapter.<sup>169</sup> Even reference to procedural details occurs in less than a quarter of *þing*-scenes. It seems that, however much the author of *Njáls saga* would have liked it to be otherwise, medieval Icelandic audiences were just not particularly interested in courtroom drama. Instead, there may be summary references to cases being conducted, or cases may go straight to arbitration, taking place outside the courtroom. It is perhaps pertinent in this context to recall Andreas Heusler's famous statistics on dispute processing, although of course his data was not restricted to *þing*-scenes: he counted 520 disputes in the *Íslendingasögur*, 297 of which resulted in blood vengeance, 104 went straight to arbitration, and 119 had recourse to law; of the latter, 60 cases went to out-of-court arbitration and 9 went unresolved, with only 50 actually being settled through law.<sup>170</sup> It is not just specific details of law and legal procedures, though, that are strangely absent from a significant number of *þing*-scenes: in fact, in 26% of all *þing*-scenes – rising as high as 31%, almost a third, of 'dramatic' scenes – there is no reference whatsoever to actual court cases. There seems to me to be two main factors involved in this phenomenon.

First is the fact that, as I highlighted at the beginning of this section, *þing*-meetings really were a highlight of the social calendar, and, as a gathering point of so many people, many other newsworthy events occurred there than just the legal. *Laxdæla saga* draws on this particularly strikingly. Just as none of its excellent lawyers are ever seen in action, as was demonstrated in the previous section, few legal dealings are seen to occur in its *þing*-scenes. There are eight *þing*-scenes in the saga, and seven of them make no reference at all to court cases. Instead, Óláfr and Þorgerðr get betrothed there (ch. 23), business is transacted there (ch. 37), and while Óláfr does make a grand and eloquent speech at *Logberg*, it is in order to invite people to a feast at his home (ch. 27). In one Alþing scene, an account of a portentous talking (in fact skaldic-versifying) cloak

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<sup>169</sup> Vésteinn Ólason also notes that 'no saga refers to Things as often as *Njáls saga*' ('Topography', p. 134).

<sup>170</sup> *Das Strafrecht*, pp. 40-41

is described in detail, but when the incident it forebodes is carried out, and Þorgils decapitates Auðgísl, the author refers the audience who might wish to know the details of the subsequent legal proceedings to another source: ‘Sæzk var á víg þessi, sem í sögu Þorgils Høllusonar segir’ (ch. 67).<sup>171</sup> Only the aftermath of the killing of Kjartan, namely the outlawings of the Osvifssons, merits legal action set at a *þing* – but even this is a brief ‘descriptive’ scene, rather than an elaborated ‘dramatic’ one (ch. 51). The author of *Laxdæla saga* seems to recognise the importance of the *þing* to a good story – and the Alþing is actually fairly prominent in the saga; it is still shown to be a vital part of Icelandic life, a setting for ‘positive social interaction’.<sup>172</sup> The saga’s concerns, however, are rarely with legal matters.<sup>173</sup>

The second reason for the relative scarcity of court scenes, however, I think does relate to a wider social concern with legal matters, and specifically the growing awareness in the thirteenth century of the failings in the traditional legal system. In the light of our knowledge about the increasingly insignificant role of the law in the playing out of *Sturlungaöld* disputes – highlighted in respect of lawspeakers in the previous chapter and by Tranter’s reading of the *Sturlunga* collection at the beginning of this section – I wish to focus for the rest of this discussion on the way in which saga narrators use the setting of the Alþing to explore the workings, and in particular the problems, of the legal system and political environment.

Indeed, the data itself demands such a focus. Firstly, a statement that one or both of the parties had a large number of followers figures highly in the list of most frequently-occurring elements (39% of *þing*-scenes overall).<sup>174</sup> In practice, as was highlighted in the section on lawyers, physical power was often a more important factor in legal success than knowledge of the law. And although we may expect that referring to large groups of followers may be a hint from the saga author of impending violence (which of course it is in some instances), it is often, as is suggested by its frequency of

<sup>171</sup> *ÍF* V, 199. ‘A settlement was made regarding this killing, as it says in the saga of Þorgils Hølluson.’ *Laxdæla saga*’s apparent aversion to legal detail is discussed further in the following section of this chapter.

<sup>172</sup> Vésteinn Ólason, ‘Topography’, p. 131.

<sup>173</sup> See further the following section, on ‘legalities’.

<sup>174</sup> Although detailed pre-Alþing support-gathering segments fall outside the focus of this chapter, Miller notes that ‘the saga writers were especially interested in the support gathering process and devoted some of their better performances to descriptions of it’ (*Bloodtaking*, p. 242).

occurrence, merely a conventional component of *þing*-scenes, and can be included among the sort of information to which Lönnroth suggests ‘the audience is not supposed to pay any particular attention’.<sup>175</sup> The very fact that it is a stock, formulaic phrase in *Íslendingasögur þing*-scenes – especially when coupled with the parallel absence of court scenes already discussed – is itself a significant indicator that authors and audiences took it for granted that the legal details were often irrelevant; what mattered most was the relative strength or weakness of the opposing sides.

That one in five of all *þing*-scenes include some form of actual physical violence (excluding duels) may seem alarmingly high, even when we are forewarned by Heusler’s statistics. It should be remembered, though, that such scenes are likely to be disproportionately represented in the sagas. *Þing*-meetings where nothing out-of-the-ordinary happens are unmemorable and do not make for particularly interesting stories, as may be acknowledged within the narration itself: ‘Um kveldit fóru dómur út, ok er ekki getit, at þar yrði til tíðenda’ (*Egil* ch. 81).<sup>176</sup> (It does, however, then become all the more poignant when the narrator of *Njáls saga*, for example, notes for one year that, ‘Þingit er kyrrt’ (ch. 48), as if this in itself has become worthy of note.)<sup>177</sup> The threat of violence is in fact more common than the actuality, expressed not only in the gathering of supporters but in the aggressive speech and behaviour of the opposing parties. Just as aggrieved parties in the thirteenth century found recourse to law increasingly futile, a growing frustration with the inadequacy of legal solutions can be seen in *Íslendingasögur* litigants. It has often been remarked upon that despite *Njáls saga*’s fascination for the law, it contains not a single dispute which is satisfactorily resolved by legal means.<sup>178</sup> This is explicitly noted in the saga: ‘engi kœmi sínu máli fram, þótt til þinga væri stefnt, - “ok vilju vér heldr,” segja þeir, “heimta með oddi ok eggju”’ (ch. 97).<sup>179</sup> Elsewhere in *Njáls saga*, Skarpheðinn makes the same point by punning grimly on the word ‘þing’: ““vér ætlum ekki at sœkja þetta nema á vápnþingi”’ (ch. 91).<sup>180</sup>

<sup>175</sup> Lönnroth, *Njáls saga*, p. 46.

<sup>176</sup> *ÍF* II, 286. ‘In the evening the courts went out, but it is not mentioned that anything newsworthy happened.’

<sup>177</sup> *ÍF* XII, 122. ‘The *þing* was quiet.’

<sup>178</sup> E.g. Ordower, ‘Exploring’, p. 51.

<sup>179</sup> *ÍF* XII, 242. ‘No-one could move their cases forward, although they were summoned before the *þing*, “and we wish rather,” they said, “to make our claims with point and edge” [i.e. by force].’

<sup>180</sup> *ÍF* XII, 229. ““We don’t intend to prosecute for this, except in an assembly of weapons.””

Violence is prevented from breaking out more often, then, by the presence at the Alþing of mediators and arbitrators, some sort of peacekeeping intervention by whom is actually the third most popular element in ‘dramatic’ *þing*-scenes, occurring in 42% of these (37% overall). And this factor provides the most marked difference between *þing*-scenes presented in the *Íslendingasögur* and those in *Sturlunga saga*. In the latter, the cases are often brought exclusively by a small group of the most powerful factions, either on their own behalf or on behalf of their *þingmenn*. There are, therefore, increasingly only three likely outcomes: first, that one group is so powerful there is no point anyone else contesting anything, and they get all their own way; second, that both groups have such large forces that an impasse is reached and nothing is satisfactorily resolved; and third, that the participants forgo the *þing* entirely as there has become more advantage in not bringing the cases to court at all in favour of carrying out the feud at a time and place of their own choosing.

In the *Íslendingasögur*, however, the *þing* is still an arena which allows for successful, or at least non-violent, resolution, because it allows for the presence of mediators. Whereas in *Sturlunga saga* Jón Loptsson, who died in 1197, is the last of the men able to use their own personal power to maintain some level of peace and stability,<sup>181</sup> many troublesome *Íslendingasögur* lawsuits, even those involving large-scale violence, are resolved through the intervention of ‘góðgjarnir menn’, peacemakers who act not on their own behalf but for the overall good of the community.<sup>182</sup> Most famous, perhaps, is Hallr of Síða in the battle which destroys the court case after the burning of Njáll – he forgoes his own right to compensation in order to achieve a resolution. In such examples, no individual has great enough power to override the majority desire for peace.

*Íslendingasögur* authors wishing to consider the descent into lawlessness of their own society did not, like the authors of *Sturlunga saga*, relegate the *þing* to a passive, background role, but brought it to the fore. On the one hand, the Alþing’s role as a social hub may be highlighted, as in *Laxdæla saga*: even if it does not directly place the

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<sup>181</sup> See further Tranter, *Sturlunga Saga*, pp. 124-25.

<sup>182</sup> See also Miller, *Bloodtaking*, pp. 264-65. Judith Jesch, “‘Good Men’ and Peace’, *passim*, highlights *Njáls saga*’s idiosyncratic and frequent usage of ‘góðir menn’, (‘good men’), whose participation in settlements is emphasised there as important. Jesch argues that the phrase as used in *Njáls saga* carries specifically Christian connotations of ‘goodness’.

role of law under a microscope, the saga emphasises that the Alþing had an important role to play in keeping the foundations of society whole. On the other hand, narrators may choose to demonstrate the problems caused when chieftains attempted to throw their weight around at the *þing*, and to detail the threat or actuality of violence; but they also exemplify how such issues could be resolved through a communal desire for peace. *Íslendingasögur* *þing*-scenes contain illustrations of settlement, resolution and reconciliation, and men who see beyond what they can gain for themselves and are prepared to take action on behalf of the community. Rather than being an impotent, redundant relic, the *þing* in the *Íslendingasögur* can be a symbol of hope: a vibrant, lively, essential part of the fabric of the narrative, and of the society depicted within.

### SECTION III: 'LEGALITIES'

Despite the well-attested prominence of legal themes among the subject matter of the *Íslendingasögur* – highlighted in the introductory remarks to this chapter – the sagas' representation of 'law', in Miller's definition as 'the formal legal process and the rules applied and enforced in the courts', is notoriously deeply problematic.<sup>183</sup> It is not uncommon for a saga to refer to a 'law' for which no independent evidence can be found, or for sagas to contradict not only each other but the surviving articles of the law-text *Grágás*, over some detail of legal routine. Sometimes saga practice paints a different picture to a *Grágás* prescription, while detailed articles in *Grágás* may go completely unevidenced in the sagas. Even *Njáls saga*, the 'legal saga *par excellence*', has been described as having been written by an author whose 'fascination [by law] far exceeded his knowledge [of it]'.<sup>184</sup>

As was discussed in the Introduction to this thesis, much scholarly time and attention, particularly in the late nineteenth and early twentieth centuries, was devoted to scrutinising the legalities in the *Íslendingasögur* and comparing them to articles in *Grágás*, either in the attempt to work out what actually was law during the Commonwealth period, or to attack the historicity of the sagas or laws, if discrepancies

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<sup>183</sup> Miller, *Bloodtaking*, p. 221.

