

Concordats, Statute and Conflict in *Árna saga biskups*

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The topic of this article is the conflict between church and kingdom over the Concordat of Tønsberg during the 1280s. While the issue has seemingly been exhausted previously, this analysis takes a new approach. Rather than analysing the conflict as taking place only in mainland Norway, this article addresses the conflict in the Icelandic General Assembly of 1281 over the adoption of *Jónsbók*. The narrative of *Árna saga biskups* presents the arguments of the church, which in this study are compared with Archbishop Jon's statute.

The conflict over the Concordat of Tønsberg first caught my interest in my time as a student.¹ In *Ecclesia Nidrosiensis* (2003) I presented the Concordat as a contract between Church and King, the previous Concordat of Bergen as a draft papal privilege, and the barons' "Great General Amendment" to the code of Norway as royal legalism. My present interest is a result of the international project "The Realm of Norway and its Dependencies" (2010–2014), in which I aimed to analyse the insular churches in their relationship to the king of Norway and the archbishop of Nidaros. My contribution therefore analysed the Concordat of Tønsberg and the resulting conflict from a common West-Nordic perspective (NRC project no. 197625/2009, cf. Haug 2012b; Haug 2014; Imsen 2014). That approach was a new one. Jens Arup Seip's brilliant dissertation on the Concordat of Tønsberg and the jurisdiction of the church is basic for understanding the conflict in Norway, but in the new approach I benefited from Magnús Stefánsson's extensive studies of the conflict over the Icelandic

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proprietary churches as well as his and his wife's translation of *Árna saga biskups* (Seip 1942, Magnús Stefánsson 2000, Stefánsson and Magnús Stefánsson 2007). Heidi Øvergård Beistad has criticised Norwegian and Icelandic scholars for their national tendencies, since the conflicts have been considered solely from a mainland Norwegian point of view or as a result of Iceland being a special case with a weak connection to the conflict in Norway (Beistad 2008: 2–5). There is more to say on the conflict, and one of the purposes of this article is to contextualise the Icelandic conflict.

Sources and historiography

Archbishop Jon's statute and *Árna saga* are the main sources for this study. Because it is a legal document, Archbishop Jon's statute is the most important (Guðrún Ása Grímsdóttir 1998, Stefánsson and Magnús Stefánsson 2007; NGL III: 229–241). This article mainly refers to it as the Provincial Statute of 1280 since it was issued by a provincial council. The close reading of the two sources raises new problems, which will be addressed below. The historiography of *Árna saga biskups* will be considered first.

ÁRNA SAGA

Árna saga biskups is the oldest of the Icelandic bishops' sagas. It follows Bishop Árni Þorláksson of Skálholt from his birth in 1237 and through his clerical career, but stops in 1292, before Árni's death in 1298. Although the saga's focus is on Árni, I do not consider its purpose to be a biography. It is rather an instructive example of how an ideal bishop should live and act in the controversial issues of Icelandic society during his lifetime.²

The saga is passed down in only five fragments. The two best fragments are from AM 220 VI fol., the other three from AM 122 b. fol., *Reykjarfjarðarbók*. Some parts of the vellums are corrupted. The saga was published for the first time in 1817–20, and it has been republished several times since. In 1998, Guðrún Ása Grímsdóttir edited a new edition in *Biskupa sögur III*. Magnús Stefánsson and his wife Gunhild built on her edition when they translated the saga to Norwegian.³ The saga is mentioned and referred to in many contexts, but in-depth scholarship by historians is limited to Magnús Stefánsson and two MA dissertations by Heidi Anett Øvergård Beistad and

² More on the character of the saga in Guðrún Ása Grímsdóttir 1998: xv–xxii, xxvii–xli.

³ On the editions, see Stefánsson and Magnús Stefánsson 2007: 12–13.

Birte Myklebust.⁴ Guðrún Ása Grímsdóttir's annotations and the Stefánssons' translation to modern Norwegian have increased the saga's readability tremendously, and Heidi Beistad benefitted from the draft translation of *Árna saga* when she wrote her MA dissertation on Bishop Árni's legislative reforms (Beistad 2008: 2–5).

The editor's and translators' introductions and annotations add to our knowledge of the saga which is "very difficult, complex and often rather unclear" (Stefánsson and Magnús Stefánsson 2007: 13). Its author is anonymous, but many have pointed to Bishop Árni Helgisson (bishop 1304–1320), the nephew and chaplain of Bishop Árni Þorláksson and his successor at the Skálholt see. He is mentioned four times in the saga, every time with the addition that he succeeded his uncle as bishop. For this reason, Magnús Stefánsson has opposed that Árni III is the author as it would be contrary to the medieval ideal of modesty. I agree with this view; even today it would be conspicuous if an author boasts on several occasions of succeeding his hero. Still, the nephew must have been an important source to the saga; often he is the only possible source because he is mentioned as present at the events which are described.⁵ The tenure of Árni Helgisson as bishop of Skálholt gives us 1304 as the *terminus post quem* and 1320 as *terminus ante quem* for the saga being written. Because the earl Kolbein is mentioned in chapter 27, one might suspect that the saga was penned before King Hákon's amendment of 17 June 1308 had been promulgated in Iceland, as the ordinance abolished the rank of earl in the king's commonwealth with the exception of Orkney. However, given that Kolbein had been the earl of Iceland, he may have been called that even after the abolishment of the ordinance.⁶ Still, it is reasonable to believe that the saga was written in the first decade of the fourteenth century, not long after the death of its hero, and it is therefore a saga contemporary with him.

The saga follows a chronology, almost annalistic, but the manuscripts lack the chronological system of Ptolemy which is found in the Sunday letters of the Icelandic annals. Instead, the author has presumed that the reader has exact knowledge of the chronology of the events, perhaps by reading *Sturlunga saga* from which *Árna saga* follows. Fortunately, the editors have added years in their publications.

For a historian the saga is a treasure trove for both the Icelandic and Norwegian history of the second half of the thirteenth century. It refers extensively to more than sixty letters from the correspondence of Árni, a lot of them to or from King Magnus

⁴ Magnús Stefánsson 1978, Magnús Stefánsson 1995, Magnús Stefánsson 2000, Beistad 2008, Myklebust 2014, cf. bibliography in Stefánsson and Magnús Stefánsson 2007: 15–18.

⁵ See ÁSB chs. 135, 142. Stefánsson and Magnús Stefánsson 2007: 11–12. Guðrún Ása Grímsdóttir's edition of *Árna saga* corresponds to the translation of Gunhild Stefánsson and Magnús Stefánsson, but differs in paginating. For this reason the paper will refer to chapters.

⁶ On the use of *jarl* in manuscripts of *Jónsbók*, see Schulman 2010: xxii.

the Lawmender of Norway (1263–1280). Most of these letters were previously in the archive of the Skálholt-bishop, but are only preserved in the saga (Seip 1942: 147; Stefánsson and Magnús Stefánsson 2007: 10). Seip has characterised the saga as a “unique source for Norwegian historiography”.

THE PROVINCIAL STATUTE OF 1280

The research on the Provincial Statute of 1280 is also limited. Two versions were included in vol. III of *Norges gamle Love* (1849) edited by Rudolf Keyser and P.A. Munch (NGL III: 229–237 and 238–241). Seip used Archbishop Jon’s statute from the provincial Council in Bergen in the summer 1280, but accepted the extensive summaries by Keyser and Munch and did not provide any original contributions of his own (NGL III: 229–237 and 238–241). The two versions of the statute, one longer and the other shorter, are written in Old Norse. The title of the longer version is *Skipan Jons erchibiskups ok annarra biskupa*, where *skipan* is the Old Norse translation of “statute”.⁷ The title therefore translates to “the statute of Archbishop Jon and the other bishops”.⁸ Like all ecclesiastical documents, the original text of Jon’s Statute must have been in Latin, but is lost. The statutory legislation was also relevant for laymen, and all ecclesiastical statutes were therefore immediately translated to the vernacular to obey that a law always had to be announced for those whom it affected.⁹

The manuscript of the longer version from 1280 is found in *Codex Scalholtensis* (AM 351 fol.); the printed text is collated with five younger manuscripts.¹⁰ *Codex Scalholtensis* belonged to the bishop’s archive at Skálholt. The shorter version is from

⁷ AM 351 fol.: 232, NGL III: 229; pl. *skipanir* in AM 350 fol.: 250 r., NGL III: 238. Sometimes only the Latin term *statutum* is used in similar acts and one single time as a foreign word, *statút*. *Statuta* is seen in Archbishop Jørund’s first and second statute and in Archbishop Pål’s first statute, *statutum* in Archbishop Eiliv’s second and fifth statute. All of them are written in Old Norse. NGL III: 211, 245, 248, 275, 279. *Statút*: In Gloss., NGL V: 605a.

⁸ *Brefherra Jons erkibiskups*, AM 347 fol.; *Skipan Jons biskups*, AM 456 duodez; in the shorter versions *Skipanir herra Jons erchibiskups*.

⁹ The longer and shorter versions are both amendments of the same original Provincial Statute and indicate domestic Christian law not being fixed once and for all; there was a need for change according to local use and custom. My preliminary view is the shorter version being based in an unfinished statute which were handed over to the barons on their request, before they as guardians of the king had issued the “Great General Amendment”.

¹⁰ AM 351 fol.; NGL III: 229–237; DI II: no. 79 A: 174–184; Gustav Storm’s analysis of the code in NGL IV: 536–537; facsimile Westergård-Nielsen 1971. Younger copies of the statute AM 354 qv., AM 347 fol., AM 456 dipd. pp. 105a–114a, and AM 42 oct.

