

HIRÐSKRÁ 1-37, A TRANSLATION WITH NOTES

BY

LAWRENCE G. BERGE *erhard*

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Introduction

Hirðskrá is preserved in nine parchment manuscripts and a number of fragments from the 14th century and in two fragments from the late 13th century; there also exist two Icelandic transcriptions on paper from around 1700 and two translations from the 16th and 17th centuries (cf. NGL II, 389 f.; KLNVI VI, 580). A printed edition and Danish translation of Hirðskrá by Jens Dolmer appeared in 1666. The text found in Codex Tunsbergiensis (NKS 1642 qv) has been published under the title "Hirdskraa i Fotolithografisk Gjengivelse efter Tønsbergs Lovbog fra c. 1320" (Christiania, 1895).

In translating Hirðskrá I have followed closely the edition given in vol. II of NGL. This edition is based on AM 323 fol. with corrections and additions made in accordance with the variants (see NGL II, introduction, p. VII and p. 389 f.). I have compared the text given in NGL with a photographic copy of AM 323 fol. provided by Arne Mann Nielsen of Det Arnemagnæanske Institut; parts of the edition given in NGL I have checked with the manuscript itself and

with a number of the variant codices. While the NGL text gives a fairly accurate and complete transcription of AM 323 fol., the editors' variant apparatus contains a number of inaccuracies and omissions.

In the translation I have occasionally followed the variants where the NGL text seemed meaningless or incomplete. All such departures from the NGL text are registered in the notes. To clarify some of the more obscure passages I have included within the text of the translation an occasional word or phrase in single parentheses. Parenthetical comments occurring in the original version appear in the translation within double parentheses.

(1) HERE BEGIN THE HIRD LAWS OF NORWAY'S KING
AND HIS HIRD MEN.

Our hird laws begin with this¹, that Jesus Christ, the son of God and Our Lady Saint Mary the Virgin, the crucified, the true God and man, the king of all kings, is the source of all authority, all powers of government, and all honour; may he be the guardian and keeper of our lord N, King of Norway, and of all of his liegemen and all Christian men eternally. In the name of this same Jesus Christ our Lord our lawful king of Norway shall command the bidding and banning of his servants and our expeditions at home and abroad², to the glory of God, to his own honour, to our advantage, and in accordance with our needs. Whereas all of the people of the land owe a great deal of allegiance to the crown — and especially we who are his liegemen and chosen from all of the people of the country for the king's hird³ and personal service, and for undeviating fidelity and consummate service in everything which he lays to our charge — and we provoke God's wrath with our oaths and commit a breach of Christian

faith if we fail him in any of this, it is necessary that one take care to avoid those great clouds of delusion by which the greater part of the people of this country have been blinded to such a sorrowful extent that in no other land are there to be found the likes thereof. Various men have wrongfully been taken as king in defiance of the legitimate king, the laws of Saint Olaf the King, and all of those rights which every farmer would like others to respect with regard to his inheritance. Often men of high birth have waited upon those who were scarcely qualified to be their servants. It can still be seen today whether they lost most of their ancestral property, or those whom they called their kings, and likewise with respect to loss of men. Now, so that one need not seek with groping hands to determine who shall rightfully be king over the dominion of Norway, be it known to all of Norway's men that King Magnús, son of King Hákon, established and had entered in a book who it is that shall be the lawful king of Norway according to correct rules of inheritance. And all of the men of Norway, for themselves and for their descendants, ratified and agreed upon this with the king of Norway and his descendants in the proper manner at the þing, and

(they also ratified and agreed) that these ordinances shall forever be in effect as they were formulated then and as they now follow here.

(2) HERE BEGINS THE TABLE OF INHERITANCE CATEGORIES WHICH DESCRIBES HOW THE KINGDOM OF NORWAY IS INHERITED ACCORDING TO LAW.

In the name of the Father and the Son and the Holy Ghost, one God in holy trinity, his servant shall alone⁴ be king over the dominion of Norway, native soil and tributary possessions⁵. Following the death of our king the first inheritance category of Norway's king is that whereby his oldest legitimate son shall alone be king⁶.

The second inheritance category is that whereby the oldest legitimate son of a legitimate son of the king shall alone be king.

The third inheritance category is that whereby he alone shall be king who is the oldest brother of the king, legitimate, and of the same father as the king.

The fourth inheritance category is that whereby he alone shall be king who is the oldest brother of the king's father, legitimate, and of the same father as

the king's father.

The fifth inheritance category is that whereby the oldest legitimate son of a legitimately born brother of the king shall alone be king.

The sixth inheritance category is that whereby he alone shall be king who is the legitimate son of the king's father's brother and whose father was legitimate and of the same father as the king's father.

The seventh inheritance category is that whereby the oldest son of the king shall alone be king, even though he be illegitimate. He must not, however, be conceived in whoredom or through incestuous relations with a person who according to law is too closely related by blood or by marriage. The king himself shall have acknowledged his paternity and personally informed honest men concerning the likelihood thereof on account of his sexual relations with his (the son's) mother. The time when the child is born must tally with the appropriate reckoning, and the mother must not have named two fathers to the child in the manner described in the law book for such cases. They who are informed shall not conceal this knowledge any longer than one month unless they fear persecution, in which case they shall inform one or another honest person in

order that testimony might be given if needed.

The eighth inheritance category is that whereby the oldest legitimate son of a legitimate daughter of the king shall alone be king if none of the others (those closer in line to the throne) are to be found.

The ninth inheritance category is that whereby he alone shall be king who is the oldest legitimate son of a sister of the king and whose mother was legitimate and of the same father as the king.

The tenth inheritance category is that whereby he who is the king's oldest legitimate male second cousin by agnatic relation, and whose father and father's father were legitimate, shall alone be king if none of the previously enumerated persons are to be found.

The eleventh inheritance category is that whereby he alone shall be king who is the oldest legitimate son of either a sister of the king's father who was legitimate and of the same father as the king's father, or a brother of the king's mother who was legitimate and of the same father as the king's mother.

The twelfth inheritance category is that whereby he alone shall be king who is the oldest legitimate son of a sister of the king's mother. His mother and the king's mother must have been legitimate, of the

same father, and of proper royal extraction.

Now if none of the previously enumerated persons are to be found, then he shall be king of Norway, the oldest person alone, whose inheritance category comes next according to that which is indicated in the land book in the ordinary table of inheritance categories.

(3) HOW ONE IS THEN TO CHOOSE IF NONE OF THE AFOREMENTIONED PERSONS SPECIFIED IN THE TABLE OF INHERITANCE CATEGORIES ARE TO BE FOUND?

AND

Now if it should fall so heavily to our lot that none of these persons are to be found⁸, then the duke or the earl, if they are to be found, and all of the bishops and abbots, and all of the barons⁹ and hird-leaders¹⁰ along with the entire hird shall consider themselves summoned north to Niðaróss¹¹, to the Holy King Olaf, for a conference with the archbishop. And each bishop¹² shall appoint from his diocese twelve of the wisest men¹³, and they shall be on their way within a month after learning of the king's decease. Each bishop and steward shall leave men in charge of defense with the farmers to guard the country against thieves and rabble, as many land-holders and stewards (shall be

left in charge of defense) in each district as they consider appropriate. Those who remain behind shall be equally entitled to act as overseers in the stewardships of other men as in their own, but they are traitors to the king if peace is not maintained in the land due to their negligence. And when they who have been appointed arrive there in the north, then they, the laymen, shall proceed to make a decision, bound by sworn oath that they shall take that person as king whom they consider before God to be most suitable¹⁴. And for this oath the bishops shall bear as great a responsibility before God, although they do not swear, as the others who swear that they shall make an honest decision in this matter in accordance with that which God enables them to perceive as most correct¹⁵. And if they disagree, then those persons shall prevail who are superior in numbers and intelligence, and with whom the archbishop and the other bishops are in agreement, and they shall confirm this with their oath¹⁶. Now if anyone allows himself to be taken as king in any other manner than that which is described here, then that person has forfeited his possessions and his peace¹⁷, he shall be under the ban of the pope and all of the saints, and he and whoever supports him in this shall lose his

right to burial in hallowed ground. Now if the hird-leaders or the hird should neglect to make this northward journey, then they are traitors to the king, unless exigencies arise which prevent their leaving. And similarly every farmer who neglects to make this journey is required to pay a fine of thirteen merkr and eight ertogar to the king. The king shall assess these exigencies with the advice and supervision of men of sound judgment. Each person shall undertake this journey at his own expense, but the king shall reimburse all who do not already have royal property in their keeping or a fief or a stewardship from the king.

(4) WHAT MAY BE INHERITED BY WOMEN OF ROYAL EXTRACTION AND BY MEN WHO ARE INCLUDED IN THE TABLE OF INHERITANCE CATEGORIES BUT ARE NOT OF PROPER ROYAL EXTRACTION 18.

If a daughter or a son's daughter, mother or sister, or any of the other women included in the table of inheritance categories given in the land book are to be found, and if those men who are included in the table of inheritance categories given in the land book and who are not of royal extraction are to be found

are to be found¹⁹, and if those women or those men are close in line by reason of kinship to some other inheritance than that of the kingship, then each shall inherit in accordance with what is indicated in the ordinary table of inheritance categories. But to clarify this, they may first inherit those real properties which the king inherits from his kinsmen, or those which he buys with moveable property, and for which he has neither sold nor exchanged royal lands. They shall also inherit the moveable property and valuables which do not belong to the crown, unless the king has made other arrangements in the presence of trustworthy witnesses and with tokens thereof²⁰, arrangements made for the sake of his honour and salvation and that of his most devoted men, arrangements preferably made while well rather than ill. And it is highly advisable that each attend to his welfare and that of his most devoted men during his lifetime, for uncertain is the friendship or solicitude of another after one is dead, even though he be deeply indebted to one²¹. There are also to be found sufficient examples of heirs who have reduced rather than added to estates which were previously held by others and which often were obtained through exposure

to extreme danger or various forms of adversity, the examples of which are legion.

(5) THE TAKING OF THE KING AND THE FORMULA FOR THE KING'S OATH ARE DESCRIBED HERE.

It shall now be told how that person is to be taken as king whom God has mercifully given us as our ruler and lord and arranged to inherit in accordance with the correct inheritance category the patrimonial estate. This should preferably take place on a holy day²² or a sunday, unless some emergency should render this impossible. As soon as the most distinguished men have assembled a ping shall be summoned in accordance with traditional practice, but there shall be a meeting of the hird before the ping convenes in order to deal with those matters which then seem most pressing. The prospective king shall speak, or allow a speech to be given, thanking all of the men for coming there. And he shall promise to all such ranks and titles as they previously enjoyed, and in accordance with the recommendations of the most distinguished men, and with regard to their ability to serve, he shall promote all who seem worthy thereof. One shall then discuss how the entire

hird shall prepare themselves in the most becoming manner for the ping in order that their entire deportment might be as stately as possible. On the day on which the ping is to be held the horn shall be sounded very early in the morning, summoning the people to the ping, and then the entire hird shall take on full battle dress and prepare themselves as honourably as possible, each according to his means. Then the prospective king shall have the mass de Spirito sancto sung for him along with the following collect: Deus, in te sperancium fortitudo. De domina. De sancto Olavo. De omnibus sanctis. After the mass the prospective king shall go to the altar and pray with all his heart for the mercy of God and the intercession of Saint Mary and Saint Olaf the King. Then he shall receive while kneeling the blessing of the bishop. After this the holy cross and other holy relics²³ shall be brought forth. The procession shall then follow behind the holy cross and other holy relics. All of the men who are able shall proceed to the place where the ping is to be held²⁴. Attractively prepared high-seats shall be set up there. One of them, however, shall be higher and finer than the rest and placed in the middle, and no one shall sit in it. The prospective king shall sit

on the steps down in front of the highest high-seat, and the other noblemen shall sit in the other high-seats flanking him²⁵. As soon as the ping is convened and in session the most noble person available, regardless of whether he is a cleric or a layman²⁶, shall confer upon the prospective king the title of king with the following words: "The title of king which God grants you, which you were born to, and for which you have in accordance with the laws of Saint Olaf the King been appointed by the people of this land, I confer upon you ((and he shall say the name of the prospective king)) N, on behalf of God and all of those who are subject to your authority, with the honour and sovereignty which this entails over all of Norway and her tributary possessions. In the name of the Father and the Son and the Holy Ghost. Amen." At the completion of all this the bishops and land-holders, hird-leaders and lawmen shall arise and lift the king up into his high-seat, and the clerics shall sing Te Deum, while the laymen shall sing Kyrie eleison, to the glory and the honour of God.