<sup>184</sup> Einar Ól. Sveinsson, *Njáls saga*, p. 26.

could be identified.<sup>185</sup> More recently, however, it has been recognised that quotations of the law and details of complicated legal procedures often serve literary and stylistic purposes, whether to advance the plot, to imbue characters or actions with a certain gravitas, or to create dramatic tension. In this role, then, I would suggest that the veracity of a particular detail is not of primary concern, as long as it works within the world of the saga; and it will be part of the task of this section to demonstrate how various saga narrators establish their own 'saga law', so that the actual legal competence of the audience (or indeed, author) is not especially an issue.

To give an example, it is generally recognised that Njáll's advice to Gunnarr on how to summon Hrútr for the return of Unnr's dowry is much more complicated and elaborate than it needs be (*Njál* chs. 22-23), and that there is no reason why the much simpler process already employed by Mǫrðr in his earlier attempt to retrieve the dowry – that of publishing the suit at the Alþing – should not have sufficed (Mǫrðr's case fails not because of a technical error but because Hrútr overrides legal process and challenges Mǫrðr to a duel he cannot win).<sup>186</sup> But while it is clearly unrealistic that, in 'real life', medieval Icelanders would have gone through a charade such as Gunnarr's, in the saga, none of the characters questions the process, and in fact Njáll's intricate plan succeeds. The audience too must therefore suspend disbelief and enjoy the multiple benefits the episode brings to the saga: Lehmann and von Carolsfeld find no greater reason for it than the mundane, 'to add variety', while Henry Ordower observes that it introduces a shift in focus, so that Hrútr, who until this point has been a central character, 'becomes a peripheral figure [and] Gunnar steps to the fore'.<sup>187</sup> It allows Njáll to showcase his legal cleverness, and indeed his legal deviousness, anticipating his plotting to institute the Fifth Court and thereby create a *goðorð* for his foster-son Hǫskuldr (another hugely over-elaborate solution to a problem, again serving a multitude of purposes, some of which have been explored elsewhere in this thesis). It emphasises Gunnarr as a man of physical action, rather than calculated words, and

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<sup>185</sup> As well as the references given in the Introduction, see e.g. Karl Lehmann and Hans Schnorr von Carolsfeld, *Die Njáls-sage insbesondere in ihren juristischen bestandtheilen* (Berlin: Praeger, 1883); Konrad Maurer, 'Zwei Rechtsfälle in der Eigla', *Sitzungsberichte der philosophisch-philologischen und historischen Classe der k. b. Akademie der Wissenschaften zu München 1895* (1896), 65-124; 'Zwei Rechtsfälle aus der Eyrbyggja', *Sitzungsberichte der philosophisch-philologischen und historischen Classe der k. b. Akademie der Wissenschaften zu München 1896*, (1897), 3-48.

<sup>186</sup> E.g. Ziolkowski, *The Mirror*, p. 55.

<sup>187</sup> 'Exploring', p. 49 (Lehmann and von Carolsfeld cited and translated in *ibid.*, p. 43).

exhibits the symbiotic yin-yang relationship he has with Njáll, when he gets frustrated with legal technicalities at the first hurdle, preferring to turn the tables on Hrútr and challenge him to a duel, which this time Hrútr cannot win. It is also a comic episode, creating a vivid and entertaining image of ‘Kaupa-Heðinn’, who insults the collective inhabitants of several districts of Iceland, and ‘flýgr á menn, þegar eigi er allt gørt sem hann vill’.<sup>188</sup> (Kaupa-Heðinn, meanwhile, of whom everyone asks ‘hverr sá væri inn mikli maðr, er svá lítt var sýndr’ and who behaves aggressively in response,<sup>189</sup> surely also foreshadows his close namesake Skarpheðinn’s memorable support-seeking scene at the Alþing, when everyone asks, “‘Hverr er sá maðr [...] er fjórir menn ganga fyrri, mikill maðr ok fólleitr ok ógæfusamligr, harðligr ok tröllsligr?’”, to which he responds with cutting and venomous insults.)<sup>190</sup> It is not necessary, therefore, to think that Njáll’s advice mirrors the only possibility in actual legal procedure; while absorbing the ‘added value’ of the episode, at different levels of consciousness, the audience is content to accept that the performance of the actual legal event – Gunnarr’s summoning – is plausible, and to go along with Njáll in his belief that the complex build-up to this event ‘mun [...] duga’.<sup>191</sup>

It is ‘saga reality’, then, that will be considered in the discussion of legal technicalities in this section. The extent to which this mirrors actual reality – by which I mean the (often irrecoverable) law as practiced rather than, necessarily, the problematic ‘Grágás reality’ – raises vital questions relating to the legal competence of saga authors and audiences. However, the exhaustive attempts of earlier scholars have shown that answers to this are often impossible to find, and such issues are largely beyond the scope of the present investigation. Rather, I wish to focus on the way legal technicalities function as part of the framework of saga narratives, and on the uses which they are put to by saga authors.

As has been noted, it is generally acknowledged that *Njáls saga*’s employment of legal technicalities and quotation of ‘law’, whether valid or otherwise, exceeds that of

<sup>188</sup> *ÍF* XII, 60. ‘Flies at men, as soon as all is not done as he wishes.’

<sup>189</sup> *ÍF* XII, 63. ‘Who the big man could be, of whom so little could be seen.’

<sup>190</sup> *ÍF* XII, 298. “‘Who is that man, whom four men are in front of; the big man, pale and unlucky-looking, severe and troll-like?’” See also pp. 299, 301, 304.

<sup>191</sup> *ÍF* XII, 59. ‘Will do well.’

any other saga, and this, together with the richness and depth that can be demonstrated in even a minor episode such as that of Unnr's dowry, means that critical enquiry as to the literary and structural functions of legalities has, understandably, focussed on this saga.<sup>192</sup> However, to recognise that *Njáls saga* is exceptional in this regard is to acknowledge that it cannot be taken as representative of its genre. Yet there has been little attempt, beyond perhaps notes in individual editions and translations, to analyse the way legal quotation and technicalities are used elsewhere in the *Íslendingasögur*; generalisations such as those cited in the introduction to this chapter are made to suffice. While constraints of space do not allow for a thorough examination here, I intend in this section to begin to redress the balance, and will examine legalities – here narrowly defined as specific technicalities and quotations – as building blocks of saga narrative.

### *Njáls saga: The Extreme Example*

Nonetheless, although the role of law in *Njáls saga* has already been subject to a good deal of critical examination, and my introductory example was drawn from the saga, no discussion of legal technicalities in the *Íslendingasögur* would be complete without reference to the lengthy passages of law quoted in its scene set at the Alþing after the burning of Njáll, a feature which is, curiously enough, largely unique to this saga.<sup>193</sup> Indeed, *Njáls saga* is perhaps the only one of the *Íslendingasögur* that can be said to be 'about' law (insofar as it can be said to be 'about' any single thing). Probably written 1275-85, just after the ending of the Commonwealth and the replacement of *Grágás*, *Njáls saga*'s penchant for legal history (albeit subject to authorial license in the details),<sup>194</sup> its fondness for complicated legal procedures, its lengthy quotations of passages from the law texts, and its lawyer heroes (and villains), all contribute to its author's exploration of the Commonwealth-period legal system and its downfall. This is a received and well-documented view and does not need to be re-proved here; aspects of

<sup>192</sup> E.g. Alan J. Berger, 'Law in *Njáls saga*', in [anon. eds.] *Samtíðarsögur: The Contemporary Sagas*, pp. 82-95; Frederik J. Heinemann, 'A Reader's View of Law in *Njáls Saga*', *Papers of the Fourth International Saga Conference, München, July 30th – August 4th 1979* (Munich: Institut für nordische Philologie der Universität München, 1979), pp. 1-20; Ordower, 'Exploring'; Ziolkowski, *The Mirror*, esp. ch. 3 'The Ambivalence toward Pagan Law'.

<sup>193</sup> This was demonstrated in the previous section, on 'þing-scenes'; see also Miller, *Bloodtaking*, pp. 251-52.

<sup>194</sup> E.g. the role given to Njáll in the establishment of the Fifth Court, discussed in Chapter 2 of this thesis.

the representation of other legal elements in *Njáls saga* have been taken up elsewhere in this thesis.

The Alþing at which the Burning case is heard is described in detail, occupying chapters 136-45; the court scene itself is taken up in chapters 142-44, some 24 pages in the *ÍF* edition. Much of the content of the scene consists of Mǫrðr and Eyjólftr, the lawyers for the prosecution and defence, reciting lengthy passages of legal formulae; the case twists and turns on details of the law said to be so obscure that no-one is sure whether they are legitimate, so that various legal experts outside the court have to be referred to, including, as has been noted, the lawspeaker, Skapti. In T. M. Andersson's words, it is 'an epic of quibble and counterquibble'.<sup>195</sup> The inclusion of legal formulae has proved particularly problematic to scholars, and debate has raged as to whether the author merely copied them from legal manuscripts without much thought;<sup>196</sup> whether he knew them by heart and 'decided to give his audience a very thorough lesson in legal procedure, partly at the expense of narrative structure';<sup>197</sup> whether they take on an 'incantatory effect [...] used almost as magic in an attempt to ward off the inevitable conflict';<sup>198</sup> whether his audience 'delighted in the full panoply of technicalities';<sup>199</sup> or whether they have the literary functions of parading the skill of the lawyers or creating dramatic tension,<sup>200</sup> as well as various other permutations, combinations and compromises of the above theories.

The question of the author's sources is outside the scope of the present investigation, though it is relevant here that Lönnroth refutes the theory that he had legal manuscripts in front of him by highlighting the 'numerous small variations' in the presentation of 'the same formulas in different contexts [within the saga]'.<sup>201</sup> The author could, and did, subtly manipulate the material to meet the requirements of the situation;

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<sup>195</sup> *The Growth*, p.199.

<sup>196</sup> E.g. Sigurður Nordal, 'The Historical Element in the Icelandic Family Sagas', *Scripta Islandica*, 10 (1959), 9-24 (pp.19-20).

<sup>197</sup> Lönnroth, *Njáls saga*, p. 248.

<sup>198</sup> Allen, *Fire and Iron*, pp. 172-73.

<sup>199</sup> *Ibid.*, p. 173.

<sup>200</sup> Ziolkowski, *The Mirror*, p. 55.

<sup>201</sup> *Njáls saga*, p. 244.

it is not spurious information mindlessly included for its own sake. I would take issue with Lönnroth's judgement, though, that the legalities in the court scene come 'at the expense of narrative structure'; rather, they are a key part of the scene, and of the saga.

It has been noted that *Njáls saga* is unusual in the prominence it gives to legalities, and this must, at least in part, reflect a particular predilection on the part of its original audience, and, perhaps, its author. It should not be dismissed, however, as a mere indulgent quirk. In medieval Iceland, court cases, especially major ones, were entertaining, in real life if not in literature.<sup>202</sup> *Njáls saga* itself states that, for the Alþing at which the Burning case was to be heard, 'váru komnir höfðingjar ór öllum fjórðungum á landinu, ok hafði aldri þing verit jafnfjölmennt áðr, svá at menn myndi' (ch. 137),<sup>203</sup> and this is not only a feature of this saga: several other *Íslendingasögur* attest the same phenomenon.<sup>204</sup> Although, as I demonstrated in the previous section, few *Íslendingasögur* suggest that audiences were interested in courtroom drama, perhaps it was not unreasonable of the author of *Njáls saga* to believe that if audiences enjoyed the spectacle of a real-life court case, a dramatised version could also be compelling and diverting; and I shall explore some of the ways in which the narrative draws upon legalities in the attempt to make it so here.