Codex Scardensis or *Skarðsbók* (AM 350 fol.) and collated with six younger copies.¹¹ All manuscripts are Icelandic parchments. Neither of the versions is the original for the other. Munch argued convincingly that neither of them was a complete translation of the Latin original from 1280, and that the original order of the paragraphs were not observed (Munch 1852–1859, vol. IV.2: 11). This allows us to perform the close reading of the statute according to its issues rather than paragraph for paragraph.

There are indications of lacunae in the copies. The statute is preserved as an open letter from all the bishops in council. It probably opened with the invocation *in nomine Domini amen* as seen in later statutes.¹² The more extensive version lacks both protocol and final clauses, while the shorter one has some information: “while sitting and negotiating in this bishops’ thing ...”.¹³ From *Árna saga* we moreover learn that the statute was corroborated by the present bishops with their seals (ÁSB ch. 56). The sealing is not mentioned in any version, and neither of them is dated. In this paper the analysis will be based on the longer version.

This version of the Statute has been translated to Norwegian in full by Knut Robberstad, but only published as a stencil. Far better known are the translations of excerpts from the Statute which are published in *Norske Middelalderdokumenter* (Robberstad 1947: 42–51; Helle et al. 1973: 164–171). Keyser and Munch gave extensive resumes of the Statute in their presentations “The Norwegian church during Catholicism” and “The history of the Norwegian people” (Munch 1852–1859: vol. IV.2: 6–11, Keyser 1858: 37–38). They pointed to the Statute as a defence of the Concordat of Tønsberg that initiated the conflict between *regnum* and *sacerdotium* in the Commonwealth. Munch considered the Statute to be a political utterance in a conflict over the Concordat of Tønsberg, and most scholars support this opinion.¹⁴ Seip considered it to be an unsuccessful attempt to defend the church (Seip 1942: 157; Myklebust 2014: 4). The nature of the Statute in comparison with the Concordat of Tønsberg will also be addressed in this paper.

¹¹ AM 350 fol.; NGL III 238–241; DI II no. 79 B: 185–188; Storm’s analysis of the code in NGL IV: 536; facsimile Jónas Kristjánsson, et al. 1981. Younger copies AM. 138 qv., AM. 56 oct., AM. 136 qv., AM 456 duod. pp. 51a–54b, AM. 42 a. oct.

¹² See Archbishop Eilif’s first statute, Archbishop Paul’s first and third statute, Archbishop Olav’s statute, and Archbishop Aslak Bolt’s statute in NGL III: 246, 277, 285, 301; NGL II: I no. 311.

¹³ ... *oss sitiandum ok tracterandum aa þessu biskupa þingi*... AM 56 oct., 136 qv. and 456 duod. A provincial council is also called *kennimannafundur*, cf. note 18 below.

¹⁴ Munch 1852–1859, vol. IV.2: 1–19; Keyser 1858: 34–45; Bang 1887: 128; Joys 1955: 328–338; Helle 1972: 172–173; Stefánsson 1977; Haug 2003: 99 and several overviews.

Birte Myklebust examined how the Statute was used in the conflict between Church and King in the 1280s. Its last canon on banishment is a main part of her MA dissertation, and she uses *Árna saga* to show the Statute as legal authority in all the Icelandic excommunications and interdicts of the 1280s (Myklebust 2014: 5–10, 12–13). Kristoffer Vadum's ph.d. thesis should also be mentioned for showing that parts of the Statute are based on Raymond de Peñafort's *Summa de casibus de penitentia* and Geoffrey of Trano's *Summa super titulis decretalium*.¹⁵

Concerning the character of ecclesiastical statutes in general, Vegard Skånland has maintained that provincial councils had no legislative authority in the High and Late Middle Ages (Decretales Gregorius IX, 5. 1. XXV. Skånland 1968: col. 528). The central role of an ecclesiastical statute was to enforce and ensure that general canon law was followed and obeyed. A provincial statute was thus only an "instrument to ensure that canon law was introduced and kept." It did no more than transform canon law to particular law; by ecclesiastical statutes the international church laws were received in domestic legislation.

Skånland further maintained that an ecclesiastical statute was particular law (*lex particularia*) whose address was the clergy, not everybody, and thus not an ordinary law (Skånland 1968: col. 528; Skånland 1969: 165–168; Myklebust 2014: 3). Carl-Gustaf Andrén had more or less the same view. With reference to Gratian he considered ecclesiastical statutes as regulations of general and particular canon law to adjust clerical life. The statutes of the church were generally issued by bishops that had no legislative authority in society (Andrén 1972: col. 54). The views of Skånland and Andrén are hardly consistent with the opinion of the Provincial Statute of 1280 being a political statement. Let us first discuss the legislative authority of provincial councils.

Skånland and Andrén based their views on the legislative order of the regional things from the Early Middle Ages. No statute could be considered as a law before it had been passed at the thing, but a bishop or a king was allowed to present new rules. The known older statutes from the Nidaros province show that they had a contractual character between the king, the attendants of the things, and the church. Apart from the old Celtic church at the Hebrides Iceland was the first in the province to issue particular Christian laws. Archbishop Øystein composed 'Gullfjør' for the Frostathing, a code that is lost, and King Sverre achieved the adoption of his *kristinn retrr* (NGL IV: 569–571; Hamre 1977).

¹⁵ Cf. DI II: nos. 91 (*um bannz mal*), 93. Vadum 2014: 20–22, 28, 40–41, 44–45, 69–89, 121.

In 1280 canon law was fully developed and had been so for the better part of the century. The Norwegian church had given a contribution to this in archiepiscopal letters to the pope which are recorded from 10 December 1169 to 8 July 1241.¹⁶ Most papal responses were included in Gregory IX's Decretals, also known as *Liber Extra*, while Archbishop Sigurd's issues were referred as late as 1917 in Pietro Cardinal Gasparri's edition of *Corpus Iuris Canonici* (Catholic Church and Gasparri 1917: canon 737, § 1, see note to canon 849).

There were no problems in the statutes' legitimacy until Archbishop Jon opposed the king's jurisdiction in 1269, when King Magnus visited Frostathing to present and pass his new ecclesiastical law which was intended to be a part of the law of the land. The metropolitan maintained that only he and the church had the right to legislate in spiritual matters. He formed an ecclesiastical law based not only on canon law, but also canonical jurisprudence which the king could not accept. The impression of *Árna saga* is that also the Skálholt-bishop followed these principles (ÁSB chs. 62, 65; Stefánsson and Magnús Stefánsson 2007: 82, 85–86, 90).

Magnus the Lawmender finished the *Landsloven* in 1273. The Magnus Code for all Norway places him among the three great European legislators of the thirteenth century and represents a turning point in Norwegian political history. However, the section on ecclesiastical law contained nothing but the succession law. In the thirteenth century, secular powers had to go the way of concordat if they wanted their policies to become part of the legal order of the Church (Kuttner 1955: 543). The same meeting that finalised the *Landsloven* thus saw an agreement between church and kingdom called the Concordat of Bergen (NGL II: 455–462).

Archbishop Jon's ecclesiastical law was adopted by the Frostathing, and Bishop Árni of Skálholt achieved the same for Iceland in 1275. Meanwhile, Archbishop Jon attended the Second Council of Lyons to which the metropolitan brought the Concordat of Bergen for papal confirmation. The pope affirmed it only conditionally, for which Jon Raude, a man of principle, was probably responsible. However, this conditional affirmation was ill advised; King Magnus would not accept the papal conditions that the archbishop had agreed to leave out of the agreement. The church was dependent on the secular ruler. Moreover, the General Council had decided that a six years' tithe should be collected from all benefices in Christendom. The collection started in the Nidaros province, but nothing could be sent abroad without the per-

¹⁶ Holtzmann 1938: 393–394, also published with translation to Norwegian in Vandvik 1959 no. 20; DN I 26; Reg. Greg. IX III no. 6099. For an overview of the twelfth-century responses, see Duggan et al. 1982.

mission of the king (ÁSB ch. 53). No new ecclesiastical laws could be adopted because of the unresolved conflict between church and kingdom over legislation.

Outstanding issues between kingdom and church had to be solved in order to implement the decisions of Lyons. This was achieved with the Concordat of Tønsberg in 1277. The agreement guaranteed the church jurisdiction in cases covered by ecclesiastical laws as well as cases that involved clerics. But also older rights were confirmed. The bishop's right of advowson was determined as absolute. Moreover, the church achieved several economical rights, above all an extended freedom of taxation. As an addendum to the Concordat a new regulation of tithes was set up. In short, the Concordat of Tønsberg drew up the limits between the secular and spiritual powers of society all over the Commonwealth.¹⁷ The Concordat of 1277 in most cases built on the Concordat of Bergen, but was more restrictive concerning ecclesiastical privileges.

The Concordat gave the church the legitimacy to go forward in its legislation and was the legal authority of the provincial council. The preparation for a synod started. It is worth mentioning that Bishop Árni of Skálholt had spent the winter 1279-1280 in Bergen. "Árni was at the king's for Christmas, Easter and all festive days," the saga tells (ÁSB ch. 54). The relationship between the bishop and King Magnus the Lawmender was one of friendship from their first encounter when Árni was still a deacon (ÁSB ch. 4). The saga laments the king's untimely death on 9 May 1280, and it is more than plausible that the bishop was present at his deathbed along with Bishop Narve of Bergen.