(6) CONCERNING THE OATH CONTAINED IN THE KING'S PLEDGE.

And in order that the king might realize all the more fully his obligation to observe the laws in his relations with his subjects and to improve them, he shall promise and fully confirm the following after he has been made king: "This I promise to God and his saints and to those his people over whom I am unworthily placed, that I shall abide by those Christian laws which Saint Olaf the King introduced — and which his rightful successors have hitherto accepted — to govern by mutual consent the relationship between the king and the country's inhabitants, and I shall amend those laws in counsel with good men and in accordance with the understanding which God grants me." The king is required to keep this promise, not only with regard to those persons who are there at the ping with him, but further with regard to all who are the king's subjects, born and unborn.

(7) CONCERNING THE OATH OF THE DUKE AND THE EARL.

Then the duke or the earl shall swear the follow-

ing oath if they are present, or if they are not present, then they shall swear this oath as soon as they arrive in the king's presence: "I swear before God and with my hand on these holy relics, that I shall be loyal and true to my lord N, King of Norway, both secretly and openly. In conformity with the terms which he stipulates for me I shall faithfully retain that part of the country which he places at my disposal, and in all respects I shall show him all of the allegiance which a good duke/earl ought to show a good king. I shall also observe, in accordance with the understanding which God grants me, those oaths which he has sworn to all of the people of this country. May I enjoy God's favour if I tell the truth, incur his wrath if I lie."

(8) THE OATH OF THE LAND-HOLDERS.

The barons and hird-leaders shall swear the following oath: "I swear before God and with my hand on this holy book, that I shall be true and loyal to my lord N, King of Norway, both secretly and openly. I shall support him and his kingdom with all of my counsel and all of my powers. I shall also observe, in accord-

ance with the intelligence which God grants me, those oaths which he has sworn to all of the people of this country. May I enjoy God's favour if I tell the truth, incur his wrath if I lie."

(9) CONCERNING THE OATH OF THE LAWMAN.

The lawman shall now, or whenever the king desires, swear the following oath: "I swear before God and with my hand on this holy book, that I shall be loyal and true to my lord N, King of Norway, both secretly and openly. I shall also promulgate among those people whom my lord places within my jurisdiction those laws which Saint Olaf the King introduced — and which his successors have hitherto accepted — to govern by mutual consent the relationship between the king and the country's inhabitants. And in all cases concerning which the law book is not specific I shall judge everyone's case in the manner for which I desire to be held accountable before God on judgment day and in accordance with the intelligence which God grants me, guided however by the counsel of the best men present at that time. Thus I shall judge with respect to rich and poor, young and old, friend and foe²⁷ alike. May I enjoy God's favour if I tell the truth, incur his wrath if I lie."

(10) AND THIS IS THE OATH OF THE FARMERS.

And in order that the farmers and common people might realize the more fully their obligation to submit to and obey the king of Norway, as many of them from each province as the king desires shall swear to him the following oath: "I swear before God and with my hand on these sacred relics, that I shall be loyal and true to my lord N, King of Norway, both secretly and openly, with all of my might and main, such as a good subject ought to be toward a good king. I shall discharge all of my legal obligations as a liegeman in conformity with all of those laws and rights which were established by Saint Olaf the King to govern by mutual consent the relationship between the king and the farmers. May I enjoy God's favour if I tell the truth, incur his wrath if I lie." By this oath I declare myself bound, as well as all of those persons, born and unborn, who are the king's subjects and entitled to enjoy the benefit of his oath." It is not only those who swear this oath who are required to abide by it, but rather all of those persons who are his subjects, born and unborn, for the king of Norway is under no less obligation to support the rights of those who remain at home than of

those who are there at the ping with him. And all of the people of this land likewise owe him complete fidelity, even though they do not all swear the oath of allegiance. This too everyone knows, that the king is under no less obligation to secure justice for the child which is born in the last years of our king's life, than for the man who swore an oath to him at the first ping. And complete fidelity is the equal obligation of all who wish to enjoy the benefit of the law and be worthy of doing so. The king and bishops, clerics and barons, and all of the common people shall follow the holy cross and sacred relics back to the church. Then the king shall go to the altar and all of the most worthy men shall follow him. The king shall entertain on that day in the manner befitting the royal estate²⁸.

(11) CONCERNING THE KING'S LIEGEMEN.

On the following day the king shall have the horn sounded, summoning all of the liegemen to a conference. All of the men shall at that time pledge their allegiance and swear oaths, but none of those who previously were liegemen shall do so a second time. Neither the land-

holders nor the pages shall receive their titles in any other manner than that whereby they all become the king's oath-bound sword-takers; each (group) of them, however, shall have their titles in accordance with the same ranks. But if any of them have committed an offense against the crown, then that shall be dealt with in accordance with the law and the instructions of the king, instructions issued with mercy and in counsel with good men.

(12) THE KING SHALL INSTALL A DUKE IN HIS HIRD IN THE FOLLOWING MANNER.

Now if the king, with the advice of good men, installs someone as a duke with domestic jurisdiction, someone however who is of proper royal extraction and legally entitled to this distinction by birth, then the following procedure shall be observed, should there be occasion for it. When in order to secure for himself honour and assistance the king installs a duke, he shall have the horn sounded, summoning all of the men of the place where he happens to be to a ping. When the ping is in session the prospective duke shall seat himself on the step before the king's high-seat. Then

that person whom the king appoints shall first speak concerning those things which seem most appropriate. Then the king himself shall arise and with such words as here follow confer upon him the title of duke:

"This title which I bestow upon you, ((and he shall say the name of the prospective duke)) N, on behalf of God and in pursuance of the authority which he has granted me, this I give you with good will. May God himself add to this his mercy in all of those instances in which he considers you worthy thereof. I give you this title especially for the sake of his glory and my honour and assistance, for your advancement and prosperity, and for the peace and happiness of all of those persons whom I, in accordance with the dispensation of God, place under your authority." After he has been given the title of duke the king shall take him by the hand and seat him in the high-seat beside himself. The king shall present him with a sword, placing it in his hand. By this he shall know that he holds his dukedom as a royal grant, and that he is the king's sword-taker, committed to the promotion of justice, to the punishment of injustice, to the assistance of the king, and with his counsel, his power and his position, to the king's protection and honour wherever he might be of service.

Then the king shall present him with a standard, signifying that the king requires all of those persons whom he places under his authority to be submissive and compliant toward him regarding all of the things mentioned above in connection with the duk^e's taking of the sword, and to support and strengthen his dukedom in every way in these matters, and to show him all of the obedience required by law. Both of these things the king shall present to the duke standing. Then the duke shall step forward and swear an oath on the sacred relics in the manner prescribed by law, using the oath formula given above following the oath of the king.

(13) CONCERNING DISTINCTIONS AND PROPER CONDUCT IN CONNECTION WITH THE TITLE OF DUKE.
 CONNECTION WITH

Those distinctions which attend the title of duke will now be discussed. The duke shall have a standard before him, regardless of whether he is riding to town or rowing, unless the king is in front of him. The duke may, if he likes, have an escort of four men when he is near the king, but he may never, even though the king increases his own escort, and regardless of whether he is near the king or far from him, have more

than six, unless exigencies arise which necessitate a security force, one however which does not present a threat to the king's safety. The duke shall have independent authority to collect fines — in accordance with the law and with mercy — in that part of the country which the king assigns him, but he shall not conscript a larger levy than the king, unless the king gives him permission in consideration of one or another emergency²⁹. And he shall not give away those lands which the king seizes him. He may put in seizin whatever lands he desires as long as they are under his authority. Nor shall he have more liegemen than the king and men of wisdom deem appropriate. But if the duke increases his hird after the king has forbidden him to do so, then all of those who subsequently swear are traitors if they know of the king's interdict. The duke shall not leave the country unless he has the king's permission. With none of those men of rank shall he be in agreement with whom the king is at odds in matters comprehended by law. The duke shall not retain against the king's wishes those men whom the king is angry with. Now if it should come to pass that war breaks out in this country, then the duke and all of his men are under obligation to the king in all emergencies. The duke might also have to contend with

a legitimate state of emergency; then the king shall lend him as much support as good men consider most expedient. And whenever the king and the duke and their men are together in time of war they shall be to one another as if they were all of one company. The duke is also required in time of peace and in time of war to go on those missions which the king has reason to ask of him and which the king is willing to send his own men on, men whom the duke considers satisfactory. Guard duty and all other scouting activities the duke's men shall share on a par with the king's men in proportion to their (combined) numbers, and likewise in all cases when the duke is with the king and lots are cast and something is divided up according to a correct count of the men. In every port the king shall have the first berth. The duke shall be loyally and faithfully mindful of his king and be wary of the utterances and advice of enemies. If it should come about that the king accuses his duke of treason or breach of faith, then that shall be judiciously investigated and not angrily or impetuously punished. But if he denies this and is confident that he has not been guilty of any lack of fidelity, then he shall offer hostages to assure a just investigation and then the matter shall be judiciously investigated with the counsel of good men and in conformity

with the law. And if the duke, without a legally adequate excuse, refuses to come to the king, even though the king offers hostages or formally requests his presence, or if treason on the part of the duke is verified, then he shall be judged guilty. And if he is convicted, then anyone who serves in his escort or wilfully obeys him thereafter shall suffer inexpiable banishmen.

(14) THE DISTINCTIONS WHICH SHALL ATTEND THE TITLE OF EARL.

A subject will now be discussed of which some people might be more ignorant than is to be expected or is appropriate, namely that of the earldom here in Norway and the title of earl. But men are able to discern that there are three³⁰ ways in which Norway's king has presented men with the title of earl in Norway. This is the first way, when the king of Norway gives the title of earl to his legitimate sons, and sometimes to his legitimate brothers or near relatives by marriage, and seizes them on the terms which he establishes as much land as he desires in whatever part of the realm he

desires. And though some persons have wrongfully refused to accept this, such lands are by no means heritable. This is first of all evidenced by the fact that this kind of earldom is not heritable, and it has not been heritable. Of this there is ample proof. Secondly, there is nowhere in the country any land especially reserved for the earldom, on the contrary the kings have seized land to the earls in whatever part of the country they have seen fit, sometimes in Frostupingslög, sometimes in Gulapingslög, sometimes Vikin, quite frequently in Upplönd, and sometimes in all parts of the country, the smaller parts included. And quite often the king^s have taken back property from the same earl to which it was seized in one or another part of the country and provided him with property somewhere else, in a place which the king thought more suitable. Today too there is nowhere to be found at any place in Norway a farmstead, a piece of land or an allodium which is especially reserved for the earldom; on the contrary they have each had property to such an extent and on such terms as the king has seen fit. This is the third (reason for denying the heritability of lands seized to earls), and that which men of wisdom consider most important, that intelligent

kings have often discovered falsity on the part of the earls, sometimes toward themselves and sometimes toward their forefathers, and for this reason it is most correct that the king has the authority to honour and advance most from (the resources of) his patrimony that person whom he finds most loyal and most willing to do his bidding, both at home and abroad, for the entire country is his property and his allodium, and it is not so certain that things would be better if anything else were tried. The fourth (reason for denying the heritability of lands seized to earls), and that which is most obvious, is this, that often there has been no earl here in Norway for long periods of time, and that has been a comfort to the common people, for seldom has the position of the little man improved as a consequence of his having many superiors at one time.

(15) CONCERNING THE SECOND KIND OF EARLDOM: OVER
TRIBUTARY POSSESSIONS.

The second kind of earl's title is that which the king of Norway gives to those men whom he places over his tributary possessions. First the Orkney Islands,

(over which an earl is to be placed) in accordance with the terms given in the treaty of King Sverrir and Earl Haraldr, and with those other special provisions which appeared in the agreements of King Magnús Hákonarson and Earl Magnús Gillibertsson when they were reconciled in Björgvin in the third year of the reign of King Magnús Hákonarson, when twelve hundred and sixty-seven years had passed since the birth of our Lord Jesus Christ. And if the king, through God's dispensation, with the advice of good men, and on such terms as the king desires, invests an earl over Iceland, then in this case as well as the other he shall have recourse to the following procedure, which describes how the earl shall be invested according to law, and to everything else of relevance in what comes after.

(16) THE PROCEDURE ACCORDING TO WHICH THE KING SHALL INVEST AN EARL.