The narrator sets the stakes before the case begins; the court scene is introduced thus (ch. 142):

Er nú kyrrt þar til, er dómar skulu út fara. Þjoggu þeir þá sik til hváirtveggju ok vápnuðusk; þeir höfðu þá ok hváirtveggju gort herkulm á hjálmum sínum.<sup>205</sup>

The threat of a battle so large and bloody that each side will have to identify themselves by the markings on their helmets thus hangs over the entire case. In fact, it is more than a threat, it is an inevitability: in the previous chapter, Snorri *goði* predicts that the case

<sup>202</sup> See also Heinemann, 'A Reader's View', p. 12; Miller, *Bloodtaking*, p. 257.

<sup>203</sup> *ÍF* XII, 363. 'Great men had come from all quarters of the land, and the *þing* had never before been so crowded, as far as men could remember.'

<sup>204</sup> E.g. *Egil* chs. 16-17; *Finn* chs. 30, 32-33; *Grett* chs. 51, 72, 84; *Gunnl* ch. 11; *Háv* ch. 22; *Hrafn* chs. 7-12; *Lax* chs. 22-23, 61; *Ljós* chs. 16-17, 25-27; *V-L* chs. 8-9.

<sup>205</sup> *ÍF* XII, 378. 'It is now quiet, until the courts were to go out. Each side then made ready and armed themselves; each side had also then made battle-markings on their helmets.'

will end in violence, and by all conventions of saga narrative, the prophecy will be fulfilled.<sup>206</sup> The length of the court scene, though, the intricacy of the legalities and the number of twists that take place during the proceedings, draw the audience in, letting them almost dare to believe that convention may be broken, that maybe, one of the arguments will prove so dazzling, so conclusive, that Snorri will be proved wrong and one side will have to give in to the other; all this legal expertise cannot be in vain; a legal solution will be found. And it is not only the battle that is anticipated by the audience, in which case the intervening legalities could theoretically be anything, just to retard the outcome; rather, the narrator also relates Flosi's secret transferral of his *goðorð* to his brother and his new allegiance to the Northern Quarter *goði* Áskell Porketilsson, with the intention that the prosecution brings the suit in the wrong Quarter Court: the audience becomes alert to the details, waiting to see if Mjǫrðr falls into the trap, wondering if he will find a counter-argument to better Flosi's.

The drama of the legalities is also presented in a tight, deliberate fashion; technicalities are not randomly cited or gratuitously repeated. In the example below, two of the prosecution's witnesses have been dismissed by Eyjólfur on grounds of their relationship to Mjǫrðr. Although 'mælti ǫll alþýða ok kváðu ónýtt málit fyrir Merði; urðu þá allir á þat sáttir, at vörn væri framar en sókn' (ch. 142),<sup>207</sup> the prosecution send a message to Þórhallr for advice on how to proceed:

Þórhallr mælti: '[...] vitringinum Eyjólfvi hefir nú yfir sézk. Skaltu nú ganga til þeira sem hvatligast ok seg, at Mjǫrðr Valgarðsson gangi at dómi ok nefni sér vátta, at ónýtt er lögruðning þeira,' – ok sagði hann þá fyrir greiniliga allt, hversu þeir skyldu með fara. Sendimaðr fór ok sagði þeim tillögur Þórhalls.<sup>208</sup>

Here, unlike in the court scene overall, there is no dramatic irony – the solution is not revealed at the first opportunity, but kept back by the narrator so that it can be presented actually in the court. The audience of the saga is kept waiting, just as are the audience and participants of the case, knowing that information is being related by Þórhallr to the

<sup>206</sup> E.g. Vésteinn Ólason, *Dialogues with the Viking Age*, p. 98.

<sup>207</sup> *ÍF* XII, 385. 'The whole crowd spoke and declared Mjǫrðr's case invalid; they all came to the agreement that the defence was stronger than the prosecution.'

<sup>208</sup> *ÍF* XII, 385. 'Þórhallr said [to the messenger]: "[...] the wise man Eyjólfur has overlooked something. Go to them now as fast as you can and say that Mjǫrðr Valgarðsson should go to court and name witnesses for himself that their challenge is invalid," and he then told him precisely how they should proceed. The messenger returned and told them Þórhallr's advice.'

messenger, and by the messenger to the prosecution, and all discover it at the same time, when it is dramatically announced by Mǫrðr. The same happens again, the reasons for the dismissal becoming more technical, so that when once again Mǫrðr declaims his counteraction, it is not surprising that ‘þá var óp mikit ok kall, ok mæltu þá allir, at mjök væri hrakit málit fyrir þeim Flosa, ok urðu nú á þat sáttir, at sókn væri frammar en vörn’.<sup>209</sup>

There is something amusing in the fickleness of the absorbed onlookers, carried away by the drama of whoever has spoken last, and where everyone is an expert after the event; but doubtless this also reflects the reaction of the original audience, and the modern reader too. This is an excellent example of how ‘saga reality’ is established, and why it might need to be: if the legal experts in court don’t have all the answers, why should the audience? The fact that it is only those who have been established as the absolute legal authorities that can provide procedural advice excuses, perhaps even demands, the audience’s ignorance. They are not supposed to follow every detail of what is going on, but, like the other characters, can accept the word of the experts, especially when the experts on both sides grudgingly have to admit each time that the other is correct. If the greatest lawyers in Iceland are convinced, why should the audience question the details? In Commonwealth-period Iceland in general there was doubtless a lot of confusion as to what exactly was and was not law – the need for the lawspeaker and, later, the Citation Law are witness enough of this, but there is also plenty of saga evidence. For example, earlier in *Njáls saga* Njáll gives Gunnarr yet more unusual legal advice, and it is said that ‘þetta þótti mǫnnum undarligri málalilbúnaðr’.<sup>210</sup> ‘Undarligri’, but not incorrect. People may question it, but no-one challenges it; it was probably very difficult to be confident enough to challenge an unusual procedure,<sup>211</sup> especially one espoused by an acknowledged expert. The length and complexity of the passages quoted in the court scene adds to the air of confusion: the jargon gives the scene authenticity, and the audience can be content to let the experts among the cast unravel the intricacies and reveal their significance.

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<sup>209</sup> ÍF XII, 387. ‘Then there was a great outcry and catcalling, and all said that the case on Flosi’s side was greatly damaged, and they all now came to the agreement that the prosecution was stronger than the defence.’

<sup>210</sup> ÍF XII, 163. ‘This seemed to people an extraordinary preparation for a case.’

<sup>211</sup> See also e.g. *V-G* ch. 25.

The legal jargon and formulae of the court scene, then, achieve a variety of literary effects: adding realism to the narrative presentation of the case; retarding the action; creating suspense and dramatic tension. Their function is not merely decorative, however. The fact that much of it was likely largely meaningless to the saga audience – and, significantly, is presented as being effectively meaningless to the crowd of onlookers within the saga, with the technicalities obscuring the facts – actually comments on the state of the law. The legal system has made the law become meaningless. The principles that the law was built upon, articulated earlier in *Njáls saga* – at one point by Njáll himself, “með lögum skal land vart byggja, en með ólögum eyða”,<sup>212</sup> and at another by Þorgeirr the lawspeaker in the Conversion episode, “ef sundr skipt er lögnum, þá mun ok sundr skipt friðinum”<sup>213</sup> – have become obscured by the labyrinth of procedures that now must be navigated before any progress can be contemplated. Consider, for example, Mǫrðr’s tally of the procedures he has correctly performed (ch. 142):

Enn nefndi [Mǫrðr] sér vátta, - ‘í þat vætti,’ sagði hann, ‘at nú eru frumgögn öll fram komin, þau er sökinni eigu at fylgja: boðit til eiðspjalls, unninn eiðr, sögð fram sök, borit lýsingarvætti, borit sakartökuvætti, boðit búum í setu, boðit til ruðningar um kvið. Nefni ek mér þessa vátta at gögnum þeim, er nú eru fram komin, ok svá at því, at ek vil eigi vera sókn horfinn, þótt ek ganga frá dómi gagna at leita eða annarra ørenda.’<sup>214</sup>

This comes after the narrator has already presented Mǫrðr actually carrying out all these procedures, with witnesses to each stage, and the witnesses presenting their testimony that they *have* witnessed each stage – at this point he is naming witnesses to the witnessing! The earlier Conversion episode has been described as a ‘genuine digression’ in the narrative,<sup>215</sup> but Þorgeirr’s declaration is absolutely fundamental to the heart of the saga, and it is crucial that it should be stated within it. For with Mǫrðr’s catalogue

<sup>212</sup> *ÍF* XII, 172. “With law shall our land be built up, but with lawlessness laid waste.”

<sup>213</sup> *ÍF* XII, 271. “If the law is split asunder, then will the peace also be split asunder.”

<sup>214</sup> *ÍF* XII, 384. ‘Again [Mǫrðr] named himself witnesses, “to witness,” he said, “that now all the preliminaries are complete, those which have to be followed in a lawsuit: requesting the performing of the oaths, performing the oaths, declaring the suit, requesting witness of the publication, requesting witness of the taking on of the prosecution, requesting neighbours to be seated, requesting that the jury-panel be challenged. I name witnesses as evidence of these things which have now taken place, and also of this, that I will not forsake the suit if I go from the court to seek evidence or for other business.”’

<sup>215</sup> Carol J. Clover, ‘Open Composition: The Atlantic Interlude in *Njáls saga*’, in Tucker (ed.) *Sagas of the Icelanders*, pp. 280-91 (p. 282).

we now see that the law has indeed been ‘sundr skipt’, split into a myriad of technicalities whose purpose has nothing to do with keeping the peace or ensuring justice, but which have no other function than the potential to catch out an opponent and invalidate his case. The whole legal system has become untenable. The ensuing battle is inevitable not because Snorri *goði* was right when he predicted it, based on his knowledge of the natures of Ásgrímur Elliða-Grímsson and the rest of the prosecuting party, but because Þorgeirr the lawspeaker was right when he foresaw that a breakdown in law would lead to a breakdown in peace, based on his knowledge of the nature of Icelandic society itself.

### *Levels of Legalities in the Íslendingasögur*

I will leave *Njáls saga* here, and turn now to an examination of the use of legalities elsewhere in the *Íslendingasögur*. While it is true that ‘legal system and judicial process form part of the stock material from which [all] the family sagas are constructed’,<sup>216</sup> the extent to which individual sagas employ ‘legalities’ – specific quotation of articles of law and details of legal process – in fact varies greatly, an important observation which, nevertheless, seems to have largely escaped the notice of commentators generalising about the amount of law the sagas contain. In this section, therefore, I have divided the pre-1300 *Íslendingasögur* into three groups according to the importance of these legalities to the fabric of the saga, presented as Table 3.2, overleaf. It is worth reiterating here that I am referring to specific and detailed quotation of articles of law or legal procedures; occasions when, if individual sagas existed in a vacuum, without any other external sources to compare them to, we might assume their authors to have had an acquaintance with formal law. The groupings below do not therefore reflect the importance of the abstract concept of ‘law’ or of legal themes as subject matter, but rather the prominence each saga gives to technical legal detail, or ‘legalities’.

