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Með lögum skal land vort byggja: 'With Law Shall the Land be Built.' Law-Speaking and Identity in the Medieval Norse Atlantic

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Abstract

Gwyn Jones famously posited the notion of a cogent Norse identity as manifested by common language, culture, and mythology; further, as he clarified in his landmark work *A History of the Vikings*, law and the practice of law in local and national assemblies was a fundamental component of such a unifying cultural characteristic: "... for the Scandinavian peoples in general, their respect for law, their insistence upon its public and democratic exercise at the Thing, and its validity for all free men, together with their evolution of a primitive and exportable jury system, is one of the distinctive features of their culture throughout the Viking Age" [*excerpt*]

Keywords

Atlantic Ocean, Norse Law, North Atlantic Identity

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Með lögum skal land vort byggja: "With Law Shall the Land be Built:"

**Law as a Defining Characteristic of Norse Society in Saga Conflicts and Assembly Sites
throughout the Scandinavian North Atlantic**

Gwyn Jones famously posited the notion of a cogent Norse identity as manifested by common language, culture, and mythology; further, as he clarified in his landmark work *A History of the Vikings*, law and the practice of law in local and national assemblies was a fundamental component of such a unifying cultural characteristic:

...for the Scandinavian peoples in general, their respect for law, their insistence upon its public and democratic exercise at the Thing, and its validity for all free men, together with their evolution of a primitive and exportable jury system, is one of the distinctive features of their culture throughout the Viking Age...¹

Thus we may expect to find identifying features of North Atlantic Norse society embodied in common law, procedures, parliamentary customs and jurisprudence. Moreover, it is possible that we may yet perceive such commonalities and comprehend key aspects of the North Atlantic Scandinavian diaspora by examining closely assembly sites, place-names, saga texts, and extant governmental and judicial structures. Thingvellir, Tynwald, and Ting Wall Holm are physical monuments to the fundamental importance of law throughout the North Atlantic Norse world. Moreover, the institutions represented by these monuments were not only widespread, but have been long-lasting, projecting themselves into the modern age in the popular imagination and in some instances in extant institutions and concepts.

The importance of Norse legal and parliamentary practices—as well as their lasting significance, even many centuries after the Viking Age—is often the subject of references—sometimes rather oblique in nature—in studies of subjects as varied as the saga tradition and place-name derivation. For example, in a rather sharp critique of A.W. Brogger’s early twentieth century assessment of the glory of the “golden age” of the diaspora of Norse culture across the North Atlantic—as well as offering a concomitant criticism of contemporary scholarly valorization of what commonly has been termed the “Viking Achievement”—Per Sveaas Andersen is careful to assert the barbarism of Norway until the conversion, and to emphasize the cultural importance of Christian thought and Latin literature upon the development of Norse society.² Even Andersen, however, thinks it only fair to note some of the great achievements of the pagan, illiterate Scandinavians of the Viking Age; in addition to ship-building technology and a rich oral culture, Andersen specifically credits the *thing* as one of the legacies of the Norse worthy of note.³

The term *thing* in this context refers of course to the Scandinavian judicial and legislative assemblies of the Medieval North Atlantic. As Gillian Fellows-Jensen has definitively illustrated, in spite of a denotative shift that has rendered the word all but meaningless in the modern Scandinavian languages and English, the word *thing* and its cognates are terms of ancient provenance, originally designating an assembly of some kind in all of the Germanic languages.⁴ The most well-known example of such a parliamentary and judicial assembly in the Medieval North Atlantic is of course the Althing, established in Iceland around the year 930.⁵ Regional assemblies throughout Iceland met twice a year, in spring and fall; some dozen *varthings*, or “springtime assemblies,” are attested by the mid tenth century, although two are known to

antedate the establishment of the Althing.⁶ Three local “chieftains,” known as *goðar* (singular *goði*) were responsible for each varthing, and the thingmen of each of these chieftains were required to attend the springtime assembly held by those *goðar*.⁷ At these springtime assemblies the constituent chieftains and farmers settled matters of local import, including debts and legal actions. A thingman was an independent farmer who chose his *goði* freely, at least in theory; in fact, one of the functions of the *leið*, or “autumn assembly,” held by each *goði* was to determine exactly who his thingmen were, although the ostensible reason was to apprise those who had not attended the Althing of the happenings at that national assembly.⁸

The Althing itself was a gathering of all of the *goðar*, held each June at Thingvellir. One of the most important functions of the Althing was the legal assembly known as the *logretta*, or “law council,” to which each *goði* belonged, and at which only the *goðar* could vote, although each might bring two advisors to the council.⁹ The most important national official of early Iceland was the *logsogumaðr*, or “Law-speaker,” who was elected to a three year term, during which he chaired the *logretta* and at each of which he publicly pronounced one third of the entire body of the law from the *logberg*, or “law-rock.”¹⁰ In addition, each Quarter of Iceland held a court at the Althing, and all free men had the right to bring a case worth more than three marks to the appropriate Quarter Court of the national assembly.¹¹ Although there was technically an official “High Chief” known as the *allsjerjargoði*, this office seems to have been mostly ceremonial.¹²

Although William Ian Miller has noted rather acerbically that our assumptions concerning the ancient provenance of the Germanic *thing* reflect what “several generations of German romantics and even recent scholars have wished to believe,” as well as what hard evidence

suggests “there is reason to believe,”¹³ Jesse Byock has quite rightly pointed out that contemporary political structures throughout Scandinavia and Anglo-Saxon England serve to corroborate our understanding of the nature of the *thing* as that institution is represented in Viking Age Iceland.¹⁴ The key distinction, as Byock emphasizes, is one of scope rather than essence:

These rights [in Anglo-Saxon England and Scandinavia] were valid in a more limited sphere than in Iceland. The relationship between farmers and their leaders in Norway was part of a local and national system of decision-making which took into consideration the prerogatives and designs of kings and other military, political and, later, clerical leaders.¹⁵