When in order to secure himself honour and assistance the king invests an earl, he shall have the horn sounded, summoning all of the men of the place where he happens to be to a þing, and when the þing is in session the prospective earl shall seat himself on the

step before the king's high-seat. Then that person whom the king appoints shall first speak concerning those things which seem most appropriate. And after that the king himself shall arise and confer upon him the title of earl in the following words: "This title which I bestow upon you, ((and he shall say the name of the prospective earl)) N, on behalf of God and in accordance with the authority which he has granted me, this I give you with good will. May God himself add to this his mercy in all of those instances in which he considers you worthy thereof. I give you this title especially for the sake of his glory and my honour and assistance, for your advancement and prosperity, and for the peace and happiness of all of those persons whom I place under your authority in accordance with the dispensation of God." After he has been given the title of earl the king shall take his hand and place him in a high-seat a good distance out to the side of his own high-seat. The king shall present him with a sword, placing it in his hands. By this he shall know that he holds his earldom as a royal grant, and that he is the king's sword-taker, committed to the promotion of justice, to the punishment of in-

justice, to the assistance of the king, and with his loyal counsel, his power and his position, to the king's protection and honour wherever he might be of service. Then the king shall give him a standard, signifying that the king requires all of those persons whom he places under his authority to be submissive and compliant toward him regarding all of the things mentioned above in connection with the earl's taking of the sword, and to support and strengthen his dukedom in every way in these matters, and to show him all of the obedience required by law. Both of these things the king shall present to the earl standing. Then the earl shall step forward and swear an oath on the sacred relics in the manner prescribed by law, using the oath formula given above following the oath of the king.

(17) THE DISTINCTIONS WHICH SHALL ATTEND THE TITLE OF EARL.

The distinctions which attend the title of earl will now be discussed. The earl shall have a standard before him regardless of whether he is riding to town or rowing, unless the king is in front of him. The

earl shall have an escort when he is not near the king, but never shall he have more than six men. The earl shall have independent authority to collect fines, mercifully and in accordance with the law, in the part of the country which the king assigns to him, but he shall not conscript a larger levy than the king unless the king gives him permission in consideration of one or another emergency. The earl shall not give away those lands which the king seizes him. He may put in seizen whatever lands he desires as long as they are under his authority. Nor shall he have more liegemen than the king and men of wisdom deep appropriate. But if the earl increases his hird after the king has forbidden him to do so, then all of those men who subsequently swear are traitors if they know of the king's interdict. Nor shall the earl leave the country unless he has the king's permission. With none of those men of rank shall the earl be in agreement with whom the king is at odds in matters comprehended by law. Nor shall the earl retain against the king's wishes those men whom the king is angry with. Now if it should come to pass that war breaks out in this country, then the earl and all of his men are under obligation to the king in all emergencies. The earl might also have to contend

with a legitimate state of emergency, then the king shall provide him with as much support as good men consider expedient. And whenever the king and the earl and their men are together in time of war they shall be to one another as if they were all of one company. The earl is also required in time of peace and in time of war to go on those missions which the king has reason to ask of him and which the king is willing to send his own men on, men whom the earl considers satisfactory. Guard duty and all other scouting activities the earl's men shall share on a par with the king's men in proportion to their (combined) numbers, and likewise in all cases when the earl is with the king and lots are cast and something is divided up according to a correct count of men. In every port the king shall have the first berth. The earl shall be loyally and faithfully mindful of his king and be wary of the utterances and advice of enemies. If it should come about that the king accuses his earl of treason or breach of faith, then that shall be judiciously investigated and not angrily or impetuously punished. But if he denies this and is confident that he has not been guilty of any lack of fidelity, then he shall offer hostages to assure a just investigation, and then the matter shall be judiciously investigated with the counsel of good

men and in conformity with the law. And if the earl, without a legally adequate excuse, refuses to come to the king, even though the king offers hostages or formally requests his presence, or if treason on the part of the earl is verified, then he shall be judged guilty, and anyone who serves in his escort or willfully obeys him thereafter shall suffer inexpiable banishment.

(18) HOW THE KING SHALL INVEST A LAND-HOLDER.

It will now be discussed how the king shall invest a land-holder. The king shall invest a land-holder during the Christmas season or at Easter, or on one of the more important holy days, for such is an old custom. And this is to be done after the table prayer has been said and the food has been blessed and before the king seats himself in his high-seat. The king shall then have the following announcement made to all of the men in the hall or hird-chamber before he seats himself at the table: "If it please you concerning this man ((and he shall say his name)) N, whose reputation among most of you is good, the king, for the sake of his services, wishes to show him to a seat of

honour and accord him the highest distinctions within the hird, those attending the title of land-holder. The king gives him, completely through the mercy and authority of God, the full legal status connected with the title of land-holder, together with the distinctions of the land-holder and a benefice commensurate with the land-holder's status, and that is a fifteen merkr benefice." Then the king shall call upon two land-holders, or if there are no land-holders present, then two marshals, standard bearers, cup bearers or table stewards, or two of the most distinguished men within the hird, and ask them to lead that man forth to him in front of his high-seat. The king himself shall then take him by the hand and lead him to the bench at his right and seat him with the other land-holders. But the land-holders are rightfully required to sit such that he who has held his title longes sits closest (to the king), and thereafter each according to how long he has been a land-holder. And this arrangement must be observed regardless of where they assemble.

(19) WHAT STATUS AND WHAT MANNER OF BENEFICE THE LAND-HOLDERS SHALL HAVE.

The land-holders shall occupy the position with respect to the king³¹ of being, next after the duke and the earls, the most frequently consulted and most influential³² of the king's counselors, and likewise within the hird in all matters of major importance. The land-holders shall also be in the king's escort on the greater holy days. They shall be the first to wear the king's coronation sword³³ if he wears a crown or garland, unless it is worn by a duke or earl. And since they are to be the king's~~most~~ influential advisers it behooves them to be the most loyal, both secretly and openly, and to be thus above others in this as well as in distinctions and rank. Land-holders shall also have the authority to secure men called housecarls for the support of themselves and for the strengthening of their king. They shall not number more than ~~four~~ forty without the king's consent. No landholder has the right to appropriate or to lease out any of the property which falls to the king as a result of (as punishment for) evil deeds, full-confiscation crimes³⁴ or banishment crimes (committed) in the area where — should the king see fit to grant him a stewardship — he has his fief. Nor shall any man forfeit his property or his allodium to anyone other than God

and the king.

(20) IF THE KING ACCUSES A LAND-HOLDER OF TREASON.

If the king accuses his land-holder of deceit or treason, and if a lawful investigation of his case is not attained, then he shall defend himself in the manner prescribed in the land law. It behooves the king in all cases to conduct a just inquiry, and especially where his sword-takers and servants are concerned. He must not deal out punishment impetuously or in anger, nor lose his temper over matters which have not been investigated, but rather be careful as to who he invests with titles or other distinctions and then provide well for all who do not spoil things for themselves. But if the king accuses his land-holder of treason or deceit, and if the land-holder denies his guilt and a settlement is not reached with but a few men, then the king shall try the case at a meeting of the hird. The king may not rightfully refuse his land-holder a meeting of the hird to settle his case with a fair trial if he seems to have a good case to defend. Twelve of the most discerning men shall then be appointed to consider whether or not

the land-holder might rightfully be convicted of this, and if after investigating this case they believe him capable of proving his innocence, then the king shall not refuse to let him do so. He shall offer a proof which conforms to the laws of Saint Olaf the King and which good men in counsel with the king himself consider appropriate. Land-holders shall not leave their king without his approval, and least of all in a pressing situation or in time of war, unless they are compelled by either illness or old age. In such cases the king ought not retain him against his will, even though the king be in dire need. If the king learns of an outbreak of hostilities and sends word to his land-holder asking him to come to him, and if he then neglects to make that journey, then that is manifest treason, unless he is sick or injured, and the same applies if the king bids him to proceed with his forces against his enemies and to be out in front, unless he is confronted by a force so superior that knowledgeable men consider it futile. If reliable reports concerning the approach of an army reach the land-holder, then he is required to notify as many as he can of the king's men and subjects if there is an outbreak of hostilities. The hird men

and guests and candle bearers and all of the king's men are under this same obligation if they are the first to get word, but if someone refuses to spread the news or to have someone else do so, and if this results in the death of one of the king's men, then he who would not warn a fellow member of the hird when his life was endangered is a nieingr and ipso facto dismissed from the hird, regardless of rank, providing that he could have done so. But if he is able to deny his guilt, then he shall acquit himself in accordance with the prescriptions of the king and the hird.

(21) CONCERNING THE CHANCELLOR AND HIRD PRIESTS.

The chancellor shall be one of the king's most influential advisers within the hird. He shall have the same status and rank^k as the land-holders with respect to seating as well as other honours due him. It is the special responsibility of the chancellor to assiduously care for the king's seal and to write those documents which the king dictates to him. He must also take constant care to personally examine

the documents at the time of their sealing, for that is extremely important, and most of all to him. He shall adhere as diligently as possible to the prescriptions of the king. He shall also record as accurately as possible the properties which are purchased or which fall to the crown, stating why and from whom they are acquired, as well as the land which the king gives or seizes to various men, and he shall state the year anno gratiae in which this is done. He shall also, under the direction and control of the king, see that the king's rent records are correct: that that is charged which ought to be charged, and that that is collected which ought to be collected. He shall go on those missions within the country and abroad which the king bids him to go on and which he considers necessary. He shall assist the king as best he can in all that is good. And this was established by King Magnús Hákonarson: The chancellor shall first of all be granted a ten merkr farmstead for (preparing) the documents of all of the men who are in need thereof for the legal enjoyment of various rights, and he shall further have, in addition to what he receives for the documents which are redeemed, a five merkr farmstead; for each document he shall receive the amount indicated

in the document book. The king shall invest the chancellor in the following manner. He shall first have the horn sounded, summoning all of his liegemen to a meeting of the hird. Then the king shall have announced that he is presenting this man N with his seal, together with those honours which this entails. He shall then kneel before the king and swear to him the oath of fealty using the following formula: "I swear before God and with my hand on this holy book, that in accordance with the understanding which God grants me I shall be loyal and true to my lord N, King of Norway, openly and secretly, wherever he happens to be, and I shall keep secret that which the king asks me to keep secret, so help me God and the holy words on which I hold my hand." Now it is especially for this reason that the king ought to take care in choosing a man for this office, that he is so to speak the king's second confessor, for the king tells many things to him which he would tell to very few others. It also behooves the king to have at his residence two hird priests, well-informed men whose wisdom has been proven, to hold services for the king, to hear the confessions of the liegemen and perform for them any other rites connected with this, and to humbly assist

the king wherever they are able. It is particularly expedient that one of them has charge of the hours in the king's chapel while the other cares for his vestments and books. They shall also be on more confidential terms with the king than the other priests and the lesser clerics. They should preferably be chosen from among the king's men and be thoroughly distinguished. They shall receive a five merkr benefice from the king, and shortly before Christmas two articles of clothing. In conformity with ancient custom they shall receive a third of the liegemen's tithes, and this they shall divide equally between themselves. For it is the ancient practice and pledge of the Birkibeinar to pay a tithe from their income,³⁵ both hird men and guests, and to divide it in three portions: all of the bishops receive one portion, divided equally among them, and the king's men shall acquire in return the right to burial in the customary places; the priests shall receive the second portion for their services, and the third shall go to Varna hospital³⁶.

(22) HOW THE KING SHALL INVEST A MARSHAL

The marshals rank next within the king's hird to the land-holders and the chancellor with respect to every distinction, and they are entitled in full to the same legal status as that which the land law and ancient custom prescribes for the land-holders. The king shall perform the installation after the table prayers have been said by first having announced before all of the men that he grants such a title to this man together with the distinctions which this customarily entails. Then the king shall have two of the pages bring him forth; he (the king) shall take his hand and escort him to the marshal's seat and then return to the high-seat. This obligation attends the title of marshal, that at the king's bidding, in the king's service and within the hird, the marshal shall communicate everything the king asks him to at both public assemblies and meetings of the hird. The marshal shall be in the king's escort and plead on the king's behalf those cases which the king lays to his charge. He is also obligated to speak to the king on behalf of the hird men concerning all matters of great urgency. It is further his duty to

be present at all meetings of the hird and of the guests and to settle all disputes to which he is appointed by recommendation of the king. The marshal, together with the men whom the king assigns to this work, and in accordance with the proper arrangements, shall secure the riding horses whenever the king travels about the country and whenever there is need for them. If it should please the king to provide his marshals with stewardships or other benefices, and if he sends them away, then they are nevertheless under the same obligation to the king and the entire hird, for the same distinctions attend their title, along with the obligation, as soon as they return.