In Group A sagas legalities are pervasive: they are relied upon for major details of the plot; reference is made to specific articles of law (whether or not these were ever valid Commonwealth law is moot here); narrators give the impression of being well-versed in and confident regarding legal matters. ‘Law’ as a general theme is still

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<sup>216</sup> Ordower, ‘Exploring’, p. 41.

important to Group B sagas, but these have less of an ingrained and repeated dependence on specific technicalities: while they may exhibit some of the characteristics of Group A sagas, it is on a less frequent and less detailed basis, and narrators make fewer claims to legal authority. Finally, Group C sagas make little reference to specific laws or legal procedures, and often have different prevailing concerns than legal ones. Distinctions between the three levels will become clearer in the following discussion. The shortcomings of this classification are noted: it is difficult to quantify a saga's reliance on legalities in a precise or scientific manner, and so the judgements here must remain subjective and, no doubt, open to discussion.

*Table 3.2: Legalities in the pre-1300 Íslendingasögur*<sup>217</sup>

**Group A – Legalities pervasive:**

<i>Bandamanna saga</i>	c.1250	North Iceland
<i>Eyrbyggja saga</i>	c.1220	West Iceland
<i>Grettis saga</i>	c.1310-20	North Iceland
<i>Hrafnkels saga</i>	by c.1300	East Fjords
<i>Ljósvetninga saga</i>	c.1230-50	North Iceland
<i>Njáls saga</i>	c.1275-85	South-West Iceland
<i>Reykðæla saga</i>	c.1250	North Iceland
<i>Víga-Glúms saga</i>	c.1220-50	North Iceland

**Group B – Legalities important but not all-pervasive:**

<i>Bjarnar saga Hítðælakappa</i>	c.1215-30	West Iceland
<i>Droplaugarsona saga</i>	c.1200-40	East Fjords
<i>Egils saga</i>	c.1220-30	West Iceland
<i>Hænsa-Þóris saga</i>	c.1250-70	West Iceland
<i>Valla-Ljóts saga</i>	c.1220-40	North Iceland
<i>Vatnsdæla saga</i>	c.1270-80	North Iceland
<i>Vápnfirðinga saga</i>	c.1225-50	East Fjords

**Group C – Legalities relatively unimportant:**

<i>Flóamanna saga</i>	c.1290-1330	South Iceland
<i>Fóstbrœðra saga</i>	c.1200	West Fjords
<i>Gísla saga</i>	c.1250	West Fjords
<i>Gunnlaugs saga</i>	c.1270-80	West Iceland
<i>Hallfreðar saga</i>	c.1220	North Iceland
<i>Harðar saga</i>	14th century	West Iceland
<i>Kormaks saga</i>	by 1220	North Iceland
<i>Laxdæla saga</i>	c.1230-60	West Iceland
<i>Þorsteins saga hvíta</i>	c.1275-1300	East Fjords
<i>Þorsteins saga Síðu-Hallssonar</i>	c.1250	East Fjords

<sup>217</sup> Sagas listed alphabetically within groups. All datings are as in *ÍF* (from Vésteinn Ólason, 'Family Sagas', pp. 114-15). Exceptions are as stated in the introduction to this chapter.

It is a curiosity of *Laxdæla saga*, a Group C saga, that the narrator habitually refers to poems from the skaldic canon, but stops short of actually quoting from them.<sup>218</sup> The author thus seems to know (or know of) the poetry, but *chooses* not to integrate it into his narrative, presumably – as suggested by Guðrún Nordal – on account of the tastes of his intended audience.<sup>219</sup> Poetry, therefore, is not an obligatory component of *Íslendingasögur* narrative, but may be employed as a ‘conscious semantic and narratological tool’.<sup>220</sup> It seems to me that the inclusion, or not, of legalities, can be productively considered in a similar way. Legal disputes, or the abstract concept of ‘law’, cannot very well be (and indeed are not) excluded from the *Íslendingasögur* altogether: they form the ‘stuff’ of the stories. But the extent to which such matters are dwelt on, developed, explicated – this is variable, the aspect of composition subject to authorial control. Detailed legalities are not compulsory in the construction of *Íslendingasögur* narratives, but they may be drawn upon for embellishment and enrichment, at the dictation of the author and/or audience, according to several theoretical scenarios:

1. The author has at least some acquaintance with law and chooses to draw upon his knowledge in his narration;
2. The author has at least some acquaintance with law and chooses *not* to draw upon it in his narration;
3. The author has little or no acquaintance with law and therefore does not refer to legalities in his narration;
4. The author has little or no acquaintance with law but chooses to invent details in order to include them in his narration.

Options 1 and 4 may perhaps be combined into a further possibility (which is indeed more plausible than 4 on its own):

5. The author has at least some acquaintance with law and chooses to include both ‘real’ and invented details in his narration.

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<sup>218</sup> Guðrún Nordal, *Tools of Literacy*, p. 135. A similar phenomenon with regard to *Laxdæla saga*’s references to law and legal themes has been noted throughout this chapter.

<sup>219</sup> Ibid.; also ‘Why Skaldic Verse? Fashion and Cultural Politics in Thirteenth-Century Iceland’, in Jonuks, Axel Kristinsson and Würth (eds.), *Sagas and Societies*, pp. 1-10, *passim*, <[http://w210.ub.uni-tuebingen.de/dbt/volltexte/2004/1069/pdf/15\\_gud-1.pdf](http://w210.ub.uni-tuebingen.de/dbt/volltexte/2004/1069/pdf/15_gud-1.pdf)> [accessed 26 July 2007].

<sup>220</sup> ‘Why Skaldic Verse?’, p. 8.

The first four chapters of *Ljósvetninga saga* describe a complex case which has caused one recent commentator to wonder ‘why the reader is so abruptly confronted with these opaque matters’.<sup>221</sup> But Andersson chooses to ponder the problem he poses largely in terms of the modern reader: ‘It is the first four chapters that are the most difficult and most likely to be a stumbling block for uninitiated readers [...] though the English-speaking reader will find the difficulties here alleviated by William Miller’s commentary’.<sup>222</sup> Andersson therefore makes it sufficient, in his context, to conclude merely that, unlike the twenty-first century English-speaking reader, ‘the Icelanders were well prepared’ to deal with such episodes.<sup>223</sup> This, however, tells us little beyond the fact that the *Íslendingasögur* were not written with an audience in mind of twenty-first century English-speaking readers having the benefit of William Ian Miller. Andersson’s suggestion that ‘legal cases figured prominently in the underlying oral tradition’ is in fact highly relevant, but he falls into the common trap of over-generalising about legal matter in the *Íslendingasögur*: ‘legal density is characteristic of the sagas about early Icelanders’.<sup>224</sup> He thus fails to tackle his own perfectly pertinent question – why *is* the reader ‘so abruptly confronted with these opaque matters’? – in the more relevant terms of the original context and circumstances of *Ljósvetninga saga*’s composition.

Audience, I think, could well be the answer, but it is not a matter of medieval versus modern. As this section will argue, legal density is *not*, in fact, characteristic of the *Íslendingasögur*, or at least not of all of them. *Ljósvetninga saga* and other Group A sagas choose to draw upon the legal matter in the ‘underlying oral tradition’, and to savour and elaborate upon it, where other sagas simply do not. It seems that some audiences were thus better ‘prepared’ than others, and/or – perhaps more significantly – more interested than others, and Group A sagas seem to anticipate a legally-experienced reception. Again, this does not necessarily mean that *Ljósvetninga saga* or other Group A sagas were especially accurate or reliable when it came to recording actual practice, and neither is it to say that their audiences were largely or solely comprised of legal experts. However, they reflect a specific interest in formal law which was present in the

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<sup>221</sup> Andersson, *The Growth*, p. 121.

<sup>222</sup> *Ibid.* Andersson refers to Miller’s textual notes to *Ljósvetninga saga* in their *Law and Literature in Medieval Iceland*, esp. pp. 121-35.

<sup>223</sup> *The Growth*, p. 121.

<sup>224</sup> *Ibid.*

circumstances of their composition, but less prominent in the circumstances of production of the sagas of Groups B and C. In what follows I will describe some of the ways in which sagas in each group utilise legalities (or not) as part of their narrative strategies.

### *Group A*

The narratives of Group A sagas are densely packed with reference to or quotation from the laws; details of their plots turn upon legal technicalities or procedural particulars. These sagas must stem from the circumstances of production of scenarios 1 or 5: written by authors who have some knowledge or experience of the law and who choose to include this in their narratives, perhaps adding details which have been invented or at least modified to a greater or lesser extent, if necessary. Scenario 4, the complete invention of legalities by an author largely ignorant of the law, would not, I think, be sustainable in Group A sagas, no matter how adept the author at deploying the techniques of establishing ‘saga law’ discussed in this section: the legal material here is too dense, too much a part of the fabric of the narrative and with too many reverberations throughout the saga, to be entirely invented. These sagas seem to require authorial appreciation of the law, if not necessarily formal training in it. Moreover, if we are to assume that the author makes his ‘choice’ to include dense references to legalities because of the tastes of his audience, we must surely also assume that an audience preferring Group A-type sagas would have enough legal experience to demand, and to recognise, at least some level of authenticity.

I have included *Njáls saga* in this group, although as has already been stated, it provides an extreme and unique example. Direct legal quotation of the sort to be found in *Njáls saga* – particularly on the part of saga characters – is rare elsewhere among the *Íslendingasögur*, even in Group A, although it is here that the few other examples are to be found: Hafr in *Grettis saga* quotes a version of ‘Tryggðamál’, the truce-speech (ch. 72); Ófeigr in *Bandamanna saga* cites the Fifth Court Oath (ch. 6), and an episode in *Víga-Glúms saga* hinges on Glúmr’s play on the words of his oath (ch. 25). Beyond these few instances, and *Njáls saga*, however, legal formulae are rarely put into the mouths of saga characters. Even formulae for relatively common procedures, which can realistically be expected to have been a part of many people’s experience, such as

summoning, are almost never given in full detail. In fact, I have been unable to find a single example of a summoning formula being recited by a saga character. Although one character summoning another is a common element of saga narrative, the information tends to be conveyed in a narrative description, even in Group A sagas: ‘En at vári, þa er komit var at stefnudögum, ríðr Sámur heiman upp á Aðalból ok stefnir Hrafnkeli um víg Einars. Eptir þat ríðr Sámur ofan eptir dalnum ok kvaddi búa til þingreiðar’ (*Hrafn* ch. 3);<sup>225</sup> ‘Eptir þat stefndi Kjartan Þóri viðlegg, en Þórðr kausi Þóroddi bónda, um þat, at þeir gengi þar um hýbýli ólofat ok firrði menn bæði lífi ok heilsu; öllum var þeim stefnt, er við eldinn sátu’ (*Eyrb* ch. 55).<sup>226</sup> *Hrafnkels saga*’s references to *stefnudagar*, ‘Summoning Days’, and the calling of neighbours demonstrate that the author is clearly not ignorant in nor averse to providing legal detail, while the reason for the summoning given in *Eyrbyggja saga* has a formal ring suggestive of a legal source behind it. Yet the formula itself is not stated. Interestingly, even the compilers of the *Grágás* manuscripts tend to gloss over details of the summoning procedure. It is clear that there was indeed a set format: in the instructions for presenting a case at court the prosecutor has to state that ‘hann stefndi logstefnu’, which should be backed up by witnesses.<sup>227</sup> However, in the majority of summoning cases described in *Grágás*, it is merely stated that a summons should be made, not *how* it is to be made: ‘Þat er mælt. at maðr skal stefna vm morð oc queðia til xii. quiðar Goða þan er sa er iþingi með er sótt er’.<sup>228</sup> The fact that the formula is rarely articulated in

<sup>225</sup> *ÍF* XI, 108. ‘And in the spring, when the Summoning Days came round, Sámur rides from home up to Aðalból and summons Hrafnkell for the killing of Einarr. After than Sámur rides back down to the dale and calls upon neighbours to ride to the þing.’