The statutory legislation in 1280 should on this background be assessed from a different point of view than earlier statutory legislation.

The Meeting in Bergen 1280

I THE PROVINCIAL COUNCIL

As mentioned above, Archbishop Jon's Statute was issued in the provincial council which had been summoned in 1278 to meet in Bergen two years later.¹⁸ *Árna saga* provides the context of the conflict which arose:

¹⁷ NGL II: 462-467, translation to Old Norse with the new regulation of the tithes pp. 467-475.

¹⁸ DN VI no. 34; Isl. ann.: 137. On the dating of the call see Haug 2014: 114 and 137, note 123.

If anyone is curious to know which issues were settled on this thing, he should read the statutes which the bishops prepared and confirmed with their seals. What happened simultaneously is also known by many, when Lord Eirik was *coronatus in festo Svithuni Episcopi* [2 July 1280] by the aforementioned Archbishop Jon, in the presence of these bishops: Anders of Oslo and Jørund of Hólar, Erlend of the Faroe Islands, Árni of Skálholt, Arne of Stavanger, Narve of Bergen, Torfinn of Hamar, Mark of Sudreyar. And for all these bishops the aforementioned Archbishop Jon held a splendid banquet at the first Olav's Mass. Bishop Árni took his leave of the archbishop with great kindness when the latter went back to Trondheim. (ÁSB ch. 56)

The statute "which the bishops prepared and confirmed with their seal" is identical with the statute under analysis in this article (NGL III: 229–237). It was issued in a 'thing'; Old Norse for provincial council was *biskupa þing* (bishops' thing). The negotiations of the medieval Norwegian church in council is thus a parallel to the deliberations of a secular thing. *Árna saga* also provides information on the duration of the council. Archbishop Jon Raude arrived in Bergen on Trinity Sunday, 16 June, and probably opened the synod with procession and celebration of mass on this feast. We also learn that the council closed on Olav's Mass, 29 July, which was the greatest feast in the Commonwealth (ÁSB chs. 55, 56).

All suffragans were obliged to meet at a provincial synod, while abbots and representatives were summoned as consultative members. The bishops could authorise proxies if they were prohibited from meeting. Provincial councils were to be summoned every year, but the vast area of the Norwegian province made such frequent meetings impossible (Skånland 1968: cols. 527–528). The quote from *Árna saga* informs us which bishops attended the consecration of Eirik Magnusson, and consequently the provincial council. The synod was very well attended. Of the ten suffragans only the bishops of Gardar and Orkney were absent. Bishop Olav of Gardar was on his deathbed, or already dead, when the council convened on 16 June. Bishop Peter of Orkney had fulfilled his duty to visit the archbishop by going to Norway in the summer 1278 (Isl. ann.: 51, 70, 141, 195, 260, 337). The summons to the provincial synod was probably issued while he stayed in Norway, and the archbishop may have excused him from meeting personally.

That Bishop Mark is mentioned in connection with the consecration of the king is particularly interesting, as he was not among the bishops who issued the Statute (DN I 69). This has not been explained satisfactorily, but the reason is probably that he had not yet achieved his full episcopal authorities. When Sodor became vacant in

1275, the bishop-elect was turned down by Alexander III, king of Scots and patron of the church, who nominated his chancellor, Mark of Galloway. The new bishop-elect was consecrated in Tønsberg in July or August 1277 by Archbishop Jon, and must have been present when the Concordat of Tønsberg was agreed. However, the Manx refused to accept him for three years, and as a consequence they were interdicted. During these years, Mark was exiled in Scotland or in Norway. The Sodor see was vacant as long as Mark had not taken possession of the church. His lack of authority in the summer of 1280 explains his seal missing in the Provincial Statute (Isl. ann.: 389; Kolsrud 1913: 327, notes 24–25; Benson 1968: 142–143; Woolf 2003: 179; Haug 2006: 41; Haug 2014: 110).

II THE NATIONAL SYNOD, THE CORONATION AND THE BARONS' ORDINANCE

There was a national synod, a larger meeting than the provincial council, in Bergen during the summer of 1280. King Magnus had wanted his eldest son to be consecrated to the kingdom by the archbishop's coronation, and when he learnt about the summoning of the provincial council, the two probably decided the council to be a good framework for such an important event. Consequently, Magnus had called the national synod to the coronation and had invited guests from both the commonwealth and abroad.

The meeting in Bergen in the summer 1280, immediately after the death of King Magnus, marks the beginning of one of the most serious conflicts in the relationship between church and state in Norway in the Middle Ages. The national assembly was gathered at Holmen, the royal castle north of the inlet Vågen and next to the Christ Church where the coronation of Eirik took place. The provincial council and the national synod may thus be seen as two separate assemblies, the council being situated in the archbishop's Bergen-residence south of Vågen. After the coronation, the guardians of Eirik Magnusson formed a third assembly of a more closed nature in the royal residence to draft and promulgate 'The Great General Amendment' to the *Landsloven*. The Amendment is known for its anticlerical tendency towards the Concordat of Tønsberg: Clerics could be subpoenaed to secular courts, and had to pay taxes like anybody else, the new regulation of the tithes was cancelled, as was the archbishop's privilege of minting. The barons unilaterally legislated on marriage which had always belonged to the jurisdiction of the church (NGL III: 3-12; DN III 20, 21 and 30; Munch 1852–1859, vol IV.2: 13, note 1; Brandt 1880, § 10; Helle 1974: 251–252). From the other side of Vågen, Archbishop Jon, his present suffragans and several anonymous canons and clerics answered the barons by threatening everybody who resisted the rules of their statute excommunication. In this way the episcopate

used a purely spiritual measure as a political instrument and as a last, devastating argument in their struggle for jurisdiction.

An uncompromising conflict between Church and King followed; is well documented by sources and is a main topic of *Árna saga biskups*.

The Conflict in the *Alþingi* 1281

In the late summer of 1280, the baron Lodin Lepp, one of the king's guardians, arrived in Iceland, bringing with him the new code *Jónsbók* which was meant for adoption by the General Assembly in their next annual meeting. The people thus had the opportunity to study the code during autumn and winter. *Árna saga* has an extensive summary of the negotiations (ÁSB ch. 62, 63, and the final agreement ch. 65).

Before the General Assembly it seems clear that the new code could not be adopted in its entirety at once. Three factions had objections: Bishop Árni, with the clergy and friends of the bishop; the liegemen; and the farmers. *Árna saga* reports a list of thirty-eight chapters which the bishop's faction would not accept. Iceland had no executive power before it became a land of the Norwegian commonwealth. One achievement of *Járnsiða* (1271–1273) was to establish an executive system in Iceland with royal ombudsmen whose task was to prosecute, punish and exact fines on behalf of the king (Jón Viðar Sigurðsson 2014: 196–198). Bishop Árni and the king had cooperated in the adoption of the code and of Árni's ecclesiastical law. Why he now raised objections to *Jónsbók*, which is considered as the late king's best legislative product, is a pertinent question. A review of the objections to the law-book and a comparison with the Provincial Statute may contribute to an answer.

The complaints fell generally in three groups: 1) the penal provisions were too severe; 2) many rules were not fitting the conditions of Iceland; 3) several cases were in conflict with ecclesiastical law.¹⁹ The list of objections shows the bishop's faction as a complex team of liegemen and farmers. The thirty-ninth and final objection states that in the future, people should be spared any rule of the code they could prove was impossible to live with (ÁSB ch. 62. Ólafur Lárússon 1960: 82). In this way the faction prepared themselves for all eventualities as well as asking for new legislations by amendments to the law.

Bishop Árni declared that his objections were relevant to the concordats of Bergen and Tønsberg, which stated that the bishop, not the laymen, should have the juris-

¹⁹ Ólafur Lárússon 1960: 74–93, at p. 83. See the annotations of Guðrún Ása Grímsdóttir 1998: 87–93, Stefánsson and Magnús Stefánsson 2007: 81–83. *Árni's Christian Law* is published in NGL IV: 16–56, and in *Jónsbók* (Már Jónsson 2004).

diction in all ecclesiastical cases, including investigation and sentencing. Árni continued by referring the opening of both concordats' canon 2:

On behalf of himself and all his successors the honourable King Magnus waived all jurisdiction, if he or his predecessors, the chairmen of the Norwegian commonwealth, had ever had the right, or seemed to have had one according to time-honoured right, in cases that concerned the church. He also granted the church the privilege that the kings should not break or change the old laws of the fatherland or what was due to the church.