(23) HOW THE KING SHALL INVEST THE STANDARD BEARER

The standard bearer ranks next within the hird to the marshal, and it therefore behooves the king to be especially careful who he chooses for this work and service. The king shall invest the standard bearer in the following manner. He shall have the horn sounded, summoning all of the liegemen to a hird meeting, and have his banner tied to the staff. Then the king shall have a marshal announce that he (the

king) is giving this man this title along with the customary distinctions, and this amounts to the legal status of the land-holder and the marshal as defined by the amendment of King Magnús Hákonarson. Then the king shall take the banner-staff in hand and present it to the standard bearer. He shall kiss the king's hand when he receives the standard, and then carry it to the place where it is to be kept. And it is the special function of the standard bearer in both war and peace to carry the king's standard whenever the king asks him to. It is his duty to attend with the marshals all meetings of the hird and guests and all of the king's men and to settle all of their disputes within the hird in accordance with the requests and recommendations of the king. He shall further help the king as much as possible whenever he can and whenever the king asks anything of him, both when they are together and when they are far apart. It is also the special obligation of the standard bearer to sleep at the same residence as the king and to always be aboard the king's ship when the king is sailing along the coastline.

(24) HOW THE KING SHALL INVEST PAGES

The pages rank next within the hird to the standard bearers in terms of their titles and their entire legal status, for they are rightfully called hird-leaders along with the land-holders and marshals and the standard bearer. There is furthermore in all of the king's hird no form of service more honourable or more refined than this for the one who will render it honourably and consciously endeavor to learn it and attend to it with heedfulness and care. It ever and always behooves and becomes anyone who wishes to be regarded as polite and well-mannered to attend to and consider how he might conduct himself in every particular in such a manner that he might the more readily be recognized as a man of rank and count as a man of good breeding. Better it is for the person who will not do his work carefully to occupy a rank in which little attention is paid to him than to seek those ranks with their distinctions in which he will be humiliated by the scorn and ridicule of many men. But it is a fortunate man who advances to a place of honour by doing his work well, and who is then proficient in his tasks and in loyally serving his lord. The procedure hitherto employed for

the investment of pages is both ancient and honourable. While the king is seated at the table, and after the food has been removed and the wash basin presented, the king shall have the cup bearer summon before him the person upon whom he wishes to confer this title, and the cup bearer or table steward or one of the pages shall bring in an empty vessel equipped with a lid and place it on the table before the king. The king shall take the vessel by the base and present it to the person who is to be invested, and he shall take the vessel with both hands under the base, kiss the king's hand, and then withdraw and serve the king his drink. The pages should not kneel before anyone but the king and those men of rank whose drink he serves at the king's behest from a lidded vessel. It would be unjust to regard this as ostentation, it should rather be considered moderation that everything is done in due proportion and that it is thus possible to determine from the behaviour of the servants the rank and dignity of the men in authority.

(25) CONCERNING THE STATUS AND OBLIGATIONS OF THE PAGES.

The service of the pages involves the the obligation

to attend the king, two at a time for a period of seven days, with those who are oldest serving first. It is most appropriate that they who are oldest always be first, and it behooves everyone to conduct themselves in this manner at all times within each of their respective ranks and within all of the orders. The pages shall bid the land-holders and marshals to do escort duty on holy days. (Hird men shall also be bidden, so that there are twelve men, including the land-holders and the marshals, in the escort, and thus it shall always be on the more important holy days.)³⁷ There shall likewise be twelve hird men in the escort, even though the land-holders and marshals do not serve, on every day during the Christmas season except the holy days. But we do not name the holy days on account of the irregularity of the king's journeys. It may also occasionally happen that the king holds a large banquet on behalf of men who, as often happens, come from faraway lands, and consequently they who are in attendance must take care to ask the king when he wishes to have his escort increased. And further, even though new hird men are bidden, there should nevertheless be some of the older hird men in the escort, for no one is at one and the same time both

young and old. During the intervening periods the escort shall always consist of six men, and though the candle bearers occasionally serve, there shall nevertheless always be one or another of the hird men in the escort. They shall further bid persons who are obliged and able to serve and who are the oldest, regardless of whether they are hird men or candle bearers. And they shall bid men who are not incapacitated by sickness. A hird man shall have been with the king for one night before he is bidden to serve in the escort. The pages are required to ask the standard bearer beforehand whether there is anyone there within the hird to whom the king is opposed; and likewise if any of those persons with whom the king is angry come to the village, then they shall not be bidden to do escort or guard duty. The bidding of men for escort and guard duty and the explanation of their duties shall take place early in the day, no later than the time at which the king goes to the table; but if the bidding occurs later, then he who bid later or incorrectly shall himself serve, and he who was incorrectly bidden shall not serve at this time unless he wants to. And this is to be confirmed

by those two persons who were present. There shall always be two persons present when men are bidden to do escort or guard duty. Aboard ship guard duty shall be performed in the same manner, but when the king is lying in the harbour or comes to the harbour late, then bidding shall be done as soon after arrival as possible. It may also come to pass that the king is sailing or rowing or riding at night. They who are on duty that night shall then be credited with a full period of guard duty if they are in the same ship or the same company of riders as the king. They will not have to bear the charge that others did guard duty with them if they do this as best they can, both as regards keeping to open water when aboard ship and keeping watch when on land, and in carrying out whatever they undertake. But they will be credited with full guard duty only if they are as near to the king as previously stipulated. In time of war the pages are required to stand guard along with the other men in proportion to their numbers. Those whose responsibility it is to wait upon the king are (not)³⁸ required to stand guard while they are in attendance, but they shall stand guard afterwards in accordance with the results of casting lots.

(26) CONCERNING THE KING'S TABLE STEWARD AND CUP BEARER.

The next thing to be said is this, that the king, with the advice of his friends, shall choose from among the pages those two men to serve as his table steward and cup bearer whom he considers to be most suitable, both with regard to their extraction and their conduct. But if the king considers some other persons better suited who are of lower rank or who are not his liegemen, then he shall first make them hird men and pages before installing them in this position. It is the custom in by far the greater number of countries that the highest noblemen select men for these offices, for if they apply themselves they are able to do a great deal toward insuring that the food and drink at the king's quarters and residence is served with elegance and in accordance with each man's station. And the expenditures serve a good end when they for whom they are made are pleased and feel they owe thanks to the person who serves and the person who provides.

(27) THE SECOND PART OF THE BOOK BEGINS HERE AND ACCOUNTS FOR THE ORIGIN OF THE TITLE OF THE HIRD MEN.

At first it was the custom that all of the men who were the king's liegemen or sword-takers were called housecarls, whereas later distinct titles were given on the basis of distinctions and rank. And in accordance with the name "hird men" all of the people who serve the king are called the king's hird, for all of the king's main strength lies in his hird. The hird men are so designated for this reason, that the king is then well take care of (hirðr) when he has a hird which will give careful attention both to his person and to his honour, and be loyal and concerned for his welfare in public and in private, in word and in deed. It behooves all who wish to be proper hird men to guard against all that is harmful, to guard not only themselves but moreover anyone else whom they might dissuade from evil and encourage to do good, both by the example of their own honourable behavior and through sound argumentation and beneficial counsel and instruction.

(28) CONCERNING COURTEOUS AND REFINED BEHAVIOR.

While we are discussing the fact that men ought to conduct themselves honourably, it is our desire to show men the origin of those bad habits and vices which according to our opinion all good men would do well to abandon, avoid, and be on guard against. It is most important and most advantageous that in accordance with what you promised him when you were baptized you take extreme care to avoid provoking your eminent creator and the Blessed Saviour Jesus Christ. Be also particularly careful to avoid with all of the powers of discernment God has given you those seven cardinal vices which are the root and basis of all (other) vices. And men of wisdom identify them such that the first is immoderate indulgence in food and drink, indulgence to great excess and in inappropriate places. This vice is frequently accompanied by a second: the foul and filthy life of the body when it is lavishly maintained. The third is miserly greed. The fourth is slothful apathy as regards doing anything worthwhile. The fifth is exaggerated pride with pompous self-esteem. The sixth is malicious anger with grim implacability. The

seventh is dismal envy with intense hatred. These seven cardinal vices are the source and sustenance of all sins, both large and small, and of all other vices and objectionable practices, and it is these through which man provokes the wrath of his most merciful Redeemer and most righteous Judge. Be also careful to shun everything which you know to be unworthy of the king's men, especially false oaths and all mendacity. Always make a habit of speaking the truth and being true to your word. Be further on guard against drinking too much, for many persons lose both their senses, their property and their friends as a result of this; and finally, and what is worse, the soul also is lost when the drunk man is unable to attend to himself or to God or to good men. Shun further robbery and theft, adultery and fornication, prostitutes and gambling, loose talk and boasting, arrogance and covetousness with respect to another's property, bribery and mongering, drinking in the morning and drinking at night aside from the appointed time at which well-bred men are seated together for this purpose, deceitfulness of any sort against someone who trusts you, backbiting or mendacious

flattery, sleepiness and all forms of indolence and laziness, and imprecations and any kind of foul language. Cast off your sadness and melancholy, sorrow and hate. Above all shun envy, for envy is the primary vice, it is the vice which stands out as the worst, and worst for this reason, that he who is envious is himself the most distressed by it. Though something should displease you, be not over-hasty, but rather prudent in deciding what sort of revenge you ought to take and upon whom in order that the vengeance be not excessive nor directed against the innocent. For every one of these vices that one has a great deal may be lost for the person who wishes to be virtuous, and it is always the case that the greater the presence of those elements which tend toward faults or defects in a person, the greater the suppression of those elements which give rise to refined behavior and manners appropriate to a member of the herd, even though the latter elements be equal or superior in number, for it is common knowledge that most people are more eager to communicate that which brings discredit than that which is worthy of praise. We have now given you a brief account of some of those things which in our

opinion anyone who desires to be considered well-bred and to be so no less in fact ought to avoid as best he can. We have explained these matters to you for this reason in particular, that one cannot avoid evil unless one recognizes it. And it is for this reason we speak of vices before we say anything about that which is beneficial, that it behooves anyone who wishes to preserve something precious to cleanse beforehand the vessel or chest in which he intends to keep this valuable object, in order that he might keep it purer and enjoy it longer; otherwise it might soon be ruined or at the very least become so thoroughly mixed with evil as to be scarcely distinguishable from it. The delicious drink is soon spoiled in the unclean vessel, and the shining metal is but a short time bright in the dusty chest. But if you fall into any of these sinful vices, then raise yourself up immediately. One may fall due to human frailty, but it is diabolical to remain lying. It is godlike on the other hand to mend one's ways and to do penance at once through truthful confession, sincere repentance, and proper atonement. Be also extremely careful that you do not fall again, but because of shortcomings in the past be all the more manly in

serving God in the future, confident that he has forgiven you and that you enjoy his favour. You should take note of the fact that a king is better off with the service of a man who has at some time or other fled the battle, and who has later, unsparingly and with the most valiant of men, offered himself all the more bravely for the honour of his king, than with that of the man who has never engaged in battle and never contributed to the honour and assistance of his king. The wise farmer praises more highly the land which bears weeds at first but a good crop after it is cleared, than that which yields no crop at all, neither good nor bad, after it is cleared.

(29) IF MEN WISH TO BE WELL-MANNERED WHILE IN THE HIRD AND IN THE PRESENCE OF THE KING.

We shall now give you a brief explanation of those things which in our opinion it behooves most men to frequently have in mind who wish both to be and to be considered refined and well-mannered while in the hird. For we are told by men of wisdom that it avails but little to abandon one's coarse behavior if one does not adopt refined behavior in its stead^a₃₈.