<sup>226</sup> *ÍF* IV, 151. ‘After that, Kjartan summoned Þórir viðlegg, and Þórðr kausi summoned Þóroddr bóndi, on the grounds that they came into the homestead there without permission and deprived people of both life and health; all of them were summoned, who sat round the fire.’

<sup>227</sup> K § 31: *Gg* I, 54-55. ‘He summoned with a legal summons’ (*Laws* I, 65-66).

<sup>228</sup> K § 103, *Gg* I, 178. ‘It is prescribed that for murder a man is to make a summons and call on the chieftain to whose assembly group the man prosecuted belongs to form a panel of twelve’ (*Laws* I, 164). The fragment AM 173 c 4to gives a formula in the case of unlawful burial: ‘ek stefni .N. vm þat at hann hafi lík þess manz .N. borit i kirkiu eða bera latið er hann átti eigi kirkiulægt. tel ek hann vtlagan vm þat iij Morkum ok bæti kirkiunni laust .xij aurum. stefni ek til þings’ (*Gg* III, 278-79). (‘I summon N.N. because he carried or caused to be carried to church the body of that man N.N. when he had no right to church burial. I claim that he owes a fine of three marks for that and should atone to the church for its desecration with twelve ounce-units. I summon it to the assembly’ (*Laws* I, 203).) Presumably other cases required a similar formulation with the crime and penalty altered to fit the situation. The formula may have been included in this instance, however, because the additional payment to the church is an irregularity specific to this situation. There is also a summoning formula given in K (§ 90: *Gg* Ia, 165) for instances in which a man has killed someone on behalf of a woman for whom he has the right to kill, in which case he is allowed to summon the dead man for the initial misdemeanour and claim he was slain with forfeit immunity. Again, however, this is outside the more usual procedure of summoning a living offender.

laws or sagas may suggest that the authors or compilers assumed familiarity with the procedure on the audiences' part. Indeed, actions such as summoning, publishing and witness naming, which may be performed by the ordinary *bóndi* even if he subsequently transfers his case to his *goði* or someone else with greater expertise or support, are likely to have been part of the legal competence of ordinary Icelanders, not just chieftains or those with special legal knowledge. On the one hand, therefore, we might expect these procedures to be common in the *Íslendingasögur*, in order to be representative of 'everyday life'. On the other hand, however, their universality is perhaps the precise reason for their omission. Everyone knew what a summons was, and how to go about it, and therefore detail is unnecessary and perhaps tedious. Even for the legally-attuned audiences of Group A sagas, the interest lies not in mechanical recitations of standard formulae, but in the intellectual puzzles provided by complex procedural wrangling or technical arguments and counter-arguments.

As with *Njáls saga*, then, legalities in Group A sagas do not tend to be randomly or mechanically deployed. They are not included merely because, for example, a procedural technicality is needed for the collapse of a case in the plotline: the technicality itself will be specific and tailored to the occasion, and often elevated in importance, so that it becomes the focus (though again, nowhere so elaborately as in *Njáls saga* and, for example, the episode of Unnr's dowry). Group A sagas often contain episodes, sometimes short, self-contained units, sometimes extended over longer stretches of narrative, which describe, often without signposting, the occurrence of an incident which will later turn out to cause a problem in court, where it is then discussed again. In *Eyrbyggja saga*, for example, Þórólfr gets his slaves drunk and sends them to burn Úlfarr inside his house. Arnkell spots them carrying out the plan, puts out the fire, and captures the slaves. We are then told, seemingly routinely, 'Um morguninn eptir lét Arnkell flytja þrælana inn í Vaðilshöfða, ok váru þeir þar hengðir allir' (ch. 31).<sup>229</sup> Arnkell refuses to pay compensation for the slaves, and Þórólfr bribes Snorri *goði* with the offer of some woodland to take the case to court for him:

Ok er mál koma í dóm, kvaddi Arnkell sér bjargkviðar ok færði þat til varna, at þrælarnir váru teknir með kveykðum eldi til bæjarbrenna. Þá færði Snorri þat fram, at þrælarnir váru óhelgir á þeim vættvangi, - 'en þat, at þér færðuð þá inn í

<sup>229</sup> *ÍF* IV, 84. 'The next morning Arnkell had the slaves taken out to Vaðilshöfði, and they were all hanged there.'

Vaðilshöfða ok drápuð þá þar, þat hygg ek, at þeir væri þar eigi óhelgir.’ Helt þá Snorri fram málinu ok eyddi bjargkviðinum Arnkels.<sup>230</sup>

This incident adds to the narrative in several ways: building the character portrayal of Snorri *goði* as a clever lawyer, but one who acts on his own greed over his sense of what is right; developing the conflicts between Þórólfr and his son Arnkell, and between Arnkell and Snorri; and, as none of the protagonists are happy with the outcome of the case, foreboding more trouble to come. The way the episode is presented, however, makes a feature of the technicalities of the case in a way which is perhaps not strictly necessary to the plotline. The killing of the slaves and the case itself both become dramatic incidents. Would observant members of the audience have picked up on Arnkell’s mistake in taking the slaves elsewhere as soon as he made it? Either way, because we have seen Arnkell’s actions, Snorri’s announcement of the error in court is a satisfying revelation. *Eyrbyggja saga* and other Group A sagas are constructed in this way, building whole episodes out of legal disputes which they expand and elaborate with technical details.

Even within the group, however, the manner in which legalities are employed is far from uniform. In the incident just discussed, there is a completeness about the episode that makes a convincing ‘saga law’. The coherent description of the court case means even an uninitiated audience member can surmise that, in the reality of *Eyrbyggja saga* at least, a) there is a law against the killing of slaves, for which one can therefore be prosecuted; b) there is a law against arson, the committing of which forfeits one’s protection by law; but c) this protection is only forfeit at the scene of the crime.

To return to Andersson’s discussion of *Ljósvetninga saga*, however: that saga *does* pose difficulties to a modern, or at least uninitiated or untrained audience – and we should take with caution Martina Stein-Wilkeshuis’ claim that in medieval Iceland ‘everybody knew exactly what were his rights and duties’<sup>231</sup> – because the narrative of *Ljósvetninga saga* launches straight in to the legalities, which are complex and extended

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<sup>230</sup> *ÍF* IV: 86. ‘And when the case came to court, Arnkell declared he should be acquitted, and brought it as his defence that the slaves had been captured in possession of kindling to burn the farm. Then Snorri put it forward that the slaves would have had forfeit immunity at the scene of the crime, - “but because you brought them to Vaðilshöfði and killed them there, I believe that they were not outside the protection of the law there”. Snorri then held his point and voided Arnkell’s defence.’

<sup>231</sup> ‘Laws’, p. 40.

over a lengthy stretch of narrative, without signposting or explication. Experience or knowledge of the legal system is thus a definite advantage, and one which the author of *Ljósvetninga saga* seems to take for granted. This is an assumption which seems largely to be shared by all sagas in Group A, although some also employ more explicit literary devices which aid the construction of coherent ‘saga law’. It is worth restating here the point I made in earlier in the discussion of *Njáls saga*: that the saga evidence suggests widespread uncertainty as to the lawfulness of certain procedures, claims, and counterclaims, and even an audience attuned to and interested in the intricacies of formal law likely appreciated the occasional hint to prevent them getting lost in the detail. (Conversely, of course, this also means authors with enough experience to be plausible did not have to research and represent ‘real’ law.) At the same time, however, I think that there are occasions, as in the complex courtroom wrangling of *Njáls saga*, when the audience is not supposed to follow every detail of what is going on; the system was opaque, and open to ambiguities in interpretation, which in the sagas contributes to the intrigue, tension and suspense, and to the appreciation of the skill of the clever lawyer.

Nonetheless, several sagas in Group A employ what I will term a ‘pedagogic narrator’: one whose tone is authoritative and well-informed and who seems to want to educate his audience in legal and other matters. This is a particular feature of *Eyrbyggja saga*, which has notoriously antiquarian interests. So, after the Breiðarvíkingar have killed the hapless assassin Egill, a slave of the Þorbrandssons, we are told (ch. 43):

Þat vǫru lög í þann tíma, ef maðr drap þræl fyrir manni, at sá maðr skyldi fœra heim þrælsgjöld ok hefja ferð sína fyrir ina þriðju sól eptir víg þrælsins; þat skyldu vera tólf aurar silfrs. Ok er þrælsgjöld vǫru at lögum færð, þá var eigi sókn til um víg þrælsins.<sup>232</sup>

Steinþórr’s journey to make the slave-payment both allows the narrator the opportunity for further legal commentary, and, despite Steinþórr’s determined adherence to the law, precipitates the battle of Álptafjörðr. In this instance, then, the explanation is crucial in facilitating understanding of the plot. Elsewhere in *Eyrbyggja saga*, however, the

<sup>232</sup> *ÍF* IV, 118. ‘It was the law at that time, if a man killed another man’s slave, that the first man should bring slave-payment to the home of the second, and start his journey within three days of the killing; that should be twelve ounces of silver. And if the slave-payment was made lawfully, there was no case to answer about the death of the slave.’

narrator's interest in the past and in legal history occasions a level of detail going beyond the demands of the story (ch. 22):

Þat vǫru þá lög, at stefna heiman vígsök svá at vegendr heyrða eða at heimili þeira ok kveðja eigi búa til fyrr en á þingi.<sup>233</sup>

It might seem that this is an example of 'saga law' being explicitly established: perhaps the summons is going to be incorrectly made, or the case challenged in court over a procedural detail, and the author wants to be sure that his audience understand the implications. However, the case proceeds straightforwardly and is summed up only in a brief narratorial description, without complication. It seems the narrator just wants to share, perhaps even show off, his knowledge. Law is far from the only aspect of society the narrator treats in this way: 'Í þann tíma vǫru útikamrar á bœjum' (ch. 26),<sup>234</sup> 'Egill hafði skúfaða skóþvengi, sem þá var siðr til' (ch. 43),<sup>235</sup> 'þá hófðu menn þat fyrir satt [...]' (ch. 54).<sup>236</sup> These 'pedagogic' references emphasise the 'pastness' of the past, which in *Eyrbyggja saga* seems to amount, simultaneously, to both a distancing and a desiring. They also lend a reassuring tone of authority and authenticity to the narrative, giving the impression of historical accuracy in every particular, and constructing a self-contained saga reality. The narrator establishes himself as convincing and trustworthy, no matter what the level of veracity in his historical insights. At the same time, he has the opportunity to introduce some formal law more or less for its own sake, a characteristic of Group A sagas.

*Hrafnkels saga* also attempts to explicate legal matters to its audience, using the character Þorgeirr as a medium. After Sámr has succeeded in getting Hrafnkell outlawed at the Alþing, Þorgeirr warns him not to be jubilant too soon: "Eigi er maðrinn alsekr, meðan eigi er háðr féránsdómr, ok hlýtr þat at hans heimili at gera. Þat skal vera fjórtán nóttum eptir vápnatak" (ch. 4).<sup>237</sup> Perhaps feeling the realism of

<sup>233</sup> *ÍF* IV, 56. 'It was then the law that the summons in a manslaughter suit be made away from home so that the killers heard it, or at their home, but the neighbours were not called before the *þing*.'

<sup>234</sup> *ÍF* IV, 66. 'At that time farms had outside privies.'

<sup>235</sup> *ÍF* IV, 117. 'Egill had tasselled shoelaces, as was the custom then.'