The Icelandic legal system had evolved by the early eleventh century into what Miller has termed a “model of ‘public’ authority,” a model commonly accepted as the archetypal example of the Medieval North Atlantic manifestation of the ancient Germanic assembly system. This model extended into the mid-thirteenth century, only being substantially curtailed with “the demise of what is known as the commonwealth in 1262-64 when the Icelanders surrendered their independence to the Norwegian king and became subject to Norwegian law soon thereafter.”¹⁶ Parliamentary assemblies in general and the Icelandic Althing in particular did not disappear because of the imposition of royal authority, although the power structures involved certainly changed. It is interesting to note, however, the cultural importance of the Icelandic Althing proved to be so pervasive and long-standing that, as Fellows-Jensen points out, as late

as the nineteenth century the modern Danish and Norwegian parliamentary assemblies took their names from it.¹⁷

It is certain, voices such as Fellows-Jensen's assure us, that the Norwegian immigrants to Iceland brought with them the Scandinavian concept of the *thing* assembly; what she suggests seems somewhat less clear is whether or not they concurrently carried the related placename for the "plain of assembly" or "parliament place," the Icelandic *thingvollr* or *thingvellir*; indeed, the earliest record of a name of that type in continental Scandinavia—referring to a district in what is now Karlstad in Varmlands lan on Lake Vanen in Sweden—dates only from 1290.¹⁸ The nearly dozen known British manifestations of related placenames, two-thirds of which we may locate with accuracy, may shed some light on this issue, however, as records of some of these placenames reach back—as in the case of Thingwala, in Whitby—at least as far as the late 11th century. As Fellows-Jensen has suggested, it seems likely that the Norse settlers in these areas established their assemblies in accessible, convenient locations in flat areas which allowed for the temporary shelter and pasturage necessitated by such a large seasonal gathering.¹⁹ Further, Fellows-Jensen posits an early date for the establishment of the assemblies in the northern and western isles of Britain, claiming that "[t]he thing-sites in Shetland, Orkney, the Hebrides and Man must have taken use in the course of the ninth century."²⁰

Moreover, many assembly sites included signature geographical features such as mounds or large boulders. Indeed, as Benjamin Hudson has noted in his assessment of what he has termed the "colonial distinctiveness" of the Norse in Ireland, the characteristic facet of Scandinavian identity manifested in the *thing* found fertile soil in which to set root in the mounds which had

served the indigenous peoples as convenient assembly places for generations;²¹ this may have been no less true at Tynwald Hill in the Isle of Man than it was at Thingmount in Dublin.

Moreover, a whole distinct set of British place-names belongs to what we might term the *thing-howe* or “assembly hill” sites, which, although they are more common in areas of Danish influence, do appear upon the rare occasion in Norway or within the Norwegian pale of influence, as in Dingishowe in Orkney.²²

Also suggestive of the Assembly-place hill phenomenon within the context of the Kingdom of Man and the Isles is a location in the west of the Isle of Lewis. As R. Andrew McDonald indicates, “the name of the hillock Cnoc an Tiongalairidh in the township of Tolsta Chaolais preserves” a place-name specifically designating a *tiongal*, “thing,” situated atop a *cnoc*, or “hill.”²³ It is of particular interest, however, that Viking Age assembly sites incorporating mounds, some of which seem likely to have been utilized as convenient gathering points for time out of mind, generally seem to have retained the generic name of “assembly place;” Tynwald Hill, although the derivation of its name might be disputed, offers an evocative case in point.

Situated in a central location on the Isle of Man and readily reached from anywhere on the island, the name of *Tynwald* Hill is indicative of the characteristic shift of /p/ to /t/ in initial position in Manx Gaelic, as Gillian Fellows-Jensen has noted.²⁴ Fellows-Jensen has also clarified that the analogous site in Dumfries, in Scotland, *Tinwald*—first attested in an orthographically non-contrastive form in the 1330’s—has conflated an Old English term, *wald*, “wooded hill,” for the Norse element *wall*, “field or place.”²⁵ The earliest extant reference to Tynwald Hill on the

Isle of Man, however, is according to Fellows-Jensen “Tyngualla [anno 1237] c. 1376;” the *Tynwald* form seems to be a later development attested no earlier than 1515.²⁶ The /d/ on the end of *Tynwald*, then, in the Manx case, seems to be a late development that does not necessarily imply any such denotative shift in meaning or conflation of elements in the Viking Age on the Isle of Man; in the classic Old Norse sense, then the original Scandinavian settlers on Man designated the location of their legislative gathering as an “thing field” or “assembly place.”

The exact date of Norse settlement on the Isle of Man is not clear. As David Wilson notes, the Isle of Man must have been strategically significant almost since the dawn of the Viking Age (793), and certainly was so by the time of the establishment of the Norse fortifications on the site of Dublin in the mid-ninth century (841);²⁷ the earliest evidence of Scandinavian settlement on the island is in the form of pagan interments and grave goods dating to the ninth and tenth centuries, and thus it is likely that settlement began in earnest around 900.²⁸

The Mound at Tynwald seems to have performed an important ceremonial function from an early date.²⁹ A number of other thing sites also are specifically associated with a mound upon which a *logmaðr*, “lawman,” sometimes a king or representative of overlordship, sat, a fact to which the whole sub-category of “assembly mound” place-names may well attest.³⁰ Sometimes boulders could provide a similar venue for political rituals: At Thingvellir in Iceland, of course, the *logsogumaðr*, or “law-speaker,” performed a key ceremonial function, standing upon the *Logberg*, or “Law-rock” in order to assert the authority imbued in that particular assembly by emphasizing the importance of the public and participatory nature of the Althing: This goal was

accomplished through the mandated recitation of the laws by rote in the presence of the assembled goðar. Such a feature of geographical prominence was also utilized, for example, at Tingvalla in Karlstad in Sweden, where one may find the analogous *Lagberget*.³¹

The convenience and accessibility of the Manx thing location may well have made it an attractive gathering spot long before the Viking Age, as the Bronze Age burial on and Manx name of the site—*Cronk Keeill Eoin*, “Hill of the Church of Saint John”—illustrate amply.³²