And all good manners have their origin in loving God above all else and in the constant fear and love of him in all of your dealings, regardless of whether you are joyful or apprehensive. Value nothing more highly than to conform to the will of your creator as best you can with the intelligence and mental capacity he has given you to understand what is most to his liking in the matter of your behavior. If you come into the king's service, then show him a love second only to your love of God; love him more than other men, for he may be the source of all happiness for you if you serve in the right manner the rightful king. Seek admission to the service of that king which you know to have the proper claim to the country and the kingdom, and serve him thereafter with elegant attendance and trustworthy devotion and honesty in all respects for as long as you wish to remain in his service. Give constant thought to being faithful and true to him, and take pleasure in doing all of those things which bring him the most honour. Never by your own doing, neither secretly nor openly, cause anyone to become his enemy or become suspicious of him or disloyal, for thoughtlessness can often re-

sult in great changes in your frame of mind. Let it never be a source of pleasure for your enemies or for those of your lord that any form of inconstancy is present or perceptible in your disposition, not any the more then, when you feel that something displeases you lord, than when things seem more in accordance with his will. Bear this in mind, that he who dies anidingr will never become a man thereafter, but the name, the reputation with which he dies will live on in memory. Do not hold the one of your lord's enemies more dear than the other, even though it be your kinsmen who are against him. It is further conceivable — if you wish to serve the king in this fasion — that you might like to know what things afford the best assurance that your hird-brothers will consider you well-mannered while in the hird. They are steadfastness and manliness, a dauntless spirit, faithfulness in every respect, and being true to your word in all cases that do not entail compromising your loyalty. Furthermore take care that you do not become overly intoxicated. Be humble in the presence of all men, regardless of whether they be superior to you or inferior. Always be congenial toward everyone. Be discreet in your use of fine words,

be not excessively loquacious. Always conduct yourself in a refined but cheerful manner. Be early to rise and not overly drowsy. Be skillful in the use of weapons. Be just. Be generous according to your means. Be well-dressed but not to such an extent that others deem it pretentious. Always be bold in emergencies; be not excessively forceful when the occasion does not demand it. Be learned in many things. Be inquisitive. Have a good memory. Aspire after most of the things for which you see or hear that good men gain renown or honour, and though at first you do not succeed, it is inadvisable that you give up, for learning calls for more than natural endowments. It is good to be skilled in the use of weapons, proficient in battle, and well versed in the laws whenever the need arises. If you are at the same place as the king, then be in his presence whenever it is possible and appropriate, and if you are not prevented by the exigencies of your office, then always be with him as long as you can, for it is most frequently those persons (who do this) who acquire positions of honour, and they are the first to occupy those which become vacant. Furthermore anyone who spends his time there will invariably learn something of value, for most of the people who know some-

thing of value come there. And it is no mean acquisition either, when you gain understanding and refined manners and become acquainted with many a fine man, especially since a considerable number of other distinctions attend these acquisitions. If the king bestows upon you any distinctions, then be frequently mindful that the manner in which you conduct yourself is first of all pleasing to God, and secondly to your king. Strive also to please as many as possible of the persons over whom you are granted any form of authority. Have moderation, equity, modesty, righteousness and fidelity on your mind at all times. Remind yourself often that you are the loaner and not the owner. Never be guilty of asking for the distinctions of your comrades, and act to their advantage in all cases in which your words carry any weight.

(30) CONCERNING APPLICATIONS FOR MEMBERSHIP IN THE HIRD AND LEGAL PROTEST.

If the king consents to the admission of someone into the hird, then a marshal or the standard bearer or whomsoever the king desires shall appeal to those

members of his hird who are then in the king's company, and if anyone protests, then the case shall rest until it has been investigated. But those men alone shall have the authority to protest who have objections of their own to raise, although kinsmen of the complainant have this authority if it has been delegated to them in the manner prescribed by law or if they have certain knowledge of something relating to kinship or conduct or other things which conflict with the honour of the crown or the hird. The results of the investigation shall determine the outcome of the matter. If some other matter comprehended by law is at issue, and if he against whom objections have been raised has offered to abide by the prescriptions of the law or the judgment of the king or of other good men in the matter, if he continues to offer, and if the other party chooses to protest in order to do him harm By having him barred from membership in the hird and then subjected to examination before the king and the hird, then, rather than that he should be harmed who offers to abide by the law and the judgment of the king and who is unsuccessful in this on account of (the other's) avarice, then the king with the advice of the hird may grant him the distinctions.

(31) HOW THE KING SHALL INVEST HIRD MEN.

When the king invests hird men he shall not have a table in front of him. The king shall have his sword resting on his knees, his coronation sword if he has been crowned, and he shall place it under his arm with the chape pointing backwards and lay the hilt over his right knee; he shall then wrap the strap buckle up over the hilt and grasp it all from the upper side with his right hand. And he who is to be made a member of the hird shall fall on his knees on the floor or on the step in front of the king and take ahold of the hilt from the underside with his right hand. His left hand he shall hold where it is most comfortable down in front of himself. Then he shall kiss the king's hand. After this he shall stand up and take in hand the book that the king gives him and swear an oath in conformity with the following formula. "I swear before God and with my hand on this holy book that I shall be faithful and true to my lord N, King of Norway, both openly and secretly. I shall accompany him at home and abroad and nowhere take leave of him without his permission and approval or unless circumstances render it absolutely necessary. I shall further, in accordance

with the understanding which God grants me, respect all of those oaths which he has sworn to all of the people of the land. May I enjoy the favour of God and these sacred words if I tell the truth, incur their wrath if I lie." Then he shall kneel before the king and place his hands together, and the king shall place both of his hands around them. He shall then kiss the king. Then the page who is in attendance shall escort him around to shake hands, first with the land-holders if they are present, and then with the other hird men. And when the (newly invested) hird man goes to shake hands with him the land-holder shall out of courtesy and humility stand up before him and kiss him. All of the remaining hird men shall do likewise. It is then desireable, if it be convenient, that the same page escort this hird man to the other places, to where the greater number of hird men are assembled, in order that the old hird may acknowledge the new members in a permanent bond of fellowship. This same procedure shall be followed regardless of whether the number of those being invested at one time is large or small.

(32) CONCERNING THE ESCORT AND RELATED MATTERS.

If the number of men invested as liegemen at one time is sufficient to constitute the escort, one shall nevertheless refrain from bidding more of them at a single time than is needed for an escort that is half old and half new, for then the old can tell those who are new how to provide escort in the proper manner. Those who are in the king's escort shall wear on that day their finest clothes and bear those weapons which in the eyes of other men are a credit to both the king and to themselves. They shall report for escort duty no later than the time at which the bells are rung in the small churches for the matins service, and he who comes after the bells have been rung is certain to be put on guard duty. The men of the escort shall be there in the church where the king attends services, and thereafter follow the king wherever he goes. But if the king goes to his quarters, then they shall wait for him where he asks them to and not leave without the king's permission; and he who leaves without permission has the king's displeasure in store for him. All of the men of the escort shall be with the king for the entire day. The men of the escort shall (each) be equipped with an

attractive steel cap, a good shield, and a fully serviceable sword supplied with all of the fine accouterments, or an exceptionally good axe. The escort is not to be provided for the sake of amusement, but rather to furnish reliable protection for the king. The following custom shall be observed in connection with escort duty: four of them shall follow along behind the king at a moderate distance, and there shall be one person on each side of him, but if there is a greater number of men in the escort the number at each position shall be increased proportionately. The men of the escort shall take care that no one comes between them and the king except those whom he calls to his presence, but they shall remove men from the king's presence in a graceful and gentle manner and not with violent pushing or shoving, for the king has an obligation toward everyone and many an ignorant person has a case to pursue and pressing matters to bring before him. The men of the escort shall secure from the king permission to leave when he retires for the night.

(33) CONCERNING GUARD DUTY AND RELATED MATTERS.

The men of the escort, with the knowledge of the

pages who are in attendance, shall have decided upon their respective responsibilities in connection with the guard duty by the time the king goes to the drinking table after vespers. One is not permitted to release oneself from guard duty in time of war without due cause, and in time of peace only those person are allowed to act as substitutes who have been approved by the king in advance. It behooves those men whose primary responsibility it is to watch over the king and all of his retinue to be exceedingly watchful with regard to themselves. They should not be overly intoxicated and they should not be excessively drowsy. There are many examples of lords and their hirds who have suffered enormous losses as a result of the negligence of the men of guard duty. In time of peace the men on guard duty shall have these weapons: a sword and a buckler, a steel cap and a spear. But in time of war they shall be fully armed. The men who arrange for the guard should bear in mind (that from the lenten Mary's mass until the later Mary's mass in the fall the same persons who are on duty in the evening shall stand guard until daybreak, but from the later Mary's mass in the fall to the lenten Mary's mass in the spring the night shall be divided into two periods.)³⁹⁴⁰ Those who are on duty

during the first period are to be at their posts when the outposts are inspected in the evening, and they are to be on guard until midnight. At that time the one of them shall wake those who are to be on guard for the second period while the other one shall wait there until the others come. Those persons, both winter and summer, are to stand guard at their appointed stations until the bells in the small churches in the village are rung for the matins services. No guard post is to be vacated before this time, regardless of whether the king rises earlier or later. One shall stand guard in a manner befitting a man and not be guilty of disgracefully failing one's lord and one's fellows. And those men who are found guilty of irregularities in connection with the changing of the guard,^{40¹} of sleeping while on guard duty, of quitting their posts prior to the abovementioned times, or of appearing for guard duty drunk to the point of utter incapacity, those men have thereby forfeited their status as servants unless the king wishes instead to impose fines. The king, however, ought to deal with them in such a way that others might take care to avoid such behavior, for such has often resulted in great losses, the examples of which are legion.

(34) CONCERNING THE LIEGEMEN'S LEAVE OF ABSENCE.

None of the king's oath-bound liegemen shall take leave of the king without his permission. He who leaves without permission has thereby broken his oath to the king; it is then for the king to decide whether or not he shall continue his service. But if there is peace in the land it behooves the king to grant permission to those who are in dire need of leaving. If the situation becomes pressing for the king as well as the hird man, then permission in this case is contingent^r upon the will of the king. If the king grants a man permission to go home and designates a time at which he is to return, then he shall have returned by that time unless an emergency renders it impossible. If he is confronted with a pressing situation, then the king and good men shall assess its urgency with reason and forbearance. It is the duty of the hird men, as stated in their oath, to be just in their dealings with all of their neighbors and to pay out compensation to everyone before their misdeed come before the king, for they are perjurers if they do not compensate for their offenses, especially if they do not pay compensation to those who are the most helpless.

If one or another of the king's liegemen commits a crime against one or another of the king's subjects and refuses to compensate in accordance with the recommendations of the steward and the verdict of the lawman, then he is ipso facto dismissed from the (king's) service, since he has broken both the king's oath and his own. The steward shall send to the king a written account of the particulars of the case, and when the matter comes before the king he shall, with the advice of good men, deal with it as he sees fit, granting clemency where he deems it appropriate. In all of those lawsuits which are to be prosecuted or defended on the district level by the king's men all prosecution and defense shall be initiated and pursued in accordance with the land law, and all of their fellows are required to lend their assistance in this. If, however, they choose to disregard the law, then everyone must on account of his oath cease to associate with them. But whenever (any of) the king's men have a just cause to pursue, then it is the obligation of all who are the king's men to lend their support: in a legal manner and not through use of force.

(35) WHAT WEAPONS A LIEGEMAN SHALL HAVE.

Most people are aware of the fact that all of the old law books of the land prescribe (certain) legal weapons for the farmers, for the full farmer within his estate, for the unassisted farmers within their estate⁴¹², and some (lawbooks prescribe legal weapons) for the thralls as well, if this should be necessary, yet all of them within their (respective) estates now have, in accordance with the recommendations of the best of men, weapons in excess of what was then prescribed⁴²³. But since the king and the king's men ought to stand above all of the (other) people of the land in regard to marks of honour, it is in this and related matters inappropriate that we be surpassed by others. And it is for this reason that everyone serves us with contributions and extensive support, that they realize that it is in the king and his liegemen that they have their strong protection and solid defense, such as it has been and such as it ought to be, and may God use his powers to assure that it might be so in the future. Therefore let all men know that the liegemen are to have the following weapons. It behooves the land-holders and stewards to surpass others to such

an extent in the number of weapons they own as they surpass them with regard to distinctions and subsidies recieved from the king. And each page shall own a complete set of armour. That consists first of all of a spaldinier or an armour shirt, a mail hood and a mail shirt, together with mail stockings and mail gauntlests, a helmet or steel cap, a sword, a spear, a sturdy shield, and a breastplate. A buckler is also quite useful, and no less so a bow or a crossbow. A hird man shall own an armour shirt also, and over that a panzer or a mail shirt. He shall own a steel cap, a good shield, a spear, a buckler, and a bow with three dozen arrows. The guests are to own a strong a armour shirt, a steel cap, a shield, a sword, a spear, and a bow with two dozen arrows. The candle bearers are to own the same weapons as those just prescribed for the guests. But he who lacks these weapons may humbly present his claim to the king, and the king shall accordingly hold a weapon ping every Christmas and have a careful record made of the persons who lack these weapons; at that time there is usually a large number of liegemen in company with the king. Little excuse can be given for liegemen who do not have all of their weapons with them when they are with the king.

Taking up arms is a slow business if they are at home when they are needed, and more is at stake where the life of the king and his goodly men are involved than those arms which the rust or mites or moths are eating up at home.