<sup>236</sup> *ÍF* IV, 148. 'Then people had that belief [...]'

<sup>237</sup> *ÍF* XI, 118. "A man is not fully outlawed before the confiscation court has been held, and that must be done at his homestead. That should be fourteen nights after Weapon-Taking."

Þorgeirr's speech to have been pushed to the limit, the narrator then takes over the role himself, explaining further, 'En þat heitir vǫpnatak, er alþýða ríðr af þingi'.<sup>238</sup> Later, when Sámur and his companions go to Hrafnkell's farm to carry out the confiscation court, Þorgeirr asks (ch. 5):

'Eða hvárt viltu, Þorkell, nú gera: at sitja hér hjá Hrafnkeli ok gæta þeira, eða viltu fara með Sámi ór garði á brott í ǫrskotsheggi við bæinn ok heyja fíránssdóm á grjóthól nokkurum, þar sem hvárki er akr né eng?'<sup>239</sup>

Leaving the task of explanation to one of his characters, rather than taking on the role himself, could be a rather effective dramatic device on the part of the narrator, not making himself overly intrusive or patronising his audience by claiming superior legal knowledge. It is rather clumsily handled here, however, and the stiltedness of Þorgeirr's speech rings a false note. Moreover, although the level of legalities used in *Hrafnkels saga* qualify it for inclusion in Group A, the details the narrator chooses to explain are among the less complex ones: outlawry, confiscation courts and assembly procedures are unlikely to have seemed mysterious to an Icelandic audience, especially one familiar with other sagas. To give credit to the narrator, though, the legalities he explains do have further repercussions in the saga, and so he is justified in his desire to ensure the understanding of his audience.

To summarise, then: in Group A, legalities are intrinsic to the saga and deeply woven into the narrative. Technical details of law or legal procedure repeatedly act as foundations for whole episodes and intricate legal details are presented by the narrators. They are thus at times fundamental to the structure of the sagas in their extant form; at other times they are not strictly required for the plot, but in these latter cases, add an extra layer to the narrative, bestowing a certain tone, building a character portrayal, and creating dramatic and intellectual intrigue. The use of legalities in Group A sagas seems to suggest a particular interest in formal law present in the milieu in which they were composed, their authors deliberately selecting and enhancing such material from the underlying traditions to suit the tastes of their audiences.

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<sup>238</sup> *ÍF* XI, 118. 'And it is called Weapon-Taking when everyone rides home from the *þing*.'

<sup>239</sup> *ÍF* XI, 120. "What do you want to do now, Þorkell: sit here near Hrafnkell and guard them, or do you want to go with Sámur off the property, an arrow-shot away from the farm, and hold the confiscation court at a certain stone mound, where there is neither field nor meadow?"

*Group B*

Although I am arguing here for a more nuanced discussion of the citation of legalities by the *Íslendingasögur* by dividing them into three groups, this still, inevitably, requires a greater degree of generalisation than would be ideal. Group B, occupying the middle ground, are perhaps the most difficult to discuss as a group, as they are far from homogeneous: the strongest factor connecting them is perhaps that they are at neither extreme of quotation or non-quotation of legalities. There is also the potential for them to have arisen in circumstances more disparate from each other than sagas in Groups A or C; my scenarios 1, 4 or 5 are all possible (namely, a legally-knowledgeable author choosing to draw upon his knowledge either accurately or with some authorial licence, or a largely legally-inexperienced author inventing legalities when necessary). On the whole, though, law and legal themes are significant in Group B sagas, but the complexity of the legalities and the frequency at which they occur are lesser than in Group A. There is not the same degree of inclusion of ‘law for law’s sake’ as can be found amongst Group A sagas; when utilised, legalities either tend to be relevant to the plot and to serve particular purposes, or at least, references to intricate or obscure articles of law are less densely packed into the narrative.

*Hænsa-Þóris saga* is, in Alan Berger’s words, ‘a dramatized history of a great event in Old Icelandic legal history’, and, in one of the few articles to analyse legalities elsewhere than in *Njáls saga*, Berger has made an interesting, albeit brief, study of the use of law in this saga.<sup>240</sup> ‘Law’ in the abstract is at the crux of *Hænsa-Þóris saga*, and Berger argues that its author’s apparent knowledge and utilisation of an article of *Jónsbók* law has critical implications for the dating, textual history, and interpretation of the saga.<sup>241</sup> The saga is fundamentally dependent on legal subject matter for its very being, and seems to have been written by a legally-knowledgeable author; yet despite this, it does not dwell on technical issues and makes little use of specific reference to or citation from formal law, passing up opportunities that Group A sagas might have seized upon for quotation of legalities: ‘[Þorvaldr] stefnir þá Blund-Katli um rán ok

<sup>240</sup> ‘Old Law, New Law, and *Hænsa-Þóris saga*’, *Scripta Islandica*, 27 (1976), 3-12 (p. 4).

<sup>241</sup> The dating of the saga has proved particularly problematic: Sturla Þórðarson appears to have known and used it in his redaction of *Landnámabók*, i.e. before 1275, yet the *Jónsbók* law would necessitate a date post-1281. See Berger’s article for further discussion.

nefnir sér vátta ok hefir þau orð ok umkvæði, sem hann fekk frekust haft' (ch. 8);<sup>242</sup> 'Nú er setit yfir málum manna, ok verða þær málalykðir, at Arngrímr goði verðr sekr fullri sekð [...]' (ch. 15).<sup>243</sup> *Hænsa-Þóris saga* allows a clear illustration of my categorisation of sagas into Group A or Group B: 'law' may still be central in the latter sagas, but legalities are employed as part of the narrative strategy less so than in the former. This does not diminish these sagas' interest in debating legal issues – *Valla-Ljóts saga*, for example, reflects on the trouble that comes from not keeping settlements; *Vatnsdæla saga* highlights the importance of reconciliation; and *Vápnfirðinga saga* considers the exploitation of physical power over legal process. In doing so, they still make effective use of legalities and employ strategies of establishing 'saga law' in the same way as do Group A sagas; however, they do this less frequently and appear to reflect a preference for a different narrative style.

### Group C

My scenario 3 – an author ignorant of the law who therefore is not choosing to omit legalities, but is not able to include them – could theoretically be possible for the composition of Group C sagas, but more likely is scenario 2, that an author has at least some acquaintance with the law but chooses not to draw on it in his narrative. In fact, most, if not all of the sagas in this group do demonstrate some awareness of details of formal law; they seldom, however, elaborate or make a feature of them.

As we have now come to expect from its treatment of the other legal elements discussed in this chapter – and as is the case with its reference to but non-citation of skaldic verse – *Laxdæla saga* provides a particularly striking example of a saga in which a conscious choice seems to have been taken to exclude detailed legal reference. Just as the saga deploys superlative lawyers who rarely perform any legal actions, or grand scenes at the Alþing at which no cases are heard, it often makes reference to legalities in an apparently perfunctory manner, with no desire to elaborate upon the details. This is not at all to say that the author was ignorant of the law or avoided

<sup>242</sup> *ÍF* III, 22-23. '[Þorvaldr] summonses Blund-Ketill for unlawful seizure and names his witnesses, and in the harshest words and expressions.'

<sup>243</sup> *ÍF* III, 41. 'Now the lawsuits are brought, and the outcome of the case was that Arngrímr goði was made a full outlaw [...]'

reference to it altogether: it is effectively used when – but only when – it is necessary to the plot.<sup>244</sup> In ch. 18, for example, when Þorsteinn and his household are drowned, the exact order of the deaths affects to whom the inheritance falls, and a dispute arises because the sole survivor, Guðmundr, puts about two different versions. Here, the narrator is able to untangle and explain the complex implications of the inheritance law, although the dispute is eventually resolved through a corrupt ordeal-taking; nothing is made of the legal arguments.

In general, though, *Laxdæla*'s narrator prefers not to expand on legal issues but cuts straight to the kernel of the matter, clearly stating the important facts in a way which makes them easy for the audience to follow. In ch. 25, for example, rather than elaborating a land dispute as a Group A saga might, *Laxdæla saga* tells us only the basics: 'Hrútr leitaði laga um mál þetta, hversu fara ætti; ok er þetta mál var rannsakat af lögmonnum, þá gekk þeim Hrúti lítt í hag, ok mátu menn þat mikils, er Hrútr hafði sett lausingjann niðr á óleyfðri jörðu Høskulds, ok hafði hann grætt þar fé; hafði Þorleikr drepit hann á eignum þeira feðga'.<sup>245</sup> Through *Laxdæla saga*, we can see clearly that conflicts, even legal ones, make interesting and saga-worthy subject matter, but that these do not necessarily entail a complex exposition of legalities.

Guðrún Nordal's observations on the role of verse in *Laxdæla* are particularly interesting here:

Skaldic verse in *Laxdæla saga* – or the absence of skaldic verse – shows that the author is not looking for cultural association in the world of Icelandic indigenous traditions, but instead he is looking to the conventions of courtly romance [...] All the verse is simple in style, which suggests an audience not trained in skaldic verse-making.<sup>246</sup>

These comments seem to me to be equally applicable to the role of legalities in the saga. *Laxdæla*'s audience would not appear to be trained in the law, either, or even to have

<sup>244</sup> See e.g. chs. 16, 19, 21, 34-35, 47.

<sup>245</sup> *JF* 5, 71. 'Hrútr consulted the law about this case, how it might go; but when the matter was investigated by legal experts, they found little in Hrútr's favour, and men made much of it that Hrútr had established the freedman on Høskuldr's land without permission, and he had increased his wealth there; Þorleikr [Høskuldsson] had killed him on property belonging to the father and son.'

<sup>246</sup> 'The Art of Poetry and the Sagas of Icelanders', in Quinn, Heslop and Wills (eds.), *Learning and Understanding*, pp. 219-37 (p. 228).

particular acquaintance with it: the narrator explains the minimum legal detail necessary to the plot, and otherwise does not draw upon legalities. The law is another 'Icelandic indigenous tradition', and perhaps was rejected for this reason: for this author and his audience, law and poetry inhabit the same sphere of cultural meaning, and both are rooted in native tradition.

It is notable that three poets' sagas, *Gunnlaugs saga*, *Hallfreðar saga*, and *Kormaks saga*, fall into Group C. (*Gunnlaugs saga*, of course, contains two extremely interesting references to law: a relatively rare allusion to the learning of law, as Gunnlaugr does from Þorsteinn; and the narrator's claim that duelling was abolished by the *logréttu* after Gunnlaugr's duel with Hrafn; however, there are barely any other legal details provided, and hence its inclusion here.) I would suggest, therefore, that this is because the predilection of the audiences of these sagas was for skaldic verse, not for legalities (unlike *Laxdæla saga*'s audience, who were apparently not much interested in either). Moreover, the thematic focus of these sagas is elsewhere; they are skald biographies, giving less prominence to legal subject matter. It is clear, however, that such simplistic explanations tell only a part of the story; the levels of use of legalities do not follow traditional genre sub-groupings. For example, legalities are prominent enough in the other poets' saga, *Bjarnar saga*, to qualify it for Group B, and while *Gísla saga* may be said to share the label 'biographical saga' with the other Group C poets' sagas, its protagonist, Gísli, while certainly a poet in the saga, is of course best known as an outlaw. Perhaps surprisingly, *Gísla saga* makes almost no use of legalities – unlike the outlaw saga *Grettis saga*, which uses them heavily and thus falls into Group A.<sup>247</sup> While I have attempted to demonstrate, therefore, that the *Íslendingasögur* should not be treated as a homogeneous group in their citation of legalities, the groupings which I have postulated here should not be taken to represent any clearly-defined classifications in terms of genre, or as being suggestive of particular patterns in compositional practice. The *Íslendingasögur* draw on legalities to differing extents, which can be roughly organised into a three-level scale, but a full appreciation of the techniques, effects and purposes to which they are put in individual sagas needs to be examined on a case-by-case basis.