Bishop Árni ended his address by once more referring to God's laws:

When God's laws and the laws of the land do not agree, we will in no way accept the church losing the *frelsi* in the laws of the land, which are subordinate to God's laws, and which were adopted as laws over all our country by this court and agreed by all countrymen.²⁰

In view of this statement of principle, Árni would not accept the other chapters of *Jónsbók* which legislated in cases belonging to the church, for jurisdiction. This was particularly relevant in cases concerning heresy, matrimony and tithes. He maintained that the difference between the regulations of *Jónsbók* and Archbishop Jon's Statute was so great that the new code had to be rejected (ÁSB ch. 63; Myklebust 2014: 40)

FRELSI HEILAGRAR KIRKIU AND THE JURISDICTION

The concordats which Bishop Árni referred to in the *Allþingi* are rarely mentioned in other records, but the Provincial Statute of 1280 is an exception. A close reading of the Statute and a comparison with the concordats will help in determining whether

²⁰ *Er þat fyrst um valveiðar ok lögmans kapitula ok um sáttargerðir þeira Magnúss konungs ok erkibyskups, því at þar stendr í at byskup skal lög segja en eigi leikmenn yfir öllum sökum þeim sem herá til heilagri kirkju, prófa þær ok dæma, ok svá þat at virðuligr Magnús konungr gaf kirkjunni undan sér ok sínum örfum ok öllum eptirkomendum, ef hann eðr hans fyrirfarendr, formenn Nór-egsríkis, hefði haft eðr sýndiz hafa sakir nokkorar hefðar landslaga nokkot vald eðr hald slíkra hluta. Han veitti ok kirkjunni þat privilegium, at konungar skyldu snúa fornum lögum fósturlandsins eðr eign kirkjunnar í fjárpynd, eðr leikmenn eðr lærdóminn til þvingunar ok ófrelsis; svá ok at forn frelsi kirkjunnar skyldi baldaz um fálkaveiðar. Svá viljum vér ok með engu móti þola at heilög kirkja tapi því frelsi, at þar á greinir Guðs lög ok landslög ráði jafnan Guðs lög eptir því sem löngu var lögtekkit hér í lögréttu yfir allt vart land með góðu samþykki allra landsmanna.eigi mega breyta eðr (ÁSB ch. 63, cf. Appendix).*

the Statute defends the agreement from Tønsberg, is a legislative act or is a political uttering.

The *frelsi* of the Icelandic church was emphasised by Bishop Árni as her traditional and legal right. It is reflected in the Statute's canon 2 and is a central issue. Its full wording in Old Norse reads:

Suo hit sama settium wer bannsettningar suerð i gegnum alla þa men sem með illvilia leita niðr at briota eða firir koma frelsi heilagrar kirkiu innan Niðaross erkibiskups dæmis eða þær lofsamligar siðveniur sem kirkiunur eiga hafa sakir fornrar hefðar (NGL III: 230; DI II 79).

The term *frelsi heilagrar kirkiu* in this canon is usually translated as “the freedom of the holy church” or *libertas ecclesiae*, the slogan of the Gregorian reform movement. In the original Statute the Latin expression has probably been used. Originally, *frelsi* meant freedom, but both in Latin and Old Norse this is a dynamic concept and the usual translation seems too narrow. In the thirteenth century the notion meant the special and privileged legal position which the church had obtained all over the province in accordance with general canon law, the concordats, and local and papal privileges. The Statute aimed to protect this position. I have therefore followed Ebbe Hertzberg's definition 3 of *frelsi*, “the quintessence of a person's or institution's privileged legal status, active as well as passive” and suggest the following translation of the Statute's canon 2 (NGL V: 207 at *frelsi* 3):

Likewise we drive the sword of banishment through everybody who by evil will [i.e. premeditatedly] attempts to break down or destroy the privileged jurisdiction of the Holy Church within the archbishopric of Nidaros, or the customary legal rights of the [local] churches.

Indirectly, the saga calls on this concept when Bishop Árni demands the abolition of all chapters of *Jónsbók* with which his faction does not agree.

Still, the most important issue for the Nidaros church, including the diocese of Skálholt, was the question of jurisdiction. The Statute's canon 2 is not sufficient to explain Bishop Árni insisting to keep the royal privilege of jurisdiction. The Statute's canon 6 concerns the privileges and benefits that the church had obtained in the two concordats, and is thus a straightforward reference to them. This canon will be analysed in more detail below (see Appendix).

In the context of the conflict over the Concordat of Tønsberg, canon 8 of the Statute was most important. Its seventh paragraph referred to *frelsi heilagrar kirkius*

twice, and *ipso facto* proclaimed to excommunicate anybody who either legislated against the privileges of the Holy Church, did not remove such laws from the law-books, maintained them or sentenced according to such legislation “which rather than customary law should be called bad habits”.²¹ The legal position of the Church is defined in the privileges it had been given according to spiritual cases or richness of this world, be they general or special:

...God has given the church the privilege of authority to rule over its properties and fortunes, and its leaders must legislate in spiritual cases, and judge about them and more, which is stated in the new as well as the old covenant. ... (Can. 8.vii.4)

²¹ Can. 8.vii. divided in paragraphs with the discussed items in **bold**:

1. *I siaunda stað er her skrifaðr sa atburðr ef menn gera skipanir moti **frelsi helagrar kirkju**. nema þeir hafi innan tua mánaði síðan er þeim var leyst tekit þat af sinum bóokum ef þær woro ritaðr. eða hallda þeir fram þeim skipanum þo at þeir lutir væri af skafnir bokinni. slikt hit sama ok þeir sem rita þuilikar skipanir ok æigi síðr vallazmenn. ráðsmenn ok rettara stadanna ef þeir dirfaz at dæma eptir þess hattar skipanum. sua þeir sem þa doma rita til staðfestingar. slikt hit sama ok þeir sem warðueita ok lata wið hafa veniur þær sem helldr mega heita oveniur ok upp hafa tekiz moti **frelsi helagrar kirkju**. þa bindaz þessir allir i bannz atkuæði at guðs loegum.*
2. *En þat er vitanda at **frelsi heilagrar kirkju** stendr saman i þeim þriulegiis sem henni hafa veitt werit yfir andligum lutum eða stundligum auðæfum almenniliga eða einsliga. Nu eru sum þriulegia veitt heilagri kirkju af sialfum guði suo sem varr lausnari Ihesus Christus sagði Petro postula. huat sem þu hefir bundit á ioeerðu þa skal vera bundit á himni. ok hvat er þu hefir leyst á ioeerðu. þat skal leyst á himni.*
3. *Sua ok þat at **tiundir** ok frumfornir ok allt offr heyra kirkium til. Þat þriulegium er enn af **guði** veitt heilagri kirkju.*
4. *at klerkar eigu valld ok ráð yfir hennar eignum ok auðæfum. ok hennar forstiorar eigu lög skipa af andligum lutum ok hafa þar dom yfir ok fleira annat þat sem stendr i binu nyia logmáli ok binu forna.*
5. *Af herra þafanum eru ok þriulegia veitt heilagri kirkju. sua sem þat at sa er i banni af sialfu verkinu sem heiptuga hoend leggr a lærðan mann.*
6. *sua þat at tueir vattar vinni þoerf **vm testamenta** þau oell sem sálugiafir megu metaz. ok morg onmur þriulagia hafa þafarnir veitt heilagri kirkju.*
7. *Sua hafa keisarnir veitt þriulegia heilagri kirkju, þuiat þat megu þeir vel gera af veralldligum lutum suo sem þat er at huerium manni er lofat at leggja til heilagrar kirkju foðurleifð sina suma eða alla huat sem hann vill at hon eigniz eptir hans dag. eða fyrr, með huerium hetti er hann vill. ok æigi þarf þann nockurn orlofs eptir at spyria vm þa gioef. þuiat i þeirri gioefer maðr gefr heilagri kirkju firir sál sinni. er þat hit bezta endimark at ecki endimark se henni sett.*
8. *Nu huerr sem motgang veitir þessu **frelsi almennilighrar kristni**. þa foðaz hann æigi bannz afelli. (NGL III: 235–236).*

Canon 8 has received a lot of attention because of its list of *ipso facto* banishments (see Myklebust 2014: 34–37, 47–51). The canon has a rather long introduction, quoting Latin excerpts from Acts 18, 20, and 28.²² It then states the impossibility of pretending not to see a man forgetting the cure of his soul by laying strain on the Holy Church, on God's property, or not fearing harshly harming His servants. Priests who look away from those who act in this way and do not punish every perpetrator will also be banished. A survey of such violations shall be read at every episcopal see and the most important churches once a year.

Ten of the fifteen rules of can. 8 may be seen as a deepening of the Tønsberg Concordat's privilege of jurisdiction and a pleonasm when referring to the already mentioned canon 6 of the Statute. Many rules of canon 8 are found in domestic ecclesiastical law. Still, there is more reason to see its content as a free summary of Pope Honorius III's decretal *Noverit* (1221), which is founded in older decisions from ecumenical councils and papal decretals. The pope proclaimed the same list of excommunications *ipso facto* in Rome on Maundy Thursday, *in cena Domini* (X 5.39.49. Göller 1907: 242–258, Haug 2003: 99; Vadum 2014: 206). This was the day to absolve penitent sinners from their excommunication and readmit them into the Church, but also to sentence banning and banishment.

The custom of periodical publication of censures is an old one (Göller 1907: 245; Prior 1910). Traditionally, a public, general ban on certain crimes against Christianity and the Church, which resulted in excommunication *ipso facto*, had been issued by the pope. This was particularly relevant to heretics and those who attacked the privileged position of the Church. An overview of these cases was posted on the gate of the Lateran church (Haug 2003: 99). In the *Bulla In Cæna Domini* the list of censures were published in November 1302, and was then clearly directed against Philip IV of France (Göller 1907: 257). After Pope Boniface VIII's tenure, the Bull is not mentioned in the papal registers prior to 1363 (Göller 1907: 242–275; Bouaert 1937: 132).