Although it seems quite possible that some aspects of the form of collective governance manifested at Tynwald on the Isle of Man may have predated Norse settlement on the island,³³ it seems very likely that the form of assembly founded there during the Viking Age possessed, in Marshall Cubbon’s words, “features characteristic of the thing organizations established throughout the Norse colonies in the west.”³⁴ As Cubbon’s assertion implicitly suggests, the assembly structure of the thing at Tynwald, however much it may have absorbed and transformed pre-existing Manx models, clearly manifests a significant aspect of Scandinavian identity during the Viking Age on the Isle of Man. Moreover, local things may well have comprised one of the signature characteristics of Norse culture on Man as early as the late ninth century, and—although the textual evidence is slim on this score—the development of a centralized assembly structure probably occurred no more than a hundred years later, and may, just possibly, have predated the traditional date of the founding of the archetypal Althing in Iceland in 930.³⁵

Medieval Scottish documents make it clear that the assembly at Tynwald comprised 16 Manx representatives and 16 from the Sudreyjar until the loss of Mull and Islay in the twelfth century,

after which the number of total representatives was reduced to 24, the number of seats in the Keys—the Manx lower house of parliament—to this day.³⁶ Indeed, the Tynwald assembly is still held each July 5th at Saint Johns; the representatives process from the church at Saint Johns to the assembly point upon the man-made Tynwald Hill, where each year’s new legislation must—by statute—be read aloud to the gathered crowds in Manx and English, in a clear modern echo of an ancient Norse practice.³⁷

The political structure on the Isle of Man may have been centralized by the end of the tenth century, as the Irish of that time refer to a lord of the foreign islands, which Wilson takes to be the “forerunner of the later Kingdom of Man and the Isles.”³⁸ The first direct reference of a *rex mannie*, however, occurs in an entry of the early thirteenth century *Chronica Regum Manniae et Insularum* for a date corrected to 1070, when one Godred was succeeded by his son Fingal.³⁹ The Manx Chronicle also mentions another, more important Godred, however, the Irish Godred Crovan, who is credited with founding the Manx dynasty in 1079, when he conquered the island.⁴⁰ Shortly thereafter, however, the Kingdom of Man and the Isles fell under Norwegian control around 1100, through the efforts of King Magnus Barelegs.⁴¹ Although the death of Magnus saw Lagmann Godredsson reassert the rule of the Crovan dynasty, the Kingdom of Man and the Isles remained “a Norwegian dependency,” a status which would continue for more than a century and a half.⁴² The overlord of the Manx became King Alexander III of Scotland after the Treaty of Perth in 1265.⁴³

Thus, although the institution of overlordship at the Manx assembly may be obscure in its precise date and manner of inception, it must have taken root in the first few generations of

Norse settlement on Man. Indeed, representatives of the Lord of Man, or the Lieutenant-Governor who now serves in the capacity of an overlord's envoy, have come in state to the mound at Tynwald "from time immemorial," as David Wilson puts it.⁴⁴ Although the earliest hard documentary evidence of the history and development of what McDonald has termed "king-making" ceremonies at Tynwald dates from the fourteenth and fifteenth centuries, some of these documents suggest that rituals investing authority are likely to have been performed at Tynwald since at least Norse times; indeed, although McDonald is careful to acknowledge that these much later documents provide the foundation for "the frequent assertion that this was the inauguration site of the Norse kings of Man," he also allows that "it is possible—indeed, probable—that these documents in fact reflect much older practice...."⁴⁵

The political importance of Tynwald, both specifically on the Isle of Man and generally in the Kingdom of the Isles, was also underscored by military conflict on Saint Valentine's Day in 1229, when Rognvald was finally defeated and killed by his brother Olaf; the conflict between these two disputants, which had for a time led to a partition of the Hebrides, thus ended at Tynwald, and the Kingship of Man and the Isles was consolidated under the rule of the victorious sibling.⁴⁶ The meeting of these two contestants at what McDonald has termed the "ceremonial heart" of Man seems more than coincidental, just as a victory on that ground must have especially burnished Olaf's status.⁴⁷ Indeed, it is entirely reasonable to assert that the brothers chose to meet at Tynwald precisely due to its ancient function; as McDonald points out, "[t]he meeting of the brothers near this important site suggests that a parley or negotiations may have been intended."⁴⁸ In the end, moreover, the same traditional prestige and authority

which made Tynwald the perfect rendezvous point for negotiations imbued a commensurate cultural weight to Olaf's final removal of the threat to his rule represented by Rognvald.

The modern-day ceremonial functions at Tynwald in any case seem directly derived from a Medieval manifestation of the much older Scandinavian assembly of the Viking Age: Indeed, a document known as *The Constitution of Old Time* was composed in 1417 specifically to inform the new Lord of Man, Sir John Stanley II, of the practices current in the Tynwald Day assembly since at least the previous century.⁴⁹ As the precedent elsewhere—and most famously in Iceland in the 1260's when the Free State fell fully under Norwegian sway—would suggest, the concept of overlordship was generally a somewhat later addition to the Viking Age institution; the assembly itself, however, offers a fundamental testimony to a pronounced Scandinavian element of post-Viking Manx society. As Wilson has observed, “[t]he claim of the modern Manx legislature to have Scandinavian roots seems well founded.”⁵⁰

Moreover, the very name of this site may be indicative of a deliberate attempt by the Crovan dynasty to gather unto themselves the power and prestige of an existing assembly place. McDonald notes that it well may have been during the Crovan dynasty that *Tynwald* first became known by that name; McDonald further suggests that the appropriation of an earlier assembly site in order to valorize the kingship of the Crovan rulers may in fact be indicative of a wider trend towards “the reuse of ancient sites with the emergence and legitimization of new political structures in the early medieval period.”⁵¹ In this context McDonald mentions the suggestive hypothesis that the re-appropriation of the traditional assembly site at Tynwald in order to further an explicitly political agenda of overlordship may have resulted in the

transformation of this location “from a local assembly site for the Isle of Man to a ‘national’ site that assumed importance for the whole kingdom of the Isles, from Lewis to Man.”⁵²

Furthermore, not only does the name of Tynwald Hill denote the parliamentary function of that site from at least Viking times; there is very good placename evidence to suggest that Scandinavian settlers from the Isle of Man may have taken the name of their assembly with them to new homes in what is now England, where the generic name Thingwall came to refer to assembly places in general, “even though the characteristic feature of these sites English sites was a hill and not a plain” as the elements of such a name suggests.⁵³

Ting Wall Holm in Shetland provides another physical monument to the assembly place as a persistent identifying attribute of Medieval Norse society. The earliest extant reference to the name of Ting Wall Holm dates to the early fourteenth century, where it is called *thinga velle*; within a hundred years it was known as *Tyngvæle*, as “initial /p/ was replaced by /t/ in the Shetland dialect.”⁵⁴ The description of the function of the Holm as a highly visible geographical feature whereon judges and lawmen might proclaim judgments or recite laws suggests an analogy with “law-rocks” such as the *Logberg* at Thingvellir in Iceland or the mound at Tynwald and elsewhere.