(36) IT IS TOLD HERE OF THOSE ORDINANCES WHICH ARE THE WORK OF KING MAGNUS HAKONARSON.

It was in that year, when one thousand, two hundred and seventy-three years had passed since the birth of our Lord Jesus Christ, in the tenth year of the reign of King Magnús Hákonarson, when he was residing in Tunsberg, that he summoned before him all of the landholders and marshals, lawmen and stewards from all of Vikin and Upplönd. They came to him during the winter at the time of Paul's mass. They were together for three weeks, and in accordance with the faith which they owe to God and to him they established in full what follows here. First, if in the interest of his own and the country's security the king needs to carry out defensive or offensive operations for such reasons as he before God and with the recommendations and counsel

of the wisest men of the land considers appropriate, then the land-holders and all (others) who hold benefices shall maintain for the support of the king five armed men. From (the resources of) a fifteen merkr benefice each of them shall be provided with supplies for a period of three months; if the benefice is larger the period shall be proportionately longer. Each one of the (two) stewards from Ryggjarbit shall from his fief maintain for the support of the crown six of the men in each twenty-seat boat; he shall provide them with supplies for a period of three months. Both of them shall furnish such weapons as those which the hird men, guests or candle bearers have; each of them shall provide in proportion to the number of levy districts he has, regardless of whether they are needed at home or abroad. From Valdres and Haddingjadalr forty men (are to be supplied with weapons). From Raumariki twelve men from the southern half and ten men from the other half. From Heiðmörk ten men from the southern half and twelve from the northern half. From Haðaland ten men from the outer half and twelve from the northern half. From Guðbrandsdalir eight men from each part. From Eystridalir five men. Furthermore everyone who receives a stewardship from the king

shall, when he receives his letters patent, and in order that there might be less cause for uncertainty regarding the king's possessions or fixed revenue in his (the steward's) stewardship, furnish the chancellor with a letter of the the following form with his (the steward's) seal appended. "To all of God's and his own friends who see or hear this letter N sends God's greetings and his own. I wish you to know that in such an such a year, so many years after the birth of our Lord ((and he shall state hom many)) and during such and such a year of the reign of King N, and on such and such a day, my lord granted me, the better to exercise his authority, his stewardship N; may God reward him for it. In return I make him this promise, which I shall gladly keep, that I shall break neither his oath nor mine in connection with those of his subjects over whom he has given me authority. I shall rather be merciful with those who bring punishment upon themselves out of ignorance or extreme need, and severe with all who deserve to be punished on account of their wickedness and obduracy. I shall also be fully as lenient as I ought to be with his tenants. I shall lease to advantage his real properties and have buildings erected on them without receiving any extra benefits, neither gifts

nor benefices, for doing so. His fixed revenue shall be paid to his agent at the time and place which he (the king) stipulates; it shall be paid as due with the proper deduction and without opposition. And this was my lord's fixed revenue when I received my stewardship: ((and he shall describe it in full)). I shall give a thorough account of it, properly calculated in accordance with the terms stated above, at the end of every twelve months, regardless of whether it increases or decreases, and likewise of expenditures and losses if there be any. To this I pledge before God and my lord my faith. This document was prepared in such and such a year of the reign of King N. on such and such a day, calendes, nones or ides." If a steward learns of the arrival (in his stewardship) of someone who has done something deserving of punishment in another man's stewardship, then he is required to send that person to him as soon as his letter has arrived, and he shall deal with his (the offender's) case thereafter in the manner described above. And if those men are put to death who were driven by absolute necessity, then the steward shall immediately send the killers to be dealt with by the king; they shall be sent with safe-conduct accompanied by an explanation the truth of which they

are willing to swear to before God. If it be found that a killer deserves the dungeon rather than death, then the stewards shall deliver (him) to (one of) the following places: All south of Svertiborg shall be sent to Konungahella, all north of Svertiborg to Valdinsholmi; all inwards from Kamborn, all from Raumariki, and all outwards on the west side as far as Drafn shall be sent to Oslo; all outwards from Drafn, all from Pelamörk, and all westward as far as Ryggjarbit shall be sent to Tünsberg; and all from Upplönd with the exception of those from Raumariki shall be sent to Mjörs castle. If a killer is given the death sentence, then before this is carried out each steward shall conduct an investigation and himself, rather than the kinsmen, take charge of the execution, proceeding in accordance with the law and in a manner for which he is willing to be held accountable before God. This also, that the entire spring contingent be requested at Mid-Lent, collected at Easter, and brought to Tünsberg at the time of Halvard's mass, and that the fall contingent be requested at the time of the winter nights, collected at the time of Martin's Mass, and brought to town along with the land rents at Christmas time. And the following summer King Magnús met with a large number of ranking

men in Björgvin; present were Archbishop Jón and all of the bishops of the land and other men of rank, landholders, and all of the stewards from the northern part of the country. The king then gave aristocratic titles to his sons; to Eiríkr he gave the title of king, and to Hákon the title of duke. All of this was then established anew by agreement between the king and the stewards in Víkin. Since the inhabited areas in the northern part of the country are not so heavily populated, and since fewer fines are collected there, it was thus ordained and established by agreement between the crown and the stewards that from each ship levy in Egðafylki four men shall, for the support and honour of the king, be maintained with both arms and other supplies in accordance with the provisions given above. And from Rygjafylki three men from each ship levy. And from Hörðafylki three each from each ship levy. From Sogn three men from each ship levy. From the southern part of Firðafylki two men from each ship-levy, and from the northern part three men from each ship levy. From Sunnmæri two men from each ship levy. And from Nordmæri three men from each ship levy. From Raumsdalr three men from each ship levy. From Frónðheimr, inwards from Agðanes, two men from some ship levies and three

men from others. From Naumdalr three men from each ship levy. From Hålogaland four men from each ship levy. To all of the wisest men present this seemed highly advantageous for both sides, yet it was deemed essential that the king refrain from placing any more burdens on the stewards for the sake of his own support, and that they should not be compelled to make excessive contributions from their possessions; the stewards likewise were to refrain from excessive consumption at the expense of the king and his property. It seems to us, and it appears all the more obvious the longer we are involved^{#3}, that they who attend the (court) judgments are on no account any more persistent in seeing them carried out when they are delivered than necessity and the authority of the judges demands. We thus consider it meet, for us and for those whom we put in charge of the courts, that hereafter those verdicts which seem of major importance be recorded in detail, especially those which involve the death penalty, maiming, or the like. We expect that this will be of help to those who act as judges, since there will be less need to make (further) demands concerning the same suit, and it will be conducive to peace between those for whom judgment is given if there need not on

account of any forgetfulness be an increase in contention concerning matters which have been settled and cases which have been judged. In order to facilitate matters for the person who is to do the writing (we suggest that) one ought to proceed in such a manner that one first specifies the year and the time during the twelve months when the case was judged, stating who delivers the judgment and who or what the judgment concerns ((this by referring to names)), and that one specifies how much each person is to receive or pay out, and (that one specifies) the reasons for a loss of or reduction in the compensation demanded for death or injuries or (the reasons for) other changes in the law ((if these conditions obtain)), and (that one specifies) the date which is set for payment and the place where payment is to be made, following the procedure indicated in the king's document book.

(37) REPORTS OF HOSTILE FORCES ARE DEALT WITH HERE.

When news of hostile forces reaches the settlement the king's man shall immediately make arrangements for house and home and thereafter go to either his king

or to the nearest steward. If he sits quietly at home, then he is in all likelihood unwilling to support his king and assist his fellows; he is ipso facto expelled from the fellowship of the hird unless he is constrained by exigencies which men of discernment regard as sufficient proof that he was not motivated by ill will. And if word comes to the heraë that the king summons his men to meet with him, then let everyone be on his way who does not wish to be called a niëingr by both the king and his fellows.

ABBREVIATIONS USED IN THE NOTES

- NGL = Norges Gamle Love indtil 1387, I-V, (Kristiania, 1846-95).
- A = Biskop Arnes Kristenret for Island, NGL V, 16-56.
- B = Ældre Borgarthings Kristenret, NGL I, 337-372.
- Bj = Ældre Bjarköret, NGL I, 301-336.
- Bl = Kong Magnus Haakonssøns Bylov, NGL II, 179-290.
- E = Ældre Eidsivathings Kristenret samt det bevarede Brudstykke af den ældre Eidsivathingslovs verdslige Del, NGL I, 373-406.
- F = Ældre Frostathingslov, NGL I, 119-258.
- G = Ældre Gulathingslov, NGL I, 1-118.
- H = Kong Magnus Haakonssøns Hirdskraa, NGL II, 387-450.
- Hk = Kong Magnus Haakonssøns ældre Lovbog for Island, kaldet Jarnsiða, ("Hákonarbók"), NGL I, 259-300.
- J = Erkebiskop Jons Kristenret, NGL II, 339-386.
- Jb = Kong Magnus Haakonssøns yngre Lovbog for Island, kaldet Jónsbók, NGL IV, 183-340.
- L = Kong Magnus Haakonssøns Landslov, NGL II, 1-178.
- M = Kong Magnus Haakonssøns nyere Gulathings Kristenret, NGL II, 306-338.
- NB = Kong Magnus Haakonssøns nyere Borgarthings Kristenret, NGL II, 291-306.
- NB.II = Udgaven i 4de Bind af samme Lovs yngre Bearbejdelse, NGL IV, 160-182.
- OG. = Skraa for et Olafsgilde i Gulathingslagen, NGL V, 7-11.

- OO. = Skraa for St. Olafsgildet i Onarheim, NGL V, 11-13.
- R = Retterbod, NGL (volume and page numbers given in notes).
- S = Geistlig Statut, NGL (volume and page numbers given in notes).
- Sv = Den saakaldte Sverres Kristenret, NGL I, 407-434.
- ANF = Arkiv for (før) nordisk filologi, (Kristiania, 1883 ff.).
- APhS = Acta philologica Scandinavica, (København, 1926 ff.).
- DN = Diplomatarium Norvegicum, (Kristiania, 1849 ff.).
- Fritzner = Johan Fritzner, Ordbog over det gamle norske Sprog, I-III, (Kristiania, 1886-96).
- Glossarium = Ebbe Hertzberg & Gustav Storm, NGL V, (Christiania, 1895), 57-834.
- KLNM = Kulturhistorisk Leksikon for Nordisk Middelalder, (København, 1956 ff.).
- NHT = (Norsk) Historisk Tidsskrift, (Kristiania, 1871 ff).
- NK = Nordisk Kultur, (København, Oslo, Stockholm, 1931-56).
- NVAOA = Avhandlinger utg. av Det norske Videnskaps-Akademi i Oslo, (Oslo, 1925 ff.).
- NVAOS = Skrifter utg. av Det norske Videnskaps-Akademi, (Oslo, 1925 ff.).
- SVSC = Skrifter udg. af Videnskabsselskabet i Christiania, (Kristiania, 1894-1924).
- TVSEF = Det kgl. Norske videnskabers selskabs forhandlinger, (Trondheim, 1926 ff.).

TVSS = Det kgl. Norske videnskabers selskabs skrifter,
(Trondheim, 1761 ff.).

VAR = Konrad Maurer, Vorlesungen über Altnordische
Rechtsgeschichte I-V, (Osnabrück, 1966).

Notes

¹Or perhaps "This is the basis of our laws," or "Our laws are founded upon this." The formula "Pater upphaff laga várra" or a variant thereof, followed by prescriptions of religious import, provides the introduction to a number of early Scandinavian legal codes; see Konrad Maurer, "Die Eingangsformel der altnordischen Rechts- u. Gesetzbücher," Sitzungsberichte d. kg. bair. Akademie der Wissenschaften, Philosophisch-philologische- u. historische Klasse, (München, 1886), 317-358.

²"skal uar loghlegr Noreghs konongr hans pion ráða boðe oc banne oc utforum varom innan landz oc utan." The "bidding" here refers primarily to military conscription of men and supplies (see G 295, G 296, F VII 1, L III 1, L III 3, L III 9, Bl III 1, Bl III 3, Bl III 10), though royal control of taxation for non-military purposes may also be implied. L III 15 deals with the "bidding" of horses for the king. The "banning" here refers to royal control of commerce and travel (G 313, F VII 27, L VIII 25, L VIII 23, Bl VII 22), and perhaps also to prohibition of conscription by persons other than the king (H 13: the duke; H 17: the earl). E. Hertzberg translates "rada boðe ok banne" with "at paabyde og forbyde det værnepligtige mandskabs samling." See: Ebbe Hertzberg, "Lén og veitzla i Norges sagatid," Germanistische Abhandlungen zum LXX Geburtstag Konrad von Maurers, (Göttingen, 1893). See also: Absalon Taranger, Udsigt over den norske Rets Historie, II, (Christiania, 1904), 190-193.