The inclusion of all excommunications *ipso facto* in the Provincial Statute of 1280 may also be seen as a follow-up to Lateran IV (1215), which ordered everybody to confess at least once a year (Vadum 2014: 186). The development of the papal penitentiary and provisions of Scandinavian minor penitentiaries in the curia from the middle of the thirteenth century meant an impetus to this development of confessions in the Norwegian church (Haug 2008: 86–100). The text of the Provincial Statute's

²² *Vos scitis quo modo nihil subtraxerim uobis utilium quo minus annunciarem uobis qua propter contestor uos quod munde sunt manus mee a sanguine omnium uestrum.* NGL III: 232 says to refer to Paul's epistle to the Ephesians, but the shorter version refers correctly to Acts, NGL III: 239; Munch 1852–1859, vol. IV.2: 7, 11.

canon 8 should be proclaimed during Lent, thus allowing those who found themselves to be excommunicated, to repent and do penance to ensure that they could receive the annual communion on Maundy Thursday. Nobody could declare ignorance of the law. The proclamation of similar rules is mandatory in later provincial statutes (Vadum 2014: 396, and notes 1405 and 1406).

The Provincial Statute's canon 8 thus reflects two hundred years of struggle for church reform for the liberty of the church, or in Old Norse *frelsi heilagrar kirkiu*, which in 1280 meant all aspects of the Holy Church's privileged position, or jurisdiction in a wide sense.

PRIVILEGE OF FORUM

Árni first and foremost objected to using the same law speaker in secular and ecclesiastical court.²³ He had discussed a new ecclesiastical law for Iceland with Archbishop Jon in 1272. The latter had then emphasized his intention of prohibiting laymen to sum up on ecclesiastical law (ÁSB ch. 21). The reason was the change of the court system. *Járnsíða* had introduced the office of the law speaker (*lögmaðr*) to replace the traditional lawsayer (*logsogumaðr*) who traditionally had opened the public things by promulgating the law and guided the law assembly in their verdict.²⁴ The new law speaker's summing up became more or less a real verdict. If anyone disregarded the judgment to which the Law Council had assented, he was fined four marks to the King and one to the plaintiff (*Jónsbók* ch. I,5; Schulman 2010: 14–17).

The objection to a common law speaker was significant to the issue of forum. The Provincial Statute's first canon addresses the problem in renewing the statute of Cardinal William of Sabina. In his treatment of the canonical privilege he prohibits the use of violence towards another's real estates or his authority, with the threat of excommunication *ipso facto*.²⁵ In this way the Statute underlined the clergy being an

²³ The saga combines this objection with objection to the chapters on falconry. The clergy was forbidden to hunt or keep hawks and falcons, cf. *Corpus Juris Canonici* (C. II, X, De cleric. venat.) and repeated in canon xv of the Fourth Lateran Council. However, neither clergy nor laymen did hawking in Iceland. The bishop's right of catches of this valuable bird was one of his privileges. Falcons were exported to European princes or presented as valuable gifts to them (Björn Þórðarson 1959). – After the General Assembly Árni obtained an exception to *Jónsbók's* general rule.

²⁴ Tobiassen 1965: cols. 158–159 reflects the development both in Norway and Iceland.

²⁵ ... þa endrnyium wer með röksemd þessa biskupa þings skipan. þa sem giörði goðrar minningar Vilhialmr cardinali i Noregs konungs riki. þa er hann framdi þar þat embætti sem herra Jnnocencius pafi hafði hann til skipat sem sinn legatum. at huerr sem af sialfs sins vilia ok valldi geingr aa annars fasta eign. eða dregr vndir sik annars valld með ofriki. þa se hann af sialfu verkinu bundinn með bannz atburði. En till þess at ránsmaðrinn beri ægi létti aptr af sinni flærð ok illzku. þa leggium wer þat til

estate. A lay law speaker sentencing the clergy was a violation of their right to be judged by their peers.

The claim of privileged forum was central in the Gregorian Reform. In the privilege to the Norwegian church of 15 June 1194 Pope Celestine III prohibited clerics to answer and accept verdicts in secular court in cases of canon law, and less than a year later he renewed the prohibition (DN II 3; DN I 1). The papal privilege should be considered in light of the atrocities during the civil wars. Also in 1281 the church faced a difficult situation.

The clergy's demand for a separate forum for litigations against clerics had a parallel in the royal liegemen's privilege of being judged by their peers or the king as seen in the *Hirðskrá* (the law of the king's guard) which had been finalised at the same meeting as the Concordat of Tønsberg (Imsen 2000: chs. 15, 29, 35 and 37). Árni reminded the Assembly of the most important privilege of the concordats: the king's waiving any rights in hearings, investigations or decisions in ecclesiastical cases. And the bishop read all the Provincial Statute. The second part of its canon 6 refers directly to *composicio*, which was the term originally used for the Concordat of Tønsberg, by listing cases to be proceeded in ecclesiastical court. It then reckons fourteen privileged cases for ecclesiastical jurisdiction (NGL III: 231; DI II 79, cf. Appendix).

There were two ecclesiastical courts; the internal and informal forum of conscience and penance was meant for the sacrament of confession. These cases were never public and were always left to the parish priest or cleric who had the cure of the souls (Seip 1942: 26–30, Böttcher 1971; Sandvik 1986: 563–565; Goering 2008: 379–381). Still, when excommunication was used in a political conflict, there were of course problems which eventually struck back on the church by banishment losing its seriousness. All the following excommunications in Iceland in the 1280s were sentenced in the internal forum.²⁶

The concordats' royal privilege to the church, echoed by the Provincial Statute, pertained to the external forum. The privilege went further than the *Hirðskrá* in granting the clergy jurisdiction in cases for which the clergy was sued by laymen (the Concordat of Tønsberg canon 2.i, the Statute canon 6.i). The church thus had the privilege of jurisdiction in all cases which could bring clergy to court. According to the *Hirðskrá* lawsuits brought against persons or matters outside the *hirð* should be carried out in an ordinary court with the right to appeal the outcome to the king

at raans sökin skal dæmaz fyrir domara heilagrar kirkiu. ef kirkius eða klerkar waro ræntir. (NGL I: 450–451; NGL III: 229; DI II 79).

²⁶ On excommunications and interdicts, see Myklebust 2014: 110–111.

(Imsen 2000: chs. 15, 29, 35 and 37). No superior body of appeal is mentioned in the agreements and the Statute. Seemingly, the king had granted the Nidaros church a genuinely new privilege with the concordats, but on one serious condition, which will be discussed below.

In his ecclesiastical law, Árne had already achieved full jurisdiction in cases which could bring clergy to court, and in cases which involved both the clergy and/or the church as an organisation (Vadum 2014: 199, note 784). *Staðamál* is an obvious example of the latter. The first canonical process on the issue in Bergen in 1273 was presided over by Archbishop Jon, but the King was present with an associate judge. In other words, *staðamál* was a mixed case between the Church and laymen. The owners of the Icelandic proprietary churches were deprived of their traditional rights (ÁSB ch. 22. Haug 2014: 111). But the cases were brought up again after the new ordinance for Iceland which allowed the church owners to take their former property back. In the following years, royal officials encroached on ecclesiastical jurisdiction by subpoenaing priests to secular court (DI II 113). Many of the church owners belonged to the king's *hirð* and may have relied on the *Hirðskrá's* rule of persons and matters outside the *hirð* to be brought up in ordinary courts.

There may also have been a conflict of interest in ecclesiastical courts. The Great General Amendment of 1280 saw a lack of competence in a parishioner combining his office with the office of the rural provost. This office had developed from the archdeacon whose office had been established during the foundation-process of the church province. Provosts had the authority to sue on behalf of the bishop (DN I 1). The Amendment ruled that only priests having no cure of souls could become rural provosts (NGL III: 5). The barons thus addressed the confidentiality of the confession in the internal forum. Even if the victims were the church or the clergy, the confessor and the prosecutor of the ecclesiastical external forum could not be the same person. The church had already solved some of this dilemma by referring the absolution of very serious crimes to the pope. Later, when *Liber Extra* was promulgated, the bishop's law speaker called *officialis* was introduced (Dahlerup 1967: col. 529; Hommedal 2010: 18-22; Haug 2014: 121). But in the 1280s, the provosts' potential lack of competence was still a problem which was tacitly overlooked in the Provincial Statute and by Bishop Árne. In 1285, he reinstated a rural provost of Vestfirðir – to the dismay of Hrafn Oddsson, but not in contradiction with the preserved fragment of the King's ordinance for Iceland (ÁSB ch. 101; DI II 113).

The prolonged conflict between secular authorities and the Church in Iceland was caused by *Jónsbók's* insistence on having a common law speaker for secular and ecclesiastical courts. However, the preserved manuscripts of the code does not men-

tion the issue, and the demand was probably waived before the royal proclamation of the Settlement of Avaldsnes on 2 May 1297 (DI II 167; Haug 2014: 118).

HERESY

Let me now turn to the other objections of Árni's faction which had a title in the concordats and the Statute. The first was on secular jurisdiction in cases of heresy. This objection was titled in canon 2.xiii of the concordats, canon 6.xiii of the Provincial Statute on disbelief and all other heresies, but first and foremost in the Statute's canon 8 on apostasy, heresy and adherents of heretics, all perpetrators being sentenced with excommunication *ipso facto*.

The sources on heresy in Iceland and Norway in the Middle Ages are almost non-existent, but disbelief was considered a special case of heresy. This is also the case with apostasy, which is not mentioned in the Latin original of the Concordat of Tønsberg. However, when compared with its translation to Old Norse, secession is reckoned as a special case of heresy (*Vm uillu ok vantru*) and corresponds to the Statute's 6.xiii (*vm villu alla ok vantru*, cf. Appendix; NGL II: 470; Hamre 2003 (†): 428–429). In a relatively newly Christianised society, apostasy was a threat. Sacrificing (*blóta*) to pagan gods or spirits, divination and witchcraft are mentioned in Jon's Christian law as cases of apostasy to be considered as equal to manslaughter, the punishment of which was outlawry (J 56; NGL II: 381). The Christian law of Gulathing sentenced outlawry if the person who had sacrificed to heathen gods did not repent his or her sins (Gtl. 3, NGL II: 307-8; Hamre 2003 (†): 428). Outlawry was the secular parallel to excommunication, and it is interesting that the perpetrator's entire property should be shared between the bishop and the king as a penalty according to Jon's ecclesiastical law.