Law Ting Holm seems to have been the primary site of legislative assembly in Shetland throughout the Medieval period.⁵⁵ Indeed, documentary evidence suggests that this assembly was referred to as the *logthing* since at least the early thirteenth century.⁵⁶ Moreover, an early eighteenth century antiquarian account of this site emphasizes the function of the small holm

as a highly visible location, not unlike a *logberg* or *thinghaugr*, wherefrom the judges might be seen as they heard the cases brought before them:

...the Holm to this day is called Law-Ting...we go into this Holm by stepping stones, where three or four great Stones are to be seen, upon which the Judge, Clerk and other Officers of the Court did sit: All the Country concerned to be there stood at some distance from the Holm on the side of the Loch, and when any of their Causes was to be Judged or Determined, or the judge found it necessary that any Person should compeer before him, he was called upon by the Officer, and went in by these stepping stones, who when heard, returned the same way he came: And tho now this place be not the Seat of Judgement, there is yet something among them to this day, which keepeth up the Memory of their old Practice....⁵⁷

It also has been suggested that the Holm at Tingwall on Mainland in Shetland may have served the function of a dueling skerry performed by the islets in the Oxara at Thingvellir in Iceland.⁵⁸

This is of course possible, but this proposition need not be mutually exclusive from the supposed function of the Holm as a place of judgment.

Perhaps equally eloquent evidence of the pervasive influence of a Viking-Age Norse sense of identity in the British Isles may be suggested by the fact that the term ultimately derived from the concept of the Norse age assembly location has become something of a commonplace in the study of British site names; indeed, it is noteworthy that variations of the *thing-* element are sometimes suggested even in locales where there is little or no hard evidence of such an assembly. At Dingbell Hill in Northumberland, England, for example, Victor Watts suggested

that “it is highly improbable that a Scandinavian thing was ever held in this location”⁵⁹ an assessment based upon historical and archaeological grounds which seems to be corroborated by the philological analysis of Fellows-Jensen, who states that the “inexplicable initial D- rather suggests that the name has nothing to do with”⁶⁰ Norse settlement; Fellows-Jensen basis this assertion on the evidence that “[t]here is no phonological explanation for a development of Scandinavian initial /p/ to /d/ in the Northumberland dialect.”⁶¹

In fact, *Dingbell Hill*, the extant version of this name, seems to date from the late Middle Ages at the very earliest, as it first appears in records in 1613.⁶² An earlier form, *Vingvell*, is first attested in 1386;⁶³ although Fellows-Jensen has suggested that the problems concerning this manifestation of the name might “just possibly” result from problematic transcription into the Old English record,⁶⁴ the early confusion and later scholarly debate concerning this place-name in any case both serve to illustrate the abiding cultural weight the concept of the Norse assembly place continues to assert, even in such an obscure and possibly irresolvable instance as the present case presents.⁶⁵ In any event, disputed sites such as Dingbell Hill might be thought to offer additional evidence of the power of the *thing* as a central tenet of cultural identity in the minds of Scandinavian settlers.⁶⁶

Just as the islands of the North Atlantic are littered with physical monuments to the importance of the assembly place to Medieval Scandinavian society, so is the saga record strewn with references to judicial and parliamentary assemblies, which are often significant landmarks in the text. Saga texts, of course, hardly offer us unadulterated historical evidence, and Icelandic visions of the greater Norse community are even more fraught, especially looking back as they

do over the course of centuries and biased as they are by regional and family prejudices. As Jones has pointed out, the long-held assumption that the saga records were reliable witnesses to Norse legal practices is quite rightly to be questioned, and we must proceed cautiously when we rely upon such testimony in the absence of evidence from other sources.⁶⁷ Still, the sagas often touch upon Scandinavian communities throughout the North Atlantic, and in situations where other records or material evidence help to corroborate key points, the sagas can add a rich texture of detail to our knowledge of Scandinavian life in the North Atlantic. Indeed, as Miller has asserted, it is reasonable in such circumstances to utilize the saga record to enhance our knowledge of Icelandic perceptions of Norse society concerning “a world that we can recover fairly well in those areas where the saga description is thick enough and makes sense in the light of relevant comparative data.”⁶⁸ Although the world we reconstruct in this way may belong more to the author of a given saga than to the subjects he purports to record, our knowledge of Norse legal and judicial assemblies is nonetheless augmented by the saga record.⁶⁹

A limitation of the saga record, moreover, especially in exploring the North Atlantic world outside of Iceland, concerns focus, both regarding subject matter and regional emphasis. *Njalssaga*, like many of the sagas primarily about the interactions among the families of Icelanders, emphasizes Icelandic manifestations of Norse institutions which may have developed quite differently in other regions and social contexts. *Orkneyingasaga*, on the other hand, is a text with much to tell about life in the Northern Isles of Scotland during the Viking Age. An account of the history of the Earls of Orkney from the ninth to the thirteenth centuries, *Orkneyingasaga* describes in detail the anonymous Icelandic author’s impressions of life in

Orkney, Shetland, and Caithness. Probably originally composed around the year 1200, the text as it appears in its present form is drawn from a number of fragments, the earliest of which date from a hundred years later; the only nearly complete version of the saga is preserved in *Flateyjarbok*, the late fourteenth century compendium of historical sagas and annals.⁷⁰