³"konunginum til hirðar." The use here of the noun hirð where one would expect to find hirzla is consistent with the attempt in H 27 to explain hirð as a derivative of the verb hirða; hirð seems to be thought of as a nominalization of hirða, and thus as the grammatical and semantic equivalent of hirzla,

hence the substitution. Hirð is probably from the AS. hired.

⁴"...skal ein hans pion konongr vera...." The principal of individual succession with regard to the Norwegian throne first gained legal force in 1163 with its incorporation into the law of Magnus Erlingsson. See: Torfinn Tobiassen, NHT XLIII, 226 f.

⁵Norway's tributary possessions were Finnmark, Orkney Islands, Shetland Islands, Hebrides, Isle of Man, Faeroe Islands, Greenland (as of 1261), and Iceland (as of 1264). See: Gustav Storm, Monumenta Historica Norvegiæ, pp. 87ff. and the editor's introduction pp. XXIV, f.; P.A. Munch, Beskrivelse af Kongeriget Norge i Middelalderen, pp. 5, 204 ff.; Absalon Taranger, Udsigt over Den Norske Rets Historie, II, pp. 64 ff.

⁶In translating this and the following paragraphs of the law of succession it has been necessary to depart considerably from the style and syntax of the original. In rendering some of the more complex relationships described I have chosen to abandon completely the form of the original rather than employ English (or un-English) constructions which themselves would require translation.

⁷H 3 corresponds to L II 6 and Bl II 5. A number of provisions contained in H 3, L II 6, and Bl II 5 repeat parts of Magnus Erlingsson's law of succession (G 2; F d p.31). See also Hk 10.

⁸"Nu ef sva harðliga kan til handa at berazt. at engi er þessara til...." Chapter 3 (cf L II 6, Bl II 5) contains a number of provisions dealing with the election of a new king. The chapter heading and the words with which this chapter begins indicate that these provisions are to apply in the special case that "engi er þessara til" of the persons of the royal house mentioned in chapter 2. It is quite doubtful, however, that these provisions are meant to apply in this special case alone. According to Magnus Erlingsson's law and Hk the north-

ward journey to Niðaross and the election there of the new king are to take place "eptir frafall konongs" (G 2; Hk 10). No further conditions are stated. A meeting in Niðaross to elect a successor is to follow in all cases the death of the reigning king, it is to be held when the king does leave an heir to the throne as well as when "engi er þessara til." To see a change in this ruling in H, L, and Bl, as Rudolf Keyser seems to have done (Norges Stats- og Retsforfatning i Middelalderen, pp. 58f), is to attach too much significance to the fact that these younger laws expressly mention as an occasion for the meeting at Niðaross the lack of a successor of the royal line. The problem here is one of a misleading text, or as Konrad Maurer defines (and dismisses) it, "eine leicht erklärliche Ungenauigkeit des Ausdrucks" (see VAR I, p. 258).

⁹Baron = lender maðr (cf. variant D). According to Icelandic annals the title of baron was officially introduced in 1277 by Magnús Lagabœtir to replace the older lender maðr. See KLNM I, 352 f.

¹⁰Variant D of H, L II 6 and B II 5 have hirdstjori. Cf. below in H 3: "Now if the hird-leaders or the hird should neglect to make this journey...."

¹¹Niðaross (now Trondheim) was the resting place of St. Olaf. See Thor Kielland, "Hellig Olavs Skrin," Norvegia sacra, andre aargang, (1922), 1-15.

¹²H 3 agrees with Magnus Erlingsson's law in prescribing that the twelve men from each diocese are to be appointed by the bishops. According to Hk 10 they are to be appointed by the hird-leaders (hirdstiorar). Most texts of Magnus Lagabœter's law (variants D and L of H and all texts of L and Bl) prescribe that in addition to the bishops and the king's stewards (syslumenn) are also to be in charge of appointing the twelve men from each diocese. Norway was divided into 5 bishoprics, thus the number of men appointed amounted to $5 \times 12 = 60$.

13 "oc nefni huer byskop or sinu byskopsdømi .xll. hina vitrazto menn." Cf. Magnus Erlingsson's law (G 2): "oc nemne biscop hverr .xll. hina vitrazto men með sér." The problem of the identity of the vitrastir menn in Magnus Erlingsson's law has been discussed at length in two articles by Jens Arup Seip: "De 12 gode menn i tronfølgeloven 1163," NHT, XXXIV, (1946-48); and "Problemer og metode i norsk middelalderforskning," NHT XXXII, (1940). Earlier historians were of the opinion that the 5 X 12 vitrastir menn represented the secular aristocracy, they were lendrmenn or at any rate menn of rank. Seip rejects this view. The 60 men are, he claims, to be understood as bændr "In the sense this word has in the old laws." They represent the people in general, "tingfolket," "tingalmuen." Their function is to elect the new king. This right was earlier exercised by "tingalmuen" on a more local level at the district alping. Through the 5 X 12 vitrastir menn the traditional right of the bændr to choose their king appears in Magnus Erlingsson's law in a new and centralized form. The local assemblies have been replaced by a representative national assembly. Given the correctness of Seip's conclusions regarding the identity of the 5 X 12 vitrastir menn in Magnus Erlingsson's law one need hardly question the legitimacy of identifying the vitrastir menn of Hirðskrá as bændr, especially since Variant D of H 3, L II 6, BH II 5 and Hk 10 replace vitrastir menn with vitrastir bændr.

14 "þa gange þeir olærðo men með suornum eia til þes umdømes. At þeir skolu þan til konongs taka er þeim synizt firir guði at bezt se til fallin." As Jens Arup Seip has pointed out the language used here to describe the election of the new king indicates that this election is in effect thought of as a judgment, a decision (umdømi). The electoral college of 5 X 12 vitrastir menn is thought of as a court (domr) whose duty it is to deliver a judgment as to which pretendant is best qualified to act as king. See: Jens Arup Seip, "Problemer og metode i norsk middelalderforskning," NHT XXXII, (1940), 71.

Cf. Torfinn Tobiassen, "Tronfølgelov og Privilegiebrev," NHT XLIII (1964), 248 f.; Absalon Taranger, Udsigt over den norske rets historie, II (christiania, 1904), pp. 51, 177 f.

15 "En þenna æið skolu iamfnvæl byskopar abyrgiazt við guð þo at þeir sueri eigi sem hinir er sveria. at þeir leggi sannenda umdømi til um þetta mall sua sem guð gefr þeim retlægast at sea." Most versions of this provision (L II 6 and variants, Bl II 5, G 2, variant D of H 3) follow more closely than H 3 the form given in Magnus Erlingsson's law (G 2): "En þenna eið scolo iamvel biscopar abyrgiasc við guð. þo at þeir sveri eigi. sem hinir er sveria. at þeir leggi sannendis umræde til þessa mals. iam vel sem hinir ulærdo er sveria sem guð gefr þeim syn til rettlegast at sia." The pronominal references in the version of this provision given in H 3 are not all the same as those in the variants; H 3 only makes sense if one assumes that the "þeir" of "at þeir leggi..." refers to the laymen, whereas in most of the variants this "þeir" ("hann" in some texts) must be taken to refer to the bishops. Most of the variants are less ambiguous than H 3 regarding the function of the bishops. In contrast to H 3 most of the variants make reference to the advisory status of the bishops, "at þeir leggi sannendis umræde til þessa mals." The bishops are to advise the laymen, and they are responsible before God for the advice they give. The laymen are to elect the new king and confirm their decision with an oath. This oath is not to be sworn by the bishops.

16 "þa skolu þeir sit mall hafa er flæyri verða saman oc skilrikare ero. oc erchibyskop oc aðrir byskopar samþyckia oc sanna þat með æiði sinum." The ruling here concerning the pars major et sanior is borrowed from canon law; see Absalon Taranger, Udsigt over Den Norske Rets Historie II p. 77, note 1. This provision is interpreted in most commentaries in the following manner: The opinion of the majority shall decide the choice of the king provided that the bishops are in agreement with that opinion; the bishops have the power to veto the decision of the majority. See: Torfinn Tobiassen, NHT XLIII, pp. 254, 270ff. Fredrik Paasche, NHT XXX, p. 46. Absalon Taranger, NHT XXX, pp. 300 ff. Jens Arup Seip, NHT, XXXII, pp. 69, 75 f., 84. Sverre Steen, NHT, XXXV, pp. 21 f. Cf. Halvdan Koht, NHT, XXX, pp. 95, 99.

Tobiassen reasons (p.254) that the veto was given to the bishops in order to guarantee that maior pars would also be melior et sanior pars, and thus to lessen the chances that an unfit pretendant would be

elected king.

According to the Bergen and Tønsberg agreements the archbishop and the bishops are to have the "first and most powerful vote" in the election of the king: "Si vero nullus inveniatur successor legitimus archiepiscopus et episcopi inter ceteros nobiliores et discretiores regni electores in electione tantum voces primas et potissimas obtinebunt" (NGL II, p. 458; cf p. 463).

¹⁷To lose one's "peace", friðr, was to lose one's right to protection by the law. Loss of friðr generally involved banishment. See KLNM, IV, 592 ff.; Konrad Maurer, VAR, I,1, pp. 390 ff.

¹⁸Chapt. 4 corresponds to L II 7 and Bl II 6.

¹⁹The text given in NGL omits reference to men who are not of royal extraction; the translation follows the reading given in variant D. See note 33 to H 4. Cf. L II 7 and Bl II 6.

²⁰"Tokens" (jartegnir) in this instance doubtless refers to written documents, i.e., a written testament.

²¹alskylt may possibly mean "closely related" rather than "deeply indebted."

²²Vide concerning "holy days" KLNM, VIII, 98ff.; Konrad Maurer, "Nogle Bemærkninger til Norges Kirkehistorie," NHT 3. R. III (1895), 61 ff.; and Absalon Taranger, Den Angelsaksiske Kirkes Indflydelse paa den Norske, pp. 353 ff.; also: G 16 ff., F II 24 ff., Bl 14, E 9, E 12, M 18 ff., NB 9ff., J 22 ff.

²³See Thor Kielland, "Hellig Olavs skrin", Norvegia Sacra, Andre Aargang (1922), 2-15; See also Håkonar Saga Hákonarsonar, chapters 207, 208, and 239 (in Unger's edition).

²⁴"Aller men sem fører ero skulu ganga þangat sem þing skal vera." P. A. Munch interprets this seemingly

Figure (1) shows a structure resembling Tynwald on the Isle of Man: see Wilhelm Swensen, "Hyllingsstolen Graderne ved Nidarosdomen," TVSS, No. 5 (1963), 8-10, 14. Figure (2) shows all of the high-seats arranged on a level platform. The king's high-seat is "highest" in the sense that it is larger, taller than the rest (or one might think of it as raised higher than the rest by a dais in the middle of the platform).

As P. A. Munch has pointed out (Norsk Tidsskrift for Videnskab og Litteratur, anden Aargang (Christiania, 1848), 141) the language used in the passage quoted above, as well as H 5's indefinite reference to the location of the ping (see note 24), suggests that the high-seats, gráður, and any other structures that might be involved were temporary constructions set up especially for the occasion; as such they would doubtless be made of wood.

Flateyarbók makes the following reference to a presumably permanent structure set up near the cathedral in Nidaros: "Harallr konungr let giora Mariukikiu norðr j Nidarose og stod þar þá alltarið sem nu eru gradrnar hia kristkirkui." These gráður in the churchyard of the cathedral were probably erected some time after the succession of Hákon Magnusson, who was taken as king á eyrum in 1299 (see preceding note). Had a permanent homage tribune been available in 1299 it no doubt would have been used. Flateyarbók's date of composition, ca. 1380, provides the terminus ad quem for the construction of the gráður by kristkirkja.

This permanent homage tribune is also mentioned in Peder Claussøn Friis' Norrigis Bescriføelse (ca. 1600): "Blant anden skiøn Bygning i denne By kand oc regnis den skiøne Kongens Stoel, som er opmuret paa Domkirckegaarden aff besynderlig skiøn huggen Steen, met mange Trapper oc Opgange, paa huilcken Stoel Kongerne sade, naar de lode sig hylde eller krone" (Gustav Storm, ed. Samlæde Skrifter af Peder Claussøn Friis, Kristiania, 1881, p. 351). And Absalon Pedersøn Beyer writes (ca. 1570): "Udi dette stict have altid kongerne i Norgis rige verit kronede indtil på denne dag, der er erchestol, der er kongens ypperste sede, der er den vide berømde domkirke, og på hennis kirkegaard den sted, hvilken konger bleve kronede" (Harald Beyer, ed. Om Norgis Rige, Bergen, 1928).