Heresy and related cases were considered crimes against God. When *Jónsbók* considered heresy as a case for secular jurisdiction in Iceland, the reason was probably that the penalty was outlawry, while according to canon law excommunication was the obvious sanction. If the church obtained more than an excommunication of the perpetrator it was obliged to cooperate with the secular arm. After the General Assembly Bishop Árni, probably for this reason, obtained a settlement with the King on the penalty in cases of paganism and heresy (*ÁSB* ch. 65).

PERJURY

Moreover, Árni's faction objected to the chapter on perjury which should be sentenced with outlawry. The legislation from the 1270s had addressed the violation of oaths. On the one hand, *Járnsiða* explained the different oaths to be taken. On the

other hand, Áрни's ecclesiastical law sentenced perjury with a fine of four marks to the bishop, to be increased by 1 *aura* for every accomplice (Áрни's ecclesiastical law § 30 in NGL V: 41–42; *Járnsiða* §§ 139–141 in NGL I: 300). The faction could refer to both concordats and the Provincial Statute for their objection; perjury was a case for ecclesiastical court according to canon 2.ix of the concordats and 6.xi of the Statute. The reason for this is all medieval oath-taking invoking God as witness to the truth of the actual statement or to the keeping of the actual promise.

To give a false statement was a serious crime and significant in the old secular jurisdiction which built on verifying oaths sworn by a certain number of men or women rather than inquisition of evidence. A perjurer was infamous and had lost his honour. He was ineligible to hold positions of public trust, to bring accusations in court, be it ecclesiastical or secular, to testify at a trial, to pass a sentence or a judgment or to make a valid will (Vodola 1986: 44–45).

Bishop Áрни's faction did not receive any concessions to their objection. In *Jónsbók* oaths of twelve, six and three, as well as perjury, are treated in the chapter on theft. Also *Landsloven* states this felony as a case for secular jurisdiction (*Jónsbók* ch. XI, 19–22, Schulman 2010: 354–357; cf. *Landsloven* IX, 9–16). The concordat of Bergen, issued at the meeting which adopted *Landsloven*, has the same wording of the privilege of jurisdiction on perjury as the Concordat of Tønsberg. In other words, ecclesiastical jurisdiction on perjury was limited to violation of canon law. After the General Assembly, the bishop still received a fine according to Bishop Áрни's ecclesiastical law. However, the penalty – outlawry – was new. The assembly had complained of too many cases being sentenced with outlawry (ÁSB ch. 63). This may be the reason for the faction's objection.

Still, Áрни had a political point in insisting on jurisdiction in cases of perjury. Above we have seen the Provincial Statute's canon 2 excommunicating everybody who premeditatedly attempted to harm the privileged jurisdiction of the Nidaros Church. This is significant. In the summer of 1277, several of the barons had confirmed the Concordat of Tønsberg by their corporal oath and had sworn to keep the agreement. On the one hand, their confirmation by oath and seal emphasises the character of the Concordat of Tønsberg as a contract between the King and the Nidaros Church. On the other hand, the barons considered the Concordat to be a privilege which was valid only in Magnus the Lawmender's lifetime. In violating the Concordat of Tønsberg the barons violated their oath and became perjurers. But they could not avert the 'sword of banishment'. *Árna saga* tells about the interdiction and excommunication which led to Archbishop Jon being outlawed; he died in exile in Skara towards the end of 1282 (ÁSB ch. 66, 71, 73).

MATRIMONY

On matrimony the bishop's faction objected to the chapters in *Jónsbók* that dealt with marrying off women, sentences in cases on matrimony which only belonged to the bishop's jurisdiction, rights of inheritance for women who had illegal intercourse in their paternal farms, and those who married secretly. Neither would they accept *Jónsbók's* chapter on a man losing his right to inherit rent from land or fortune if he married secretly.

Matrimony, sexual relations and, above all, violations of them had always been cases for the church, as seen in the concordats' canon 2.ii and the Statute's canon 6.ii. The Statute's canon 5 had, moreover, confirmed the commendable custom of public weddings, and threatened to interdict a man who postponed his marriage more than one year and three months after the engagement ritual.²⁷ The marriage vow was private, but constitutive for marriage. The church refrained from demanding anything but the vow being given voluntarily according to canon law. Still, the new ecclesiastical laws of the thirteenth century introduced a heavy hand in their demand for the publishing of marriage bans thrice in church. Archbishop Jón's ecclesiastical law introduced wedding in church. Gudmund Sandvik has thus pointed to the church acquiring a 'lucrative' jurisdiction in the majority of cases on property and inheritance (Sandvik 1976: cols 494–495).

Matrimony was also, however, relevant in cases of a secular nature. King Magnus's letter in the introduction to *Jónsbók* thus explains the necessity of starting the chapter on inheritance with the marriage of women "because it is important for those who claim inheritance that they be begotten in lawful wedlock" (Schulman 2010: 4–5). Issues of kinship, on who had the right of inheritances and legacies, and concerning who had the right to fines of kin in cases of killing or manslaughter were hardly only an ecclesiastical matter. The church had to be content with the jurisdiction of the internal forum. Many of these cases were, however, reserved for the pope to absolve, and represented a heavy burden on those who had failed.

WILLS

Legislation on wills were also related to matrimony and canon law. Árni objected to the presentation of evidence and sentencing by a secular law speaker in such cases,

²⁷ Þann lofliga siðuana landzins vilium wer styrkia með vorri skipan at sa geri opinberliga brudlaup sitt sem ser vill fa eignar konu. Nu ef nöckur maðr duelr leingr en vm eitt aar ok þria manaði brudlaups giörð sina. siðan þat rettz. Vutan nauðsyn eða skynsamliga sök þa sem soknar presti syniz þar furur þurfa setia leingri frest aa. þa skipum wer at honom se firirboðin kirkiu innganga allt til þess er hann leiðrettiz af þuilikri þralyndi. (NGL III: 231; DI II 79).

titled in the concordats' general privilege of jurisdiction on wills, in particular when institutions of the Church were remembered (concordats' canon 2.vii and the Statute's canons 6.vi and 8.vii). The Provincial Statute characterized the complete free right of testation as a salvation for all Christian society. Resistance from the monarch and secular aristocracy is branded as an offence implying excommunication. Referring to papal and imperial privileges, canon 8.vii maintains that everybody has the right to donate the whole or parts of their patrimonial inheritance to the church, whether he wishes the church to take possession of the property before or after his death, and in whatever way he wants. Moreover, the legator is not obliged to ask for any permission; gifts being given to the Holy Church for their souls should have no limits (NGL III: 236, ON text in note 21 at 8.vii.6; Hansen 2014). The faction's objection, as well as provision of the Provincial Statute, were probably based on Archbishop Jon's attempt to extend the testation rights, which had been granted to ten percent of inherited property when the church province was established. The privilege is stated in the law of the Borgarthing from 1224:

... of landed property and movables which they have inherited, and one quarter of self-acquired property, to holy institutions if they will, to relatives if they prefer that, or to unrelated people if they are of that mind (NGL I: 447–448; text in footnote 21 above; Hansen 2014).

Archbishop Jon's attempt was completely in vain. The old rights of inheritance were firmly based in customary law, and Bishop Árni did not achieve any concessions concerning willing.

TITHES

Árni's group objected to the chapters on autumn tithes, the distribution of gifts of food to the poor, to tax catches on Sundays and feasts and to the king's fines for such catches. They also objected to *Jónsbók* ruling on conveyance of the poor (*Um fátækra manna flutning*; ÁSB ch. 62, p. 92).

Only tithes are mentioned in the Provincial Statute as an area for ecclesiastical jurisdiction, but Árni's reference to the Tønsberg Concordat may have included the King's ordinance on an extended regulation of tithes. The ordinance is preserved in the translation to Old Norse of the Concordat and was later referred to as part of it (NGL II: 481–483).

Tithes were connected to the cases mentioned in the same context (Appendix canon 6.iv, cf. also canon 8.vii, see note 21 at 8.vii.3). Gifts to the poor was a part of

the tithe, as tithes in the Norwegian church normally were divided into four, one part to the bishop, one part to the local church, one part to its priest and the fourth part to the poor. In Iceland the parts for the church and the priest became the property of the church owner, and sometimes he also received the part of the poor (Magnús Stefánsson 1974: cols. 288–289). Catches made on Sundays and holidays were a part of the Icelandic care for the poor, as *Jónsbók* ruled that one fifth of the whales caught on holy days was to be given to the poor. Also one fifth of the seals hunted on holy days went to the poor (*Jónsbók* VII, 69; Schulman 2010: 290–291).

Árni's objections to these chapters were connected to the church considering the care of the poor to be one of its duties. The bishop did not want any interference from secular society in its organisation, but also struggled for a beneficial system which was independent of the church owners. The latter issue was not solved before 2 May 1297 with the Settlement of Avaldsnes on *staðamál* (DI II 167; Haug 2014: 118 and note 55). Both the manuscripts to *Jónsbók* and to *Árna saga* are younger than the Settlement, and the outcome of Árni's objection in 1281 cannot be known for sure (Schulman 2010: xx). However, in mainland Norway a quarter of the tithe was often called 'the farmers' part' because the lay members of the parish took care of the poor. There may be a parallel to Iceland in this respect.