Orkneyingasaga, designated by scholars such as Melissa Berman and Judith Jesch as one of the “Political Sagas,” may help us to develop a fuller view of how political and legal structures operated throughout the Norse world.⁷¹ Jesch has argued that the three political sagas, which include *Orkneyingasaga*, are notable for the early date of their original, lost versions, and that *Orkneyingasaga* in particular was “based on traditions from Orkney,” which may have been founded in part on eye-witness accounts of events of the mid-twelfth century.⁷² Jesch asserts that the earliest versions of this saga attempted a veracity somewhat “obscured” by the later hand(s) which composed the version preserved in *Flateyjarbok*.⁷³ Still, Jesch concludes, “[e]ven in its present form, *Orkneyinga saga* reveals an attempt at critical historical narrative.”⁷⁴ Such a claim for the historical value of this saga, however limited and cautiously granted, may be valuable in our assessment of the political structures of the northern isles, and perhaps even the isles of the Irish Sea. As Berman has argued, *Orkneyingasaga* is in large measure concerned with “issues of political power.”⁷⁵

Moreover, the power structures of the Orkneys provide an instructive counterpoint to those of Iceland, in that both were settled by Norwegians fleeing centralized authority during the early Viking Age, and both originally established similar governing institutions; as Byock dryly notes, however, “[t]he Orkneys were nearer Norway and the British Isles, and were threatened by

both.”⁷⁶ Indeed, *Orkneyingasaga* itself begins with an account, in Chapter 4, of the punitive expeditions of Harald Finehair against the raiding Vikings of Shetland, Orkney, the Hebrides, and even the Isle of Man, extensions of royal authority which hastened the transition between, in Christopher Morris’s words, “a first, informal settlement of the islands by these dissidents, and a second, formal settlement associated with the establishment of an earldom.”⁷⁷

The legislative and judicial needs of local farmers became of consequently less importance in the assemblies of those territories which fell under the dominion of a single power rather than a collection of competing *goðar*, a crucial point which has been explored recently by scholars such as Byock.⁷⁸ Indeed, while texts concerned with legal proceedings in Iceland—notably *Njalssaga*—document the classic assembly structure of competing parties raising support through influence, favor, and coercion amongst sub-groups represented at a given assembly, records concerning Tynwald on the Isle of Man and Ting Wall Holm on Mainland Shetland indicate that ceremonial overlordship at those assemblies was a practice of long-standing significance. Perhaps more evocatively, the assembly sequences related in *Orkneyingasaga* often are concerned with the formal acceptance of authority and sometimes with conflict of interest between the powerful earls and their humbler constituents. Indeed, in a sharp contrast to the saga record for Iceland itself, in which the things, like the seasons, are regular, and in which powerful consortia often struggle for supremacy concerning particular cases or issues, the saga which relates the history of the Earls of Orkney often mentions that an earl “summoned” the farmers to an assembly, and the agenda of such an assembly often is explicitly concerned with the nature of that earl’s authority and with the imposition of that authority upon the islanders.

In Chapter 14, for example, the Earl Einar raised another of his harsh and unpopular levies and summoned all of the farmers to an assembly; in addition, when Thorkel Amundason pleaded with the earl for a second time to moderate his demands, the earl's wrath was such that Thorkel had to leave the Orkneys for a time, a fate he shared with many islanders chafing under the stern rule of Einar, whom Thorkel murdered for his tyranny two chapters later. In Chapter 76, on the other hand, Earl Rognvald is forced to take a more conciliatory tone with the islanders, a situation the author of the saga ascribes to the fact that the earl found himself with powerful enemies, and thus unable to ignore the interests of the farmers; indeed, this chapter concludes with Earl Rognvald calling an assembly at which he announced his intention to allow the islanders to buy their land outright from him in order to raise the funds needed to finish the Kirk of Saint Magnus. Rognvald's diplomatic refusal to appropriate the estates and then to force the holders to pay a fee for their use seems a testament to his need to cultivate his relationships with the farmers.

According to the saga, the Earls of Orkney also called assemblies to claim or renounce their authority. In Chapter 85, for example, Earl Rognvald holds such an assembly in order to announce his intention to make a pilgrimage to the Holy Land and to give over his authority to Earl Harald Maddadarson. In Chapter 92 Harald cedes this authority under duress to Earl Erlend, who immediately calls an assembly so that he might argue his case before the gathered islanders and thus win their support for this change in leadership, a goal he achieved with reference to the support of King Eystein of Norway. Moreover, in *Orkneyingasaga* assemblies in Norway itself likewise are called so that formal overlordship may be declared, as in Chapter 21, where Magnus is declared King of all Norway at the Eyrar Assembly, and Chapter 62, in which

Magnus Sigurdarson (the Blind) and Harald Gilli Magnusson (Gillikrist) each calls a competing assembly in order to declare himself king; an uneasy agreement is eventually reached which results in a short-lived co-rule. The calling of assemblies in such contexts becomes an assertion of central authority rather than a manifestation of the rights of the free individual.

Such references to overlordship in general, and most especially stories concerning the struggle between the rights of the farmers and the prerogatives of the Earls of Orkney would have been a subject of intense interest during the era in which the political sagas were composed, which saw increasing movement towards the subjugation of the Icelandic Free State under the Norwegian crown.⁷⁹ Indeed, as Berman suggests, *Orkneyingasaga* may well have been composed by Icelanders concerned with just the sort of imposition of royal authority upon traditional rights and privileges that provides the political subtext for that saga, underscoring “some of the ways in which medieval Icelanders viewed both the past and their own situation.”⁸⁰ Therefore, although legislative and judicial assemblies seem to have been notable characteristics of Norse society throughout the North Atlantic from the dawn of the Viking Age, it is clear that some were adapted into institutions which continued to assert themselves in various places long after the imposition of centralized authority upon the widely spread and often fiercely independent Scandinavian settlers who enacted them.