Excavations carried out in 1886 in the churchyard of the cathedral revealed "Dele af en halvrund

eller maaske ottekanted Bygning med levning af en Lisene eller Stræbepillar mod S. O. Denne Mur var opført af smaa Steene og saa ud som en Levning af den indre Kjerne af en Mur, hvis ydre Skal, antagelig af huggen Steen, var bortført" (O. Krefting, Under-søgelser i Trondhjem, Kristiania, 1900, p. 4). This circular or octagonal foundation with the pillaster or butress facing south-east is believed to be the remains of "den skjøne Kongens Stoel." Its diameter appears to have been ca. 10 meters (W. Swensen, p. 10). The use of the butress or pillaster indicates that the structure was relatively high. Swensen suggests a possible resemblance between the Norwegian homage tribune and the English Market Crosses (p. 8, 10 f.). See also under "Kröning" in KLN M IX.

²⁶The konungsnafn was traditionally conferred upon the prospective king by a farmer; see Sverris Saga, chapter 15, and Hákonar Saga Hákonarsonar, chapter 19 (in Unger's edition). Also: Absalon Taranger, Udsigt over Den Norske Rets Historie II, Christiania, 1904, pp. 177 f.

²⁷The text given in NGL (A) has osakaðan. The translation follows text K, which has sakaðan.

²⁸Cf. variants D and E: "sidan gangi konongr til alteris ok taka þar blæzan oc fara sidan i konongs gard ok hallda slika væizlu þandagh sem honom byriar ok konongs tign höyrir. hofdingum ok allum adrum hinum bestom monnum." Variants K and L have "sidan gangi konongr til alteris ok taka þar blæzan. ok gangi sidan til herbergis. ok fylgi honum allir hinir beztu menn." Cf. L II 12 and Bl II 10.

²⁹For nauðsyn (emergency) variants C and D have auðsyn (adj., evident, obvious). Both versions give a meaningful text. Hertzberg, however, regards nauðsyn as incorrect (see Glossarium under "auðsyn").

³⁰The translation follows the variants.

³¹"Þan ret skulu oc lender men hafa með kononge..." Perhaps a better translation would be: "The land-holders shall enjoy the privilege in their relations with the king...."

³²"ener mæstu oc hinir hæstu" should perhaps be regarded as a pleonasm expressing nothing more than "the most authoritative."

³³Sverris Saga reports that Magnus Erlingsson received a coronation sword when he was crowned in Bergen in 1163 (chapter 55, Unger's edition). A sword was also given to Magnús Hákonarson during his coronation in Bergen in September of 1261 (see Hákonar Saga, chapt. 351, Unger's edition); five men together, King Hákon, Archbishop Einarr Smörbakk, and three other bishops "lögðu um hann viglusverdit." Cf. H 31: "konongr skal hafa sværd sit a kne ser. vigslu sværd ef han er koronaer. oc...." This provision seems to presuppose that every king who is crowned will receive a coronation sword. Vide also the article "Kröning" in KLN and the source references there.

³⁴The aleigumál, full confiscation crime, was a crime which was punished by confiscation of all of one's possessions. R c p. 93 indicates that the punishment did not necessarily involve banishment.

³⁵The men of the hird and other men in the king's service received wages from the king. See Hákonar Saga Hákonarsonar, chapters 224 and 365 (in Unger's edition).

³⁶While all of the provisions given here for the payment of tithes are doubtless intended as part of the law now in effect, it is not at all certain that all of these provisions are to be understood as part of "the ancient practice and pledge of the Birkebeinar." See however Gustav Storm, "To Klosterstiftelser fra Kong Sverres Tid," NHT, 3 R. III (1892): "Sammenhængen viser, at her skildres de bestaaende Forhold, saaledes som de stammede fra Birkebeinernes 'Sæd og Løfter'."

Spitallinn á Varnu, Varna klaustr, sacra domus ordinis sancti Johannis Ierosolimitani in warne (DN I, p. 624) was a hospital and monastery of the order of St. John (the Baptist), the only affiliate of this order ever established in Norway. It was established ca. 5 kl. south of the city of Moss, probably in the

12th century. The Akershus register of 1622 lists in its inventory of the old Akershus archives two letters (now lost) sent to Varna klaustr by Pope Innocent III during the first year of his reign (see Storm, *To Klosterstiftelser...*, p. 82 ff.). Innocent III was consecrated in January of 1198. One may thus conclude that Varna klaustr was in existence as early as 1198. Storm attributes its establishment to King Sverrir.

H 53 mentions the practice of sending aged, ailing, indigent and crippled hirdmen to a monastery; that the monastery to which many if not all of these needy hirdmen were sent was Varna klaustr is strongly suggested by the fact that the hirdmen contributed through their tithes to this monastery's support. Storm maintains that Varna klaustr functioned as an invalid hospital for needy hirdmen from the very beginning, that it was founded by King Sverrir for the express purpose of providing his Birkebeinar with a place to retire when old age, injuries or illness rendered them unfit for further hird service.

The practice of sending needy hird men to Varna klaustr seems to have been discontinued early in the 14th century. In his ammdement of June 17, 1308 (NGL III, p. 78 ff.), Håkon Magnússon announces the construction of a hospital (spitall, þarfinda hus) near Måriukirkja in Oslo and specifies that all hird men who are already indigent or incapacitated or who become so are to travel to either Bergen or Oslo, find the standard bearer, and inform him of their needs. Those north of Liðandisnes are to go to Bergen, those south of Liðandisnes to Oslo. Further provisions deal with the endowment of the Oslo hospital through contributions by the king, hird, and other royal attendants.

Varna klaustr was named after the district in which this monastery was to be found. "Varna," according to O. Rygh (*Norske Gaardnavne I*, p. 350) "betegnede Rygge Sogn i dets gamle Omfang, Moss Herreds Fastlandsdel medindbefatted (men ikke Jeløen)." Nothing remains of the original Varna klaustr save the stones of an old cellar, perhaps the ruins of a chapel, in the garden of the present Varna klaustr estate.

Vide: C. C. A. Lange, *De Norske Klostres Historie*

i Middelalderen (Kristiania, 1856), pp. 461-472.

Lauritz Opstad, Rygge, II (Utgitt av Rygge Sparebank, 1957), pp. 173-178.

Axel Coldvin, Norske Storgårder (Oslo, 1950), pp. 155-168.

O. Rygh, Norske Gaardnavne, I (Kristiania, 1877), pp. 348, 350, 351.

³⁷This sentence is omitted in the text given in NGL (A). The translation follows variant D.

³⁸"not" is omitted in text A. Cf variants D, C, B, and B.

³⁹Cf. Gustav Indrebø, ed. Gamal Norsk Homilie-bok (Oslo, 1929), p. 2, lines 7-9.

⁴⁰The translation here follows variant D.

⁴¹"en þæirmen sem at þui væra sanner at þæir hallda vorð með uiamfnæde i umskipti...." The phrase "uiamfnæde i umskipti" may refer to irregularities (or injustices ?) in connection with the period of time one is on guard duty.

⁴²The unassisted farmer, einvirki, is mentioned in H 35, G 131, G 299, F II 33, F VII 7, Bj 63, B III 12, B II 20, L II 12, L VII 56, L VII 57, J 39, R c p. 28, R c p. 27n, Grágás I p. 159, and in DN I p. 228 f. In H 35, F II 33, L VII 56, L VII 57, B I 12, B II 20, J 39, Bj 63, R c p. 28, and in Dn I p. 228 f. we find the einvirki mentioned together with and in opposition to the full farmer, fullr bondi. It appears obvious from a number of these sources that the categories einvirki and fullr bondi are mutually exclusive and that together they comprehend all farmers. See for example DN I, p. 229: "...at huar bonde j soknæne er skyllidugher at lukæ þeim preste er aat þeim synger huart aar æuerdlegha tua mæle korns fullær bonde en æinyrki huar mæle." If one was a farmer one was either an einvirki or a fullr bondi, but not both.

The einvirki was a farmer who managed his farm without the help of a grown man. Grágás I, p. 159 specifies that one is not an einvirki if one has the

help of a worker who is over twelve years old. G 131 and L VII 56 define the einvirki as one who is accompanied in his work by a man who is less than fifteen years old: "Sa er einvirki er yngri maðr fylgir hanom til vercs en .xv. vetra." The point of this definition is of course that anyone who is assisted by a worker over fifteen is not to be considered an einvirki. In F VII 7 the einvirki is mentioned in opposition to farmers who employ workers, "er forverc eigo ser," and similarly G 299 places the einvirki in opposition to farmers "er firir yrkiendr eigu ser." None of our sources give an explicit definition of the fullr bondi. We know however that (1) if one enjoyed the help of a grown man then one was not an einvirki, and (2) if one was not an einvirki then one was a fullr bondi. It follows then that if one enjoyed the help of a grown man than one was a fullr bondi.

Cf. Asgaut Steinnes, "Mál og Verderekning I Noreg," NK XXX, p. 141. See also KLN M II, 94-95 and KLN M III, 693 f.

⁴³ Each person subject to the levy was required to have in his possession certain "legal weapons" (lagavápn, folkvápn - L III 12, skyldarvápn). "Legal weapons" were those which satisfied the minimum requirements of the law in terms of kind, number and quality. In the younger laws L and Bl the extent to which an individual is required to arm himself is made dependent upon his economic and marital status. Those in the higher economic classes are required to arm themselves more fully than those in the lower, and each unmarried man who does not have his own household (drengmaðr, cf. Glossarium) is required to own—presumably independent of his wealth—the same weapons as members of the lowest economic class. L III 11 and Bl III 12 reckon with four economic classes and four corresponding classes of legal weapons. A similar but less complex system is that which H 35 associates with "all of the old law books of the land." In these older law books, according to H 35, legal weapons are assigned on the basis of the distinction between unassisted farmers and full farmers, and some of these older law books also contain provisions concerning the bearing of weapons by slaves. Apart from this reference in H 35 we find little evidence that

this system was ever employed. Of the extant texts which might qualify as "old law books of land" only G, F, and Bj contain provisions relating to legal weapons. G 299 and F VII 7 specify three classes of persons subject to the levy: unmarried men who do not have their own households (drengmenn, einleypismenn), full farmers and unassisted farmers. While G and F are thus in agreement with H 35 in distinguishing two classes of farmers among those subject to the levy, neither G nor F prescribes separate weapons for these two classes. F VII 13 prescribes legal weapons for the drengmaðr and requires that the farmers (without reference to class distinctions) provide each ship with a certain minimum number of bows and arrows; F is otherwise lacking in provisions relating to legal weapons. G 309 and Bj 137 prescribe legal weapons without any reference to separate classes or separate requirements. Bj 137 states without further qualification that "þrið vörn skal hverr maðr hafa. skiöld ok spjót ok öxi breiða." This absence in the oldest texts of any reference to the distinction between full farmers and unassisted farmers in prescriptions dealing with legal weapons suggests rather strongly that this distinction was not relevant, that all farmers were subject to the same requirements. That there was a time when all of the folk were subject to the same requirements is indicated by the use of the term folkvörn (G 309, F i 21, L II 11n, Bl III 13, M 338, S c p. 267, NGL IV, p. 147). This term could hardly have come into use at a time when different classes of people were subject to differing requirements, its use seems to presuppose a system according to which all of the folk of the levy are to arm themselves equally well. The use of the term folkvörn in the younger laws is a bit anachronistic, its use in the older laws G, F, and Bj may not be so.

According to H 35 the older law books prescribe (vátta) legal weapons for the thralls "if this should be necessary." None of the extant texts of either the older or the younger laws mention legal weapons in connection with the thralls. See however G 312 and L III 3, which require everyone, "both thane and thrall," to appear at the ships when the the levy is summoned. According to L III 3 thralls are to serve in the levy "if this should be necessary."

See the article "Folkvapen" in KLN IV.

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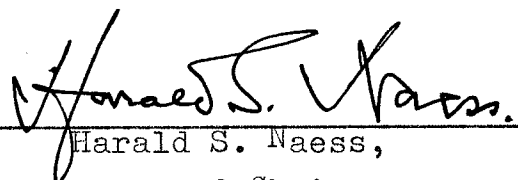
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APPROVED:


Harald S. Naess,

Professor and Chairman,
Department of Scandinavian
Studies

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