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<sup>247</sup> The outlaw saga *Harðar saga* also makes very little use of legalities, but this is perhaps because of the late date of the extant redaction.

## CONCLUSIONS

It is arguably difficult to discern any particular patterns in the use of legalities across the *Íslendingasögur*. Date or place of composition does not appear to be a significant factor: it is not the case, for example, that sagas composed at around the time the new law-codes were being introduced take a sudden interest in quoting Commonwealth-period, or in fact new, articles of law. We might expect to find a strong interest in formal law in sagas associated with the Sturlung circle, given the legal connections of this family, but *Laxdæla saga* proves that this is not necessarily the case – parallel to Guðrún Nordal’s observation that the same saga seems to have found an audience untrained in skaldic verse, even within the skaldic milieu of the Sturlungs.<sup>248</sup> Again, I would suggest that the reasons behind the inclusion, or not, of legalities in the *Íslendingasögur* must be considered on an individual basis, and in relation to the audience of the extant saga, and may therefore be quite specific – compare, for example, Sverrir Tómasson’s theory that skaldic verse is used in the Reykjabók redaction of *Njáls saga* to obscure Unnr’s reference to her sexual problems – stated unequivocally in the Möðruvallabók version – because there may have been children present in the intended audience.<sup>249</sup>

Legal matter did, of course, exist in oral tradition; stories about conflicts, and about cases, were remembered, and were associated with particular figures or groups of people. Doubtless, on some occasions, quite specific details were preserved, if the case was a particularly unusual one, for instance, or the legal arguments employed were particularly clever. Perhaps some episodes were even preserved because legal experts remembered them as precedents. During the period between the Saga Age and the *ritöld*, ‘Age of Writing’, some story-tellers, perhaps those with legal experience, remembered legal details more accurately, while those with less expertise confused them or considered them unimportant, allowing them to be forgotten. Meanwhile, still others, with a greater interest in the legal, elaborated upon the traditions; being aware, perhaps, of the existence of a dispute, and applying their own knowledge and

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<sup>248</sup> ‘Why Skaldic Verse?’, *passim*.

<sup>249</sup> ‘The Re-Creation of Literature in Manuscripts’, in *The Manuscripts of Iceland*, ed. by Gísli Sigurðsson and Vésteinn Ólason (Reykjavík: Stofnun Árna Magnússonar, 2004), pp. 73-80 (pp. 74-75). Reykjabók: Reykjavík: Stofnun Árna Magnússonar AM 468 4to.

experience to build up the details and create a sustained narrative about a legal event.<sup>250</sup> The individual *Íslendingasögur* in the form in which we have them reflect these different processes of remembering, telling and retelling. A *Njáls saga*, for example, which did not go into such legal complexity as the version we have, which perhaps described the fact that its characters contended against one another, that court cases were held, but without the intricacies of how and why, could have been written. Perhaps it would be shorter; perhaps its focus would be elsewhere. The fact is, this is not the version that was crafted into a saga, committed to vellum, and preserved. The extant *Njáls saga*'s original audience, and its author, desired legal technicality; we cannot, now, definitely recover to what extent the extant details were historically accurate, in the sense of their being a true recording of the facts of a real case; or to what extent, and at what stage in their transmission, they were distorted, elaborated, or invented. But they were, at the place and time they were shaped into a written saga, considered important and interesting saga material.

In arguing that a saga author could choose whether or not to include legalities, however, I do not mean to suggest that they are so easily dispensable, that passages of legal detail could be thrown in here and there, or taken out, with no significant effect on the overall narrative beyond a legal flavour or intellectual puzzle to satisfy the quirks of a lawyerly audience or author. The effects of legalities are much subtler than this. An effective parallel can be drawn, once again, with skaldic verse. Although the inclusion of skaldic verse in *Íslendingasögur* narrative, has, like legalities, not always been to the tastes of modern audiences, few today would claim that it adds nothing to the text and could therefore just as well be removed.<sup>251</sup> The manuscript tradition of *Njáls saga* once again provides a thought-provoking case. The Mōðruvallabók redaction, the one chosen by its *ÍF* editors as the base text and consequently the one most familiar today, contains little skaldic verse in the first part of the saga, sometimes known as *\*Gunnars saga*. As Guðrún Nordal has shown in a recent study, however, other manuscript redactions have different proportions of skaldic verse; several, in particular, attribute verses to Gunnarr

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<sup>250</sup> Compare the invention or re-attribution of skaldic verse to characters in the *Íslendingasögur* as part of the narrative strategy (see further e.g. Preben Meulengracht Sørensen, 'The Prosimetrum Form 1: Verses as the Voice of the Past', in *Skaldsagas: Text, Vocation and Desire in the Icelandic Sagas of Poets*, ed. by Russell Poole (Berlin: Walter de Gruyter, 2001), pp. 172-90).

<sup>251</sup> For a recent extended study of the effects of skaldic verse in saga narrative, see O'Donoghue, *Skaldic Verse*.

and to Skarpheðinn.<sup>252</sup> This alters, among other things, our perception of the characters, the balance of the narrative, the significance given to different events, and the effect of other verses in the saga. This is not, of course, to say that the Möðruvallabók redaction is weaker than the other manuscript versions of *Njáls saga* because it contains less verse, nor, for example, is *Laxdæla saga* weaker than *Njáls saga* for the same reason.<sup>253</sup> They are simply different, with different effects and focuses and emphases. In the same vein, I do not suggest that Group C sagas, such as *Laxdæla saga*, are somehow weaker than Group A sagas, such as *Njáls saga*, because they do not expand on legalities. Rather, they employ different narrative strategies to cater for their different agendas and needs.

To return to Andersson's quotation, 'it is a very nearly universal rule [...] that a saga is built around a conflict'.<sup>254</sup> Medieval Icelandic conflicts almost inevitably involved legal process somewhere down the line. Therefore the sagas that came to be written about these conflicts include legal material. This chapter has brought together and examined the legally-themed aspects of some of the most important building-blocks of saga narrative – character, scene, and register – to present a wide-ranging exploration of the use of the legal in the sagas, and of how authors drew upon them both to construct their stories and to explore social issues.

I have demonstrated that the *Íslendingasögur* are both careful and idiosyncratic in their treatment of law. It should no longer be acceptable to state merely that the sagas are obsessed with law; rather, the subtle effects of the introduction of a *lögmaðr* or *sakamaðr*; the purposes of locating a scene at a *þing*; and the extent to which formal law is rehearsed, should all be considered as part of a deliberate narrative strategy, the results of which within each saga should be considered on an individual basis.

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<sup>252</sup> 'Attraction of Opposites: Skaldic Verse in *Njáls saga*' in Hermann (ed.), *Literacy*, pp. 211-36.

<sup>253</sup> Cf. e.g. O'Donoghue, *Skaldic Verse*, which considers the narrative strategy of the verse-less *Hrafnkels saga* as an epilogue to her study of the effects of skaldic verse. O'Donoghue explicitly states, however, that she is not 'making any claim that the absence of verses [...] is necessarily the result of an exercise of literary choice on the part of the saga author' (p. 229). I am more inclined, however, to 'venture [...] into the swamps of intentionality' (ibid.), and my own argument is based on precisely such a claim.

<sup>254</sup> *The Icelandic Family Saga*, p. 11.



Dramatic scenes (cont.)

	N/ai ch. 2	N/ai ch. 6	N/ai ch. 7	N/ai ch. 8	N/ai chs. 23-24	N/ai ch. 33	N/ai chs. 50-51	N/ai chs. 55-56	N/ai ch. 80	N/ai chs. 64-66	N/ai ch. 70	N/ai chs. 73-74	N/ai ch. 97	N/ai chs. 104-105	N/ai ch. 106	N/ai chs. 116-124	N/ai chs. 134-145	V-L chs. 4-5	V-L chs. 8-9	V&pn ch. 10	V&tm ch. 32	V-G ch. 9	V-G ch. 14	V-G ch. 24-25	V-G ch. 25-26	V-G ch. 27	PorsISH ch. 3	Subtotals	
Time coming round																													25
Looking for support (before <i>bing</i> )																													14
Riding to <i>bing</i>																													21
Setting up booths																													40
Large numbers of followers																													10
Looking for support (at <i>bing</i> )																													15
Going to courts/Assembly slopes/Law Rock																													27
General statement about case being conducted																													40
In court presentation of case/facts by characters																													13
In court presentation of case/facts by narrator (Only)																													19
Legal quotation/formulae / reference to actual law																													24
Procedural details																													13
Naming of witnesses																													9
Refusal to settle/accept terms (at least initially)																													6
External arbitrators/mediators																													4
Case goes straight to settlement																													6
Case falls through																													11
No reference to actual cases																													16
Challenge of duel																													22
Violence																													33
Formal pronouncement of outcome by characters																													7
Explanation of terms/outcome by narrator																													10
Statement about distribution of honour																													19
Poetry																													16
Riding home																													22
Crowded <i>bing</i>																													26
Uneventful																													39
Games																													10
Woofing/marriage transaction																													15
Opportunity for social interaction																													12
																													44
																													66
																													0
																													12
																													18
																													2
																													3
																													0
																													3
																													4
																													8
																													12
																													17
																													26

Elements arranged as far as possible in chronological order of progression through scene; naturally, however, this differs scene to scene (continued overleaf)



## CONCLUSIONS

I have alluded briefly at various points during this thesis to the existence in *Grágás* of a short section ‘*vm scaldscap*’, a perplexing though wonderful set of provisions apparently aimed at censoring certain manifestations of literary production.<sup>1</sup> This exposes yet another intersection along the legal-literary interface, and thus supplies a useful way in to beginning to draw together my conclusions. It may well be the case that ‘law demonstrates first and foremost what the legislator wanted when the law was enacted’.<sup>2</sup> But what was in the mind of the legislator who stated, ‘Hvarke a *maðr* at yrkia *vm* man löst ne löf’?<sup>3</sup> The memorable and enduring nature of poetry and the fundamental value of reputation make it easy to understand why men would want severe restrictions on the spreading of mockery and slander, and indeed there are saga examples of prosecution for poetry in practice.<sup>4</sup> But praise? And a sentence of lesser outlawry for the composition of more than a stanza about someone else, ‘þot *eigi* se háþung í’?<sup>5</sup> How can this be reconciled with the occupation of royal praise-poet that Icelanders apparently made their own, and which was later adapted by Icelandic chieftains employing their own skalds to commemorate their existence in verse?<sup>6</sup> Perhaps the clause aims to reinforce a man’s right to control his own reputation – a commissioned praise-poem was a prestigious marker of status, but one would not want just anything being said by just anyone – particularly, perhaps, if the poet then expected some sort of reward for it. On the other hand, might the law just be the result of a thirteenth-century legislator with a proclivity for comprehensiveness following through on an alliterative phrase, ‘löst ne löf’?

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<sup>1</sup> K § 238, *Gg* Ib, 183-85. ‘On Poetry.’

<sup>2</sup> Gunnar Karlsson, ‘*Goðar* and *Höfðingjar*’, pp. 360-61.

<sup>3</sup> K § 238, *Gg* Ib, 183. ‘A man has no right to compose defamation or praise of anyone’ (*Laws* II, 197).