Brennu-Njal, the saga detailing the “Burning of Njal,” composed in the late thirteenth century about events from around the year 1000, is also concerned with struggles for power and precedence as these are played out in judicial and legislative things, although the gaze of this narrative is turned inward, giving us detailed, if fictionalized, descriptions of Icelandic

assemblies. Indeed, nowhere in Norse literature is the function of Scandinavian law and assembly more sharply foregrounded than it is in *Njalssaga*. It is Njal Thorgeirsson himself who states (in Chapter 70) that “with law shall the land be built,” a phrase indicating the centrality and necessity of law to the cultivation of civil society in Iceland. Knowing how doomed Njal’s attempts to promote the peace will be to him and to those closest to him emphasizes the pathos of the passage, but does not fundamentally undermine his point. The saga record in general, of course, privileges the dramatic episodes which resulted in the breakdown of the system of arbitration and peace-making; conflict is, in general, more memorable than consensus, and makes for a ripping yarn. Indeed, as Theodore Andersson and William Ian Miller wryly note, “[f]euding is the stuff of good stories and is consequently likely to secure a greater portion of the saga writers’ energies than the peaceful pursuits of herding and cattle-raising.”⁸¹ In this context, *Njalssaga* could be described as a primer—in saga form—of the complex relationship between law, power, and violence in early Icelandic society. This is a saga in which legal proceedings jostle with ambushes for pride of place, and wherein even institutionalized judicial violence—actual or threatened—has its proper function.

The narrative appeal of violence and the historical failures of peace-making aside, however, settling disputes non-violently is a central goal of *Njalssaga*, even if only realized imperfectly and in part; what is more, this is as true for legislative functions as it is for judicial ones. Indeed, at least one key section of the saga concerns the place of such a legislative function at an important juncture in Icelandic history; the peaceful conversion of Iceland to Christianity is an eloquent testament to the power of the traditional assembly system to enact the peaceful resolution of potentially thorny conflicts.

In Chapter 100 we learn that Norway, under the reign of Olaf Tryggvason, had been converted to Christianity, and that the western islands, including Orkney, Shetland, and the Faroes, had likewise been converted. This adoption of the new faith was largely a result of royal prerogative, and the outcome was often tumultuous. In the face of growing pressure from the King of Norway, the Althing of the year 1000 found itself in a precarious position, with the new believers and the old clamoring against each other and even, we are told in Chapter 105, declaring themselves not bound by law to each other, a situation which threatened to destroy the very fabric of Icelandic society. The uproar was such, we are informed, that one man could not even hear another before the Law Rock.

Finally, the Christian Law-speaker, Hall of Sida, approached the pagan Thorgeir of Ljosavatn, and gave him three marks of silver to arbitrate a settlement; this was considered a gamble, given that Thorgeir was a heathen, but it seems to evoke the Icelandic practice of self-judgment, whereby an injured could determine a fine one deemed appropriate, and thus be satisfied with the outcome. Thorgeir spent a day with his cloak cast over his head, and the next day he pronounced his judgment: The law must bind together all Icelanders, Thorgeir stated, or else the law would split them asunder, and with the disruption of the law the peace would be destroyed. Therefore, having received oaths from both parties to abide by his settlement, Thorgeir declared that all Iceland would be Christian, although the pagans could practice in private. Although displeased, the pagans held to their agreement, and the law and the peace thus were preserved at that assembly.

The sequence in *Njalssaga* relating the process which led to the conversion has often been seen as a lynchpin of the narrative. Although a goodly amount of ink has been spilt debating the relative importance of these chapters to the saga as a whole, the salient point in the context of the present argument is that *Njalssaga* embraces and enshrines the notion of a peaceful settlement which healed a potentially devastating rift between Christians and pagans at the Althing of 1000. As Byock has noted, considering the violence surrounding the conversion process elsewhere in Scandinavia, which was first and foremost a manifestation of royal will, the democratic achievement of a relatively peaceful consensus through the process embraced by the Althing eloquently bespeaks the efficacy of the dispute resolution embodied by the Icelandic assembly:

Given the decades of strife (roughly from 990 to 1040) both before and after the conversion in neighboring Norway, the peaceful manner in which the Icelanders adopted the new faith has long been considered remarkable, even miraculous. But was the manner of conversion so strange in light of the methods of channeling and resolving disputes which the Icelanders had developed in the proceeding seven decades? The process of resolving the antagonisms attendant upon the conversion dispute followed the pattern by which important feuds were settled: third parties intervened and through arbitration a compromise was reached. By the year 1000 the procedure for conflict resolution in Iceland was so well established that even an issue as potentially disruptive as a change in religion could be resolved with little violence.⁸²

The story of the conversion of Iceland to Christianity in *Njalssaga*, then, provides a literary example of the Icelandic parliamentary system operating at its best, a valuable counterpoint in a tale in which arbitration so often fails to provide a lasting settlement. The saga record again and again takes us to the thing, at which assemblies we are exposed to conflict, arbitration, sometimes violence, and occasionally justice; practical outcomes and fictionalized aspects aside, however, the ubiquity of the thing to the genre of the saga provides a valuable complement to the landscape of the Medieval North Atlantic, which is likewise populated with monuments to the importance of the thing to Norse societies throughout the region.

The concept of the thing, then, was both pervasive and persistent, accompanying Scandinavian settlers on their journeys throughout the North Atlantic and lasting in some cases right up to the present day. Although the earliest extant written records of British site names date only to the late eleventh century, it is clear, in the words of Fellows-Jensen, “that many of the names must have been coined much earlier than their first written records.”⁸³ Moreover, as Fellows-Jensen has noted, the Tingwall site in Shetland, along with Tynwald on the Isle of Man, are examples of thing sites “where legal assemblies continued to be held for centuries, even after the Scandinavian language had dropped out of use.”⁸⁴ Indeed, the popular sense of this heritage is almost as strong as the evidence of the heritage itself, as is illustrated by the appropriation of Njal’s famous words by the Shetland Islands Council for their motto; this may be fitting, given that the assembly at Tingwall Holm in Shetland may well have antedated that at Thingvellir in Iceland, and may indeed even have influenced the names of other such sites in the British Isles, including that at Tynwald.⁸⁵

These three sites—one in Iceland, one in the midst of the Irish Sea, and one in the Northern Isles of Scotland—thus all manifest the abiding importance of law as a characteristic feature of Norse society throughout the Scandinavian colonies of the Viking Age; in addition, however, these three sites—which may well represent the founding of legislative and judicial assemblies in very disparate regions at roughly the same time—also help to illuminate the flexibility, resilience, and adaptability of such Norse institutions.

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¹ Gwyn Jones, *A History of the Vikings* (Oxford: Oxford University Press, 1984), p. 348.

² Per Sveaas Andersen, "The Norwegian Background," in *Scandinavian Settlement in Northern Britain: Thirteen Studies of Place-Names in Their Historical Context*, ed. B. Crawford (London: Leicester University Press, 1995), p. 23 [16-25].