GUÐS LÖG AND THE KING'S RESERVATION

During the General Assembly, Bishop Árni stated twice that God's laws (*Guðs lög*) should be superior to the law of the land if they were not in accordance with each other as stated by the General Assembly AD 1253.²⁸ Magnús Stefánsson, followed by Lára Magnúsardóttir, has considered the General Assembly's decision on *Guðs lög* to be an important victory of principle for the church (Magnús Stefánsson 1975: 140, Lára Magnúsardóttir 2007: 482–483). I would rather see the decision of 1253 as a means to achieve peace in a society which was torn apart by the Sturlunga strife. In 1262–1264 the Icelanders swore allegiance to the Norwegian king, the implication of which was accepting the royal executive, which also included the king's right of legislation to maintain peace.

Árni referred to both the Provincial Statute and the two concordats proving him right in his reference to God's laws. The texts of the two concordats are more or less

²⁸ *Um þessa hluti samði þeim ekki: ... svá ok um þá klausu sem stóð i kristindómsbælki at þar sem á greindi Guðs lög ok landslög skyldi Guðs lög ráða.* DI II 1:1; ÁSB ch. 65, Guðrún Ása Grímsdóttir 1998: 91, 95, 100, Stefánsson and Magnús Stefánsson 2007: 82, 85–86, 90. – In translations to Norwegian *Guðs lög* is generally translated in singular, as 'God's law'. *Lög* is, however, plural of *lag*. In late medieval sources the noun is written in singular, *lag*. Hertzberg, Gloss. In NGL V: 374 at *lag* 3), 417 at *lög* and 418 at *guðs lög*.

identical, with one exception: In 1277, the very last clause of the privilege of jurisdiction was more restrictive in favour of the King than in the Bergen Concordat (NGL II: 459).

The Concordat of Bergen 1273	The Concordat of Tønsberg 1277	The Provincial Statute 1280
... and all litigations which in some way or other seemed belong in ecclesiastical court according to the <i>Ius commune</i> . ²⁹	... [2.xvi] and all similar litigations <i>mero iure</i> (undisputedly) belonging to the church, the King's jurisdiction having precedence in cases of which he by proven customary law or the laws of the realm had the right of a fine. ³⁰	... [6.xiv] and all other cases which are of the same kind and belong to the jurisdiction of the Holy Church by God's laws. ³¹

The Bergen Concordat's reference to the *Ius commune* as the source of ecclesiastical jurisdiction has been translated with 'general law' or customary law. These translations are hardly exact. The *Ius commune* – Roman, canon, and feudal law – was taught in the universities of Europe between the eleventh and sixteenth centuries and was an expression for the learned law.³² Although the Concordat of Bergen was issued in the same national synod as *Landsloven*, the agreement does not take the new code into consideration. One reason may be that the Concordat was finalised before the adoption of *Landsloven*, another that it was sent to the pope for confirmation. In the Concordat of Tønsberg the king introduces an important reservation to Bergen 1273 and the *Ius commune*: the King will retain jurisdiction in cases of which he has the right of a fine according to customary law and the laws of the realm. The important difference between the two clauses is that the 'laws of the realm' should be understood as *Landsloven* in Norway and *Járnsiða* in Iceland. The change in mode of the two clauses should also be taken note of; the Concordat of Bergen used subjunctive, in

²⁹ ... *et omnes alie que ad forum ecclesiasticum possent de iure communi quoquomodo spectare*. (NGL II: 459). I have benefitted from conversation with Espen Karlsen on the understanding of this and other Latin texts.

³⁰ ... *et alie consimiles que ad ecclesiam spectant mero iure saluo semper regio iure in hijs causis ubicumque debetur ex consuetudine approbata uel legibus regni mulcta pene pecuniarie persoluenda*. (NGL III: 471)

³¹ NGL III: 231; DI II 79, ON text in Appendix.

³² Pennington 1994 at <http://faculty.cua.edu/Pennington/learned.htm>.

this way indicating some uncertainty to jurisprudence settling any dispute. The agreement from Tønsberg used the straightforward indicative.

The notion *mero iure* of the Latin original text from Tønsberg has been discussed most extensively by scholars. Directly translated its meaning is 'pure right'. However, *mero iure* is not translated in the Old Norse version of the Concordat, and a suitable translation is 'undisputedly belonging to the church'.³³

Seip interpreted the reservation from Tønsberg as a result of the king's reconsideration of the Concordat of Bergen or caused by pressure from his lay counsellors who in no way would accept canon law as binding (Seip 1942: 167–168, Hamre 2003 (†): 414). What he did not take into consideration was the adoption of *Landsloven* and *Járnsíða*. The new codes explain the difference in the texts of the two concordats.

The above interpretation is, to my knowledge, a new one. Gudmund Sandvik has touched on the issue by showing how *Landsloven* is constructed according to principles of Roman law. But because he does not discuss the Concordat of Bergen, he does not see the difference between the two of them (Sandvik 1986: 565–585).

The comparison moreover reveals *Bishop Árni's statement on the superiority of God's laws only being correct regarding the Statute*. One wonders if the church had gone too far at the provincial council. Canon 6.xiv should correspond to the Tønsberg Concordat, but is neither consistent with the Concordat of Tønsberg nor its predecessor. Archbishop Jon and his suffragans have left out the king's reservation.³⁴ The question is if this is a violation of the agreement. And what is the meaning of 'God's laws'?

Hertzberg has only one translation of *Guðs lög*: canon law; he refers to many legal texts to sustain this translation and one of them is the Statute from 1280 (NGL V: 418). The Statute uses the concept several times. Canon 3 begins by referring to written rules in *Guðs lög* and human law which prohibit summons and judgments to be proclaimed on a Sunday or feast day, and prohibit keeping secular assemblies on such days. The article ends by once more referring to *Guðs lög* and human law in denying anybody access to the Holy Church in three months if s/he breaks the prohibitions.³⁵

³³ ... ok omnur maal þuiliht þat sem til kirkiunnar heyra at hennar retti oskøddum iafnan konungsins rettindum i þeim málum hueruetna þar sem af uel profuaðri ueniú eða landzlögum a konungi at gialldazt fiarsekt. (NGL II: 471; Haug 2012a: 112).

³⁴ The actual text of the Concordat of Bergen is cited in footnote 29 above, the text of the Concordat of Tønsberg in footnote 30.

³⁵ En með þui at sua stendr ritað bæði i guðs lögum ok manna at soknir ok domar veralligra mála skulu æigi framflytiaz aa hatidum ne helgum dögum ... En ef nöckurr maðr dirfiz at gera moti þessarri vórrí skipan. þa skal hann taka þa hegning at vera afsuiþtr. inngöngu heilagrar kirkiu vm þria mánaði vm þat fram annat sem aa hann legz eptir guðs lögum. (NGL III: 230)

Also in early modern times the expression ‘God’s law’, now in singular, was referred to in verdicts. ‘God’s law’ in these cases meant the Pentateuch.³⁶

In the Middle Ages the term *Guðs lög* is used in several contexts, not only the legal one. The concept is reflected in *Jóns saga baptista* whose author, the priest Grímr Hólmsteinsson, belonged to the circle of Bishop Árni (ÁSB ch. 29). Vadum has substantiated that Raymond de Peñafort’s *Summa de casibus de penitentia* was a model to Grímr’s saga (DI II 93; Vadum 2014: 169–189). Although it was a manual in the cure of souls and was meant for the internal forum of the church, it was actively used in disputes in Iceland towards the end of the thirteenth century. According to Raymond, God’s laws weigh more heavily than the law of the land. *Guðs lög* may be a translation of his term *leges Dei* which is a wider concept than ‘canon law’. Vadum points to an arsenal of arguments from canonistic texts if God’s laws should be tried against secular law in almost any conceivable area. “In this way the canonistic comments drifts into political ideology” (Vadum 2014: 163, 96, 99).

But also Augustine speaks in terms of ‘God’s laws’. Sometimes he does mean by the term what Thomas would call natural law, in the sense that God instilled such laws into the order of creation. As synonyms he uses ‘our writing’ or ‘our books’ and is then referring to the Holy Scriptures. ‘God’s laws’ is a common term for the Scriptures (Dougherty 2013, and personal communication 3 February 2015).

In *Heimskringla*, Erling ‘the lean’, in his discussion with Archbishop Øystein on the consecration of his son King Magnus III, says: “Even if Magnus is not taken as king according to the old customs of the land, it is now in your power to give him the crown of a king and anoint him to the kingdom in the way prescribed by God’s laws” (Unger 1871: 373). In this way Snorri Sturluson lets Erling refer to the biblical anointment of King Saul and King David (1 Samuel 9:16, 16:13). ‘God’s laws’ meaning the Holy Scriptures fits Snorri’s language.

Concluding Remarks

This elaboration gives an answer to the question of the Provincial Statute’s character. The Statute reflected the ideas of the Gregorian reform which in many ways had been declared as canon law. In its reception of canon law it should be considered as an ordinary legislative act for the church which transformed international church law to particular law.

However, the Statute emphasised the concordats, and in this respect it was a political utterance in the on-going conflict. Its references to God’s laws, meaning the

³⁶ Anne-Hilde Nagel, personal communication 16 April 2015.