<sup>4</sup> E.g. *BjH* chs. 12, 20, 29; *Hallf* ch. 3; *Kmk* ch. 21. There are, of course, many more instances in which no legal redress is sought (though blood vengeance may be).

<sup>5</sup> K § 238, *Gg* Ib, 183. ‘Even if there is no mockery in it’ (*Laws* II, 197).

<sup>6</sup> See especially Guðrún Nordal, *Tools of Literacy*, pp. 130-38.

And what of the remarkable legal statement, ‘*Sua scal vera orð huert sem mælt er. scal ecke at scáldscapar male raða?*’<sup>7</sup> This apparently also refers to defamatory statements, in instances ‘*er ræða til hvárstvegia. goðs oc illz*’.<sup>8</sup> But does this mean that it had been common practice to protest innocence of libel by claiming one had spoken in a poetic manner? The clause further brings to mind a passage from *Víga-Glúms saga*, not heretofore discussed in this thesis, where Glúmr avoids making a false oath by exploiting the language of poetry (ch. 25):

‘Ek nefni Ásgrím í vætti, annan Gizur í þat vætti, at ek vinn hofseið at baugi, ok segi ek þat Æsi, at ek vark at þar ok vák at þar ok rauðk at þar odd ok egg, er Þorvaldr krókr fekk bana’.<sup>9</sup>

Here, Glúmr takes advantage of the poetic negative suffix *-at* and the preposition *at* being homophonic. Although Þórarinn and the others listening are surprised, and ‘kváðusk eigi fyrri þann veg heyrta hafa at orði kveðit’, they are expecting a denial, and so hear “‘ek varkat þar ok vákat þar ok rauðkat þar odd ok egg’”, despite it being the more unusual poetic form, and consequently ‘urðu eigi búnir at lasta’.<sup>10</sup>

A stylised, heightened form of rhetoric was probably a feature of many formulaic oaths, acts of oral performance, as was mentioned in Chapter 1. In this instance, however, Glúmr’s linguistic skill and mastery of both prosaic and poetic registers is beyond that of his listeners, enabling him to play an elaborate legal trick. As with lawspeakers, the passage once more brings to the fore questions of the correspondence between the legal and the literary in matters such as oral training and skill in language.

As this example shows, then, literary-legal relations in medieval Iceland took many forms, and the potential for connections and overlap lay everywhere. This thesis

<sup>7</sup> K § 237, *Gg* Ib, 181. ‘Every word is to be as it is spoken. No word is to be taken according to the language of poetry’ (*Laws* II, 195).

<sup>8</sup> K § 237, *Gg* Ib, 181. ‘When something can be taken in both a good and a bad sense’ (*Laws* II, 195).

<sup>9</sup> *ÍF* IX, 86. “‘I name Ásgrím as witness, and Gizurr as second witness, that I perform a temple-oath on the sacred ring, and I say upon the Æsir that I was at that place and struck in that place and reddened point and edge in that place, where Þorvaldr *krókr* met his death.’”

<sup>10</sup> *ÍF* IX, 86. ‘Said they had not heard it said in words like that before’; “‘I was not there and did not strike there and did not redden point and edge there’”; ‘were not prepared to find fault’.

has drawn together several different approaches to the interrelationship, in order to highlight its varied and complicated manifestations.

Yes, medieval Icelanders told stories about their legal system – the focus of the final chapter of this thesis, but probably the most obvious area of connection. Sometimes they did so explicitly, like Ari in *Íslendingabók*, who emphasised the central import of law to society and history at a time when the Commonwealth seems to have been trying to define itself, or like the author of *Njáls saga*, who, without losing sight of the value of the law's principles, demonstrated its futility and redundancy as the Commonwealth ended. Other times, legal subject matter was a by-product of a 'conflict-hungry literature',<sup>11</sup> and of a society in which the legal, at least to some degree, was part of common experience and not exclusively a separate, specialist domain. But by recognising this variegation in usage and purpose we can gain a richer appreciation of saga composition and can draw inferences about authors' and audiences' attitudes and perceptions, perhaps unconscious ones, to the law and legal system.

I begin my review with the last part of this thesis, then, as to this aim, Chapter 3 demonstrated the benefits of a closer and more individualised reading of the *Íslendingasögur*. Rather than focussing on a single aspect, by offering an examination of the legal across three essential components of saga narrative it opened up the myriad and subtle ways in which authors could manipulate legal subject matter to enhance their narratives. (Could we say it was almost a law of Icelandic literature to include some reference to legal process?) Broad patterns discerned in the use of legal elements across the *Íslendingasögur* illuminated underlying social thinking about the law: the vibrant and persistent presence of the Alþing, for example, which may not always have been a site of community harmony or successful legal process, but was still a fundamental and significant part of saga and society. Comparison with the *samtíðarsögur* emphasised the fact that *Íslendingasögur* authors did not make reference to the Alþing just because it was a fact of their own society – the Alþing seems to have had an increasingly small role in thirteenth-century life – but invoked it deliberately in the portrayal of a world which still revolved around this legal and social centre.

In the same vein, a closer look at lawyer terminology revealed a discerning acknowledgement of legal ability and a consistent differentiation between legal

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<sup>11</sup> Berger, 'Lawyers', p. 79.

expertise and legal experience, demonstrating a respectful recognition of skill at law and a keen curiosity about those with exceptional legal aptitude. This distinction was maintained in the portrayal of legal practitioners at whatever level they operated, not just of those to whom special terminology was applied – *goðar*, for example, who could be appreciated for their ability to play the system, whether through cunning or coercion. *Íslendingasögur* authors may have exercised authorial license in creating ‘lawyers’ to meet the demands of particular conflict-centred plotlines, but they did so within the bounds of a shared cultural understanding of their legal system. The semantics did not become devalued, then: audiences understood the significance of the appearance in the narrative of a *loqmaðr*, or a *málamaðr*, or a lawspeaker, and could bring their full range of cultural associations to bear on their appreciation of the saga.

At the same time, however, while constraints of space did not allow for systematic readings of individual sagas, this chapter highlighted the inadequacy of the assumption that the sagas in general are obsessed with law, and illustrated the extent of the role of *Njáls saga* in creating this perception. Although *Njáls saga* is notorious for its particular focus on the law, it is still startling to realise that it contains more references to legal experts than all the other pre-1300 *Íslendingasögur* collectively, or that not only is it unique in its courtroom quotation of legal argument, but that only around one-tenth of all *Íslendingasögur* *þing*-scenes make any attempt at all to portray legal process in courtroom action. At the other extreme, *Laxdæla saga* seems to make a feature of its pointed refusal to dwell on legal details, perhaps in an explicit move away from native tradition – and in achieving this effect it treats native law analogously with native poetry, as can be seen by drawing parallels with Guðrún Nordal’s findings on the role of skaldic verse in the saga. My graded reading of legalities in the sagas drew attention to their particular effects when they are employed, and argued that the legally-steeped register of certain sagas does not necessarily entail a society in which everyone was well-acquainted with the minutiae of formal law. Rather, authors could create their own internally consistent ‘saga law’, while individual sagas in their extant form may have been tailored to the tastes of particular audiences.

As is revealed, however, by *Laxdæla*’s conceptualisation of law and literature as inhabiting the same field of cultural meaning, there are multiple dimensions to the correlation to be considered. This thesis has shown that, as productive and illuminating as the ‘law in literature’ approach proves to be, it can only be fully appreciated within

the broader context of medieval Icelandic literary-legal relations which my study has defined. The cultural enmeshing of the two was explored in Chapter 1, which considered law as literature, not by analysing its stylistic features or by using literary methodology to interpret passages of law, but by reassessing the production of written law and locating it firmly as part of early Icelandic textual culture. Thus written law and literature grew from the same root. This approach not only commented upon the complex status of the written word as literacy took hold in Iceland, but revealed that it quickly becomes impossible to discern and extricate a discrete ‘legal sphere’ or ‘literary sphere’ among medieval Icelandic intellectual communities. Producers, scribes, and receivers of law and of literature were bound up in a web of interconnections, an observation augmented by my examination of lawspeaker-poets. These figures demonstrate that the interaction between law and literature was not a product of textual culture – though it was certainly consolidated and enhanced by it – but had been formed long before writing played a part in native culture. Wormald observed that ‘legislative mentalities’ in Anglo-Saxon England considered concepts, ideologies and applications from ‘literary’ texts as naturally transferable to legal ones.<sup>12</sup> In medieval Iceland, though, the literary and the legal were indivisible not just in the minds of legislators or in the circumstances of the production of legal texts, but inevitably contributed to one mode of thought widely throughout society.

As Chapter 1 established, the correspondence between law and literature was personified in the figure of the lawspeaker, who became the focus of the extended case study of Chapter 2. The lawspeaker had multiple and complex social and literary identities, variously applicable to the concept of the office and to its individual incumbents. The various ways in which the office and/or the personalities who held it were invoked in different types of writing illustrated the extent of the underlying traditions and cultural memories about lawspeakers that were in existence, and showed how these were understood and employed for particular literary effects. The lawspeaker could be a symbol: an ultimate legal expert, or an encapsulation of Icelandic law in the *Íslendingasögur* and, perhaps less consciously, in the *samtíðarsögur*. He could be an emblem of native culture, as in *Íslendingabók* or the other historically-minded writings which observed the passing of time through the terms of the lawspeakers; or in the perception of the thirteenth-century Sturlung lawspeakers, especially Snorri, for whom

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<sup>12</sup> *The Making of English Law*, p. 477 and *passim*. This was discussed in the Introduction to the present thesis.

the office held the allure of native tradition. He could be a personality, a tangible historical figure about whom stories were told, whose wisdom and role in legislation might be remembered and celebrated – albeit not as often as we might have expected.

At the same time, the literary activities of lawspeakers fed back into Icelandic society, revealing a symbiotic and interdependent dialogue between law and literature. Despite the antiquarian aura with which the office could be surrounded, particularly in the thirteenth century, lawspeakers were often at the forefront of societal innovations, not just in the law but in literacy, the developing Church, a changing skaldic poetics, and the political landscape. Their influence doubtless had repercussions across society, and the twin modes of thought of those involved in both literary and legal activities cannot but have affected their actions and their public contributions as lawspeaker and as poet, historian, story-teller, chronicler or social commentator.

In recent times, the study of law and literature in medieval Iceland has been greatly advanced by, above all, the translations of *Grágás* into English by Dennis, Foote and Perkins, and Foote's consequential philological studies of Icelandic law, and by the social- and legal-historical work of William Ian Miller. By considering literary-legal relations from a primarily literary perspective, this thesis progresses this debate, contributing a new dimension and opening up the parameters for future research. I have demonstrated the indivisibility of the legal and the literary in medieval Icelandic thought and culture, and the way this dual mentality has the potential to permeate and influence almost every aspect of society. My thesis is therefore also of importance to saga studies in general, whether literary or historical, and has wider repercussions for research into the intersection of law and literature elsewhere in medieval studies and beyond.

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Though several primary texts may be edited in the same volume, the volume is listed only once.

Editions of primary sources from which the introductory material and/or notes have also been used as secondary sources are listed only once, under primary sources. Editions from which only the introductory material and/or notes have been used are listed under secondary sources.

Where an author has more than one publication, items are listed alphabetically rather than chronologically.

Where more than one article is cited from an edited volume, the volume details are given in full under the name of the editor and in shortened form under the name of the author of the individual articles.

### I. PRIMARY SOURCES

#### (i) IN THE SERIES *ÍSLENZK FORNRIT (ÍF)*

All published in Reykjavík by Hið íslenska fornritafélag:

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