³ Andersen, "The Norwegian Background," in *Scandinavian Settlement in Northern Britain*, pp. 23-24.

⁴ Gillian Fellows-Jensen, "Tingwall: The Significance of the Name," in *Shetland's Northern Links: Language and History*, ed. D. Waugh and B. Smith (Edinburgh: Scottish Society for Northern Studies, 1996), p. 16 [16-29]: "In Old English and the other early Germanic languages, however, the word thing and its cognates, which were all of neuter gender, had the meaning 'assembly, meeting' and it is from this meaning that the modern, more general meaning has developed."

⁵ Fellows-Jensen, "Tingwall: The Significance of the Name," in *Shetland's Northern Links: Language and History*, pp. 19-20.

⁶ Jesse L. Byock, *Viking Age Iceland* (London: Penguin Books, 2001), p. 171.

⁷ William Ian Miller, *Bloodtaking and Peacemaking: Feud, Law, and Society in Saga Iceland* (Chicago: University of Chicago Press, 1990), p. 17.

⁸ Byock, *Viking Age Iceland*, p. 174.

⁹ Byock, *Viking Age Iceland*, p. 174.

¹⁰ Byock, *Viking Age Iceland*, p. 175.

¹¹ Miller, *Bloodtaking and Peacemaking*, p. 17.

- ¹² Byock, *Viking Age Iceland*, p. 176.
- ¹³ Miller, *Bloodtaking and Peacemaking*, pp. 16-17.
- ¹⁴ Byock, *Viking Age Iceland*, p. 170.
- ¹⁵ Byock, *Viking Age Iceland*, p. 170.
- ¹⁶ Miller, *Bloodtaking and Peacemaking*, p. 17.
- ¹⁷ Fellows-Jensen, "Tingwall: The Significance of the Name," in *Shetland's Northern Links: Language and History*, pp. 16-17.
- ¹⁸ Fellows-Jensen, "Tingwall: The Significance of the Name," in *Shetland's Northern Links: Language and History*, p. 20.
- ¹⁹ Fellows-Jensen, "Tingwall: The Significance of the Name," in *Shetland's Northern Links: Language and History*, p. 22.
- ²⁰ Fellows-Jensen, "Tingwall: The Significance of the Name," in *Shetland's Northern Links: Language and History*, p. 26.
- ²¹ Benjamin Hudson, *Viking Pirates and Christian Princes: Dynasty, Religion, and Empire in the North Atlantic* (New York: Oxford University Press, 2005), p. 6.
- ²² Fellows-Jensen, "Tingwall: The Significance of the Name," in *Shetland's Northern Links: Language and History*, pp. 18-19.
- ²³ R. Andrew McDonald, -
the Crovan Dynasty (Dublin: Four Courts Press, 2007), p. 93.
- ²⁴ Gillian Fellows-Jensen, "Tingwall, Dingwall and Thingwall," *NOWELE: North-Western European Language Evolution* 21-22 (April 1993): 58 [53-67].
- ²⁵ Fellows-Jensen, "Tingwall, Dingwall and Thingwall," 56.

²⁶ Fellows-Jensen, "Tingwall, Dingwall and Thingwall," 58.

²⁷ David M. Wilson, *The Vikings in the Isle of Man* (Aarhus: Aarhus University Press, 2008), p. 23.

²⁸ Wilson, *The Vikings in the Isle of Man*, pp. 24-25. See also Wilson's discussion of the chronicle evidence on 120 & 122-123.

²⁹ Wilson, *The Vikings in the Isle of Man*, pp. 123-125.

³⁰ See Fellows-Jensen's discussion of the place-name thing-haugr or "assembly mound" in "Tingwall: The Significance of the Name," in *Shetland's Northern Links: Language and History*, pp. 18-19.

³¹ Fellows-Jensen, "Tingwall: The Significance of the Name," in *Shetland's Northern Links: Language and History*, p. 22.

³² Fellows-Jensen, "Tingwall, Dingwall and Thingwall," 58.

³³ Marshall Cubbon, "Viking Archaeology in Man," in *The Viking Age in the Isle of Man: Select Papers from the Ninth Viking Congress, Isle of Man, 4-14 July 1981*, ed. C. Fell (London: Viking Society for Northern Research, 1983), p. 23 [13-26]. See also Cubbon's note to this effect on page 26, in which he cites Megaw.

³⁴ Cubbon, "Viking Archaeology in Man," in *The Viking Age in the Isle of Man*, p. 23.

³⁵ Cubbon, "Viking Archaeology in Man," in *The Viking Age in the Isle of Man*, p. 23.

³⁶ Cubbon, "Viking Archaeology in Man," in *The Viking Age in the Isle of Man*, p. 23; see also Cubbon's note concerning the development of the Manx Parliament on page 26, in which he cites Cubbon and Megaw. Hudson notes on page 202 of *Viking Pirates* that an allotment of sixteen representatives from Man, eight from Lewis, Harris, and Skye, and eight more from the isles south of Skye also makes sense in that the Hebrides seem to have been divided "into four

districts, with their heads at Lewis, Skye, Mull, and Islay, as outlined in a document from the late sixteenth century.”

³⁷ Cubbon, “Viking Archaeology in Man,” in *The Viking Age in the Isle of Man*, p. 24.

³⁸ Wilson, *The Vikings in the Isle of Man*, p. 119.

³⁹ Wilson, *The Vikings in the Isle of Man*, p. 120.

⁴⁰ Wilson, *The Vikings in the Isle of Man*, pp. 120-121.

⁴¹ Benjamin Hudson, *Irish Sea Studies: 900 - 1200* (Dublin: Four Courts Press, 2006), p. 33.

⁴² Hudson, *Viking Pirates and Christian Princes*, p. 197.

⁴³ Hudson, *Irish Sea Studies*, p. 146.

⁴⁴ Wilson, *The Vikings in the Isle of Man*, p. 126.

⁴⁵ McDonald, *Manx Kingship in its Irish Sea Setting*, p. 174.

⁴⁶ R. Andrew McDonald, *The Kingdom of the Isles: Scotland's Western Seaboard in the Central Middle Ages, ca. 1000-ca. 1336* (East Lothian, Scotland: Tuckwell Press, 1997), pp. 85-86.