Holy Scriptures, are not in accordance with neither the Concordats of Tønsberg nor Bergen, although Bishop Árni claimed they were. On the one hand, it could neither be called a violation of the Concordat nor a defence. Nobody would oppose the Statute's reference to the Holy Scriptures, but the argument was too general to make it significant; *Guðs lög* was a concept of political theology. On the other hand, the bishops had avoided to repeat their concession to royal jurisdiction from 1277 or explicitly to oppose *Landsloven* and *Járnsiða* by referring to the Scriptures.

Although the analysis of the conflict over *Jónsbók* has been limited to a comparison with the Provincial Statute and the concordats, several new insights have been reached. Bishop Árni achieved a compromise in cases of heresy and paganism, the fines of which should be shared between bishop and king. He admitted some cases belonging to matrimony to be sentenced according to *Jónsbók* on condition of ecclesiastical forum. Agreement was reached on tithes in autumn, while cases of willing were referred to mixed jurisdiction by king and bishop (ÁSB ch. 65).

Perjury was not mentioned as a case of compromise. A reason may be found in the Concordat of Tønsberg in which the Nidaros church had admitted the king still having the jurisdiction "in cases of which he by proven customary law or the laws of the realm had the right of a fine". In the royal legislation, perjury is not found in *Járnsiða*. Still, when Iceland joined the Commonwealth in 1262-1264, they had sworn allegiance to the king and promised to pay 'skatt'. Perjury as a felony of secular law can be seen in this light (Imsen 2014: 37, (Rohrbach): 231, 236).

Apart from Bishop Árni's objection to a common law speaker in secular and ecclesiastical court, the issue is not addressed further in *Árna saga*. *Staðamál* became, however, a serious issue in the years that followed, and clergy were summoned to meet in secular court. No common law speaker is mentioned in the preserved copies of *Jónsbók*, and it is reason to believe that the introduction of the *officialis* as the bishop's law speaker contributed to solving the dilemma.

Recalling that Árni had supported the king and vice versa when *Járnsiða* and Árni's ecclesiastical law were adopted by the General Assembly in the years 1271-1275, in 1281 the situation was different. There may be several reasons for this, but I find the most obvious one the lack of cooperation between church and secular authority after Magnus the Lawmender's passing away. The intransigence was immediately seen in the meeting in Bergen one year earlier. The barons' Great General Amendment has been considered anti-clerical, not so much because the act dealt with legislation which belonged to the church, but because the barons had a legalistic, non-cooperative attitude towards the episcopate. As stated by Stephan Kuttner, in the thirteenth century the secular power had to go the way of concordat if it wanted its

policies to become part of the legal order of the Church (Kuttner 1955: 543). Still, the barons had their match in the legislation of the fanatical canonist Archbishop Jon. The Provincial Statute of 1280 is not true to the spirit and letter of the Concordat of Tønsberg. Both sides of the conflict were irreconcilable, in Norway as well as in Iceland.

The conflict analysed in this article belongs to Icelandic history. It was a conflict of how to change a traditional chiefdom into a society in which the executive monopolised jurisdiction to protect the people and keep internal peace. Still, the conflict between Church and King manifested itself in the disagreement over the Concordat of Tønsberg and was thus relevant to the province and the Commonwealth. Neither should the European dimension be forgotten. Conflicts between church and secular authority were seen in many societies in the thirteenth century, the issues being taxation, ecclesiastical privileges and the rights of the kingdom rather than the individual king. The temperamental outburst of Lodin Lepp may be seen in this light. He would follow neither Árne's interpretation of the Provincial Statute nor the 'letter of amicable settlement' nor God's laws having precedence to the laws of the land. "In no place, neither by land nor by sea have I ever experienced royal rights being pushed around as in this assembly, in particular by the bishops" (ÁSB ch. 63).

Appendix

The Concordat of Tønsberg (1277), Canon 2	The Provincial Statute of 1280, Canon 6.1
<i>Translation</i>	<i>Translation</i>
On behalf of himself, his heirs and his successors for all eternity the above-mentioned Lord king waived his rights, if he had ever had anyone, in hearing, searching and deciding in cases which belonged to the church, distinctly forbidding all royal bailiffs and judges, those who are close as well as those who are distant, for now and in the future within all the realm, to dare delivering judgements in these cases, or in any way interfere in them under the pretext of some	We have unwaveringly decided that if any layman proves, searches or judges in cases only to be sentenced by the leaders of the Holy Church, and the layman in this way holds the legal judge in contempt and deliberately breaks the Concordat which was accorded between the King and the Church and confirmed by oaths on behalf of both of them, or the man who by force brings a cleric to a secular court for judgment, or laymen who judges on ecclesiastical properties or

custom that the kings in days gone by had had or seemed to have had, which are:

- i. All cases between clerics or clerics being sued by laymen.
- ii. Marriage.
- iii. Birth.
- iv. Cases on patronage.
- v. Tithes.
- vi. Holy vows.
- vii. Wills, particularly in gifts to the churches, monasteries and holy trusts.
- viii. Protection of pilgrims, in particular those who visit the Blessed Olav or the thresholds of other Norwegian cathedrals and holy places.
- ix. Likewise possessions of the holy churches.
- x. Perjury.
- xi. Usury.
- xii. Simony.
- xiii. Heresy.
- xiv. Fornication.
- xv. Adultery and incest.
- xvi. And all similar litigations which undisputedly belong to the church, the King's jurisdiction having precedence

sentences clergy without asking those who should be in charge, or one who protests – this layman falls into excommunication *ipso facto*. And these cases are particularly mentioned in the Composition:

- i. All litigation concerning the clergy, including litigation in which clerics and clergy were sued by laymen.
- ii. Matrimony and matrimonial cases.
- iii. On jurisdiction over churches.
- iv. And on tithes.
- v. On sacred vows.
- vi. And on wills, in particular when institutions of the Church are remembered.
- vii. Protection of pilgrims, and of their right to present possible cases for an ecclesiastical court.
- viii. On the real estates of the church, and on all rights of the church concerning her men or properties.
- ix. And those who sell or buy spiritual things.
- x. On fornication, adultery and incest.
- xi. On perjury.
- xii. And on usury when men lend chattels.

<p>in cases of which he by proven customary law or the law of the realm has the right of a fine.</p>	<p>xiii. On all disbelief and other heresies. xiv. And all similar cases, subject to the jurisdiction of the Holy Church by God's law.</p>
<p><i>Latin original</i></p>	<p><i>Old Norse original</i></p>
<p>Prefatus autem dominus rex renunciauit pro se et heredibus et successoribus suis in perpetuum omni iuri si quod in audicione examinacione et determinacione causarum ad ecclesiam spectancium actenus habuerat inhibens firmiter uniuersis exactoribus et legiferis (<i>sylu monnum ok logmonnum</i>) regijs tam propinquis quam remotis, tam presentibus quam futuris per totum regnum ne de ipsis causis presument iudicare uel pretextu alicuius consuetudini quam retroactis temporibus habuerant uel habere uisi fuerant se aliquatenus intromittant sed per iudices ecclesiasticos tales cause de cetero libere dirimantur. vt sunt hec Omnes cause clericorum quum inter se litigant uel a laicis impetuntur, matrimoniorum, natalium, iuris patronatus, decimarum, uotorum, testamentorum, maxime quando agitur de legatis ecclesiis et piis locis et religiosis, tuicio peregrinorum visitantium limina beati Olavi, uel aliorum sanctorum, et eorum cause. Item cause possessionum ecclesiarum, sacrilegii, periurii,</p>	<p>Þat hafum wer ok staðfastliga skipat at ef nöckurr af leikmönnum tekr vndir sik til profanar ok ransaks eða doms þær sakir sem at eins eiga firir forstiorum heilagrar kirkiu dæmaz vanuirðandi i þui lögligha domendr þeirra mála ok geingr sua vitz vitandi á sættar giörð þa er giör war millum konungdomsins ok kirkiunnar ok af huarra tueggia hálfu war með suardögum staðfest. eða sa som klerk dregr nauðgan vndir leikmanna dom. eða þeir leikmenn sem dom leggja á kirkiu eignir eða klerka at þeim sialfum auðspurðum eða moti mælundum sem raða eigu. þa fallir sa á sik fullkomit bann af sialfu werkinu. En þessi mál eru einkannliga til skild in composicione. Allir sakir þeir sem klerkar eiguz wid eða leikmen sökja á klerka. hiona samband ok öll hiuskapar mál. ok þar sem dæma skal huersu huerr er logliga getin. vm forrædi á kirkiuum. ok vm tiundir. vm heit. ok vm testament er menn gera einkannlega af þui sem menn gefa kirkiuum eða öðra helgum stoðum ok fataekum mönnum. wernð pilagrima ef vitia höfuðkirkna ok vm þeirra mál. vm kirkna eignir ok vm allt kirkna frelsi</p>

usurarum, symonie, heresis, fornicationis, adulterii, et incestus, et alie consimiles que ad ecclesiam spectant mero iure saluo semper regio iure in hijs causis ubicumque debetur ex consuetudine approbata uel legibus regni mulcta pene pecuniarie persoluenda.
(NGL III: 463–464, 471)

er hon á i sér ok vtan sik i mönnum ok eignum. ok þar sem selldir werða eða keyptir andligir lutir. vm frillu lifi. vm hordoma ok vm frendsæmis spell. vm meinsæri. ok vm ok er menn byggia dautt fe. vm villu alla ok vantru. ok vm oll önnur þau mál er þerssum eru lik ok til heilagrar kirkiu heyrir dóm yfer at hafa epter guðs lögum.

(NGL III: 230–231; DI II 79)

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