⁴⁷ McDonald, *Manx Kingship in its Irish Sea Setting*, p. 82.

⁴⁸ McDonald, *Manx Kingship in its Irish Sea Setting*, p. 82.

⁴⁹ Wilson, *The Vikings in the Isle of Man*, pp. 126-127.

⁵⁰ Wilson, *The Vikings in the Isle of Man*, p. 127.

⁵¹ McDonald, *Manx Kingship in its Irish Sea Setting*, p. 183.

⁵² McDonald, *Manx Kingship in its Irish Sea Setting*, p. 183.

⁵³ Fellows-Jensen, “Tingwall: The Significance of the Name,” in *Shetland's Northern Links: Language and History*, p. 26.

⁵⁴ Fellows-Jensen, “*Tingwall: The Significance of the Name*,” in *Shetland’s Northern Links: Language and History*, p. 22.

⁵⁵ Fellows-Jensen, “Tingwall, Dingwall and Thingwall,” 53-54.

⁵⁶ Fellows-Jensen, “Tingwall, Dingwall and Thingwall,” 54.

⁵⁷ Fellows-Jensen, “*Tingwall: The Significance of the Name*,” in *Shetland’s Northern Links: Language and History*, pp. 22-23.

⁵⁸ Fellows-Jensen, “*Tingwall: The Significance of the Name*,” in *Shetland’s Northern Links: Language and History*, p. 23.

⁵⁹ Victor Watts, “Northumberland and Durham: The Place-name Evidence,” in *Scandinavian Settlement in Northern Britain: Thirteen Studies of Place-Names in Their Historical Context*, ed. B. Crawford (London: Leicester University Press, 1995), p. 209 [206-213].

⁶⁰ Fellows-Jensen, “Tingwall, Dingwall and Thingwall,” 57.

⁶¹ Fellows-Jensen, “Tingwall, Dingwall and Thingwall,” 57.

⁶² Watts, “Northumberland and Durham,” in *Scandinavian Settlement in Northern Britain*, p. 209.

⁶³ Watts, “Northumberland and Durham,” in *Scandinavian Settlement in Northern Britain*, p. 209.

⁶⁴ Fellows-Jensen, “Tingwall, Dingwall and Thingwall,” 57.

⁶⁵ Watts, “Northumberland and Durham,” in *Scandinavian Settlement in Northern Britain*, p. 206: That the fourteenth-century or earlier form *Vingvell* is unusual is very clear; that it might reasonably be explained away as anything *but* a corrupt manifestation of *Thingvellir* is, however, substantially less clear. Although Allen Mawer, the scholar responsible in the early

twentieth century for what Watts terms “the only reasonably comprehensive published survey of the place-names of Northumberland and Durham,”

⁶⁶ Fellows-Jensen, “Tingwall, Dingwall and Thingwall,” 57: Mawer posited that the evidence that Dingbell Hill had ever served as an assembly site was slim, at best; he asserted, however, that the coining of the place-name might be attributed to Scandinavian settlers who saw in that location a reflection of “the hill in some far-distant place of assembly.” Dingbell Hill, according to Mawer’s theory, may very well have offered to Scandinavian settlers a distant echo of a foundational aspect of their Norse identity, even though voices of assembly were never raised there. This theory is rather hard to prove, as it relies on the absence of evidence to the contrary; if true, however, this supposition would offer additional testimony to the importance of the thing to a coherent sense of cultural self-identification.

⁶⁷ Jones, *A History of the Vikings*, p. 345.

⁶⁸ Miller, *Bloodtaking and Peacemaking*, p. 76.

⁶⁹ See Theodore M. Andersson and William Ian Miller, *Law and Literature in Medieval Iceland: Ljosvetninga Saga and Valla-Ljots Saga* (Stanford: Stanford University Press, 1989), p. 4: “For the time being it is safest to assume that the society of the sagas represents the society the author was familiar with, that is, his own, adjusted to account for the stories and memories of his parents and grandparents, to which there might also be added bits of preserved tradition from the time in which the narrative is set.”

⁷⁰ Melissa A. Berman, “The Political Sagas,” *Scandinavian Studies* 57.2 (Spring 1985): 118 [113-129].

⁷¹ Berman, "The Political Sagas," 113-129. See also Judith Jesch, "History in the 'Political Sagas,'" *Medium Aevum* 62.2 (1993): 210-220.

⁷² Judith Jesch, "History in the 'Political Sagas,'" 211.

⁷³ Judith Jesch, "History in the 'Political Sagas,'" 218.

⁷⁴ Judith Jesch, "History in the 'Political Sagas,'" 217.

⁷⁵ Berman, "The Political Sagas," 113.

⁷⁶ Byock, *Viking Age Iceland*, p. 139.

⁷⁷ Christopher D. Morris, "Raiders, Traders and Settlers: the Early Viking Age in Scotland," in *Ireland and Scandinavia in the Early Viking Age*, ed. H. B. Clarke (Dublin: Four Courts Press, 1998), pp. 82-83 [73-103]. Morris, however, is careful not to conflate the imposition of an earldom upon the northern isles with the establishment of the Kingdom of the Isles in the west.

⁷⁸ Byock, *Viking Age Iceland*, pp. 139-140.

⁷⁹ Byock, *Viking Age Iceland*, pp. 351-353.

⁸⁰ Berman, "The Political Sagas," 126.

⁸¹ Andersson and Miller, *Law and Literature in Medieval Iceland*, p. 22.

⁸² Byock, *Viking Age Iceland*, p. 301.

⁸³ Fellows-Jensen, "Tingwall: The Significance of the Name," in *Shetland's Northern Links: Language and History*, p. 26.

⁸⁴ Fellows-Jensen, "Tingwall: The Significance of the Name," in *Shetland's Northern Links: Language and History*, p. 27.

⁸⁵ Fellows-Jensen, "Tingwall: The Significance of the Name," in *Shetland's Northern Links: Language and History*, pp. 26-27. The operative word being "may;" as Fellows-Jensen quite

rightly points out, suggestive as the evidence for such a case may be, we will probably never know for certain which names were directly influenced by which others, and when.