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THE CHANGING CHARACTER OF FAROESE COMMUNAL LAND TENURE DURING THE NINETEENTH CENTURY

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ABSTRACT

This research endeavours to show how the Faroese village, which for local geographical and social reasons had for many centuries exhibited a large measure of communal management of its economic resources, modified itself during the nineteenth century, exceptionally for Europe without a general enclosure. Though towards the end of the nineteenth century, a capitalised distant-water fishing industry grew up in the islands, communal management remained characteristic of activity on the land, though subject to a high degree of legislative regulation.

The subject has not hitherto been treated historically. From a study of Faroese archives and published material in Danish and Faroese is here traced the course of the principal nineteenth-century changes in the land tenure system and the relevant links with the economic and constitutional development of the Faroe Islands and the Danish kingdom as a whole.

The conclusions are drawn that communal land tenure was not a primitive Faroese phenomenon, but an accelerating process of later times, gaining momentum from the mid-seventeenth century, and passing a critical point about 1832. Population increase, and fragmentation of land holdings henceforth began to place increasing strains on the traditional system. There followed minuteness of regulation and devolved and decentralised systems of conciliation and arbitration. From 1857, new legislation made easier the enclosure of stretches of sheep common for cultivation, first by owners, later by landless fishermen.

Finally are traced the effects of increased tax demands on the traditional system, and the labour famine caused by the growth of a distant-water fishery late in the century. The latter, reacting on an already complex land tenure position, finally led to an Agricultural Commission in 1908, and legislation during 1926-40, which at last began to limit, though not abolish, communal land tenure in the Faroe Islands.

INTRODUCTION

This research endeavours to show how the Faroese village, which for local geographical and social reasons had for many centuries exhibited a large measure of communal management of its economic resources, modified itself during the nineteenth century, exceptionally for Europe without general enclosure. Though a capitalised distant-water fishing industry grew up towards the end of the nineteenth century, communal management remained characteristic of activity on the land, though subject to a high degree of legislative regulation.

The exposition of this subject presents many difficulties. The basic material is unfamiliar and some of the notions are obscure even to Scandinavian specialists. The factors involved, moreover, often have a complex mutual interaction. Since purely chronological exposition would have been in the last degree confusing, my plan has been as follows:

(i) Topographical and institutional settings, and the characteristics of the Faroese village economy. (Chapters 1-3)

(ii) Population and land ownership patterns during the nineteenth century, with their relationship to the friction points in the Faroese village commonwealth. (Chapters 4-5)

(iii) The progress of legislative regulation for the Faroese village commonwealth, culminating in the settlement of 1866. (Chapter 6)

(iv) Land alienation problems arising from the population explosion and economic developments late in the century. (Chapter 7)

(v) Legislative attempts to limit fragmentation of land ownership. (Chapter 8)

(vi) Revenue reform consequent on the transition from a

subsistence to a market economy, and an increase in provincial expenditure arising from administrative and educational developments taking place in line with those of metropolitan Denmark. (Chapters 9-10)

(vii) Developments at sea and their effect on the land tenure pattern. (Chapters 11-12)

(viii) Final conclusions. (Chapter 13)

It was during my first two visits to the Faroe Islands, in the summers of 1956 and 1957, that I first observed the complexity of the land tenure pattern at close quarters. By this time the economy of even the more agricultural villages was based on earnings from the distant-water fishery, yet there was still a keen practical interest in land and its rights, and the frugal traditions of the old subsistence economy persisted strongly. From historical studies of the country, and the realisation that the trading monopoly with its practice of the direct exchange of commodities had continued until 1856, I began to perceive in the land tenure system an important key to the understanding of Faroese society and Faroese history. Study during the past eighteen years has confirmed this early impression. The land tenure system must be understood for a proper appreciation of almost every aspect of Faroese life, even Faroese religion and literature. While translating Heðin Brú's novel of village life Feðgar á ferð during 1969, I found that the very humour of the Faroese has its links with the land tenure system.

This key study has several unique features contributing to both its fascination and its difficulty. It lies on the meeting-ground of several disciplines: history, geography, economics, law, sociology, ethnography and general Scandinavian studies. Its unfamiliarity to the English-speaking, and largely even to the Scandinavian, learned world means that one can look for little assistance in evaluating the work of others. Even the Faroese themselves are sometimes biassed by the system in which they have grown up. That both the manuscript and the printed source material is all in Danish or Faroese is by comparison a minor difficulty.

Material is not scanty for the study as a whole, though some areas are badly documented, and statistical material is often

wanting or is insufficient in bulk. The archive material used was collected during the summers of 1971-4 in Föroya Landskjalasavn (the Faroe Archive Department) with the help of the chief archivist Páll J. Nolsöe and his staff; and in the Judiciary with the help of the sorenskriver, the late Erik A. Björk, who was kind enough to allow me to photocopy his exhaustive card file, the work of many years in this field.

There is a wealth of printed material, some of it excellent. Amongst the earlier general descriptions of Faroe, the most valuable are Thomas Tarnovius: Feröers Beskrifvelser (written 1669, published 1908, Lucas Debes: Færoæ & Færoa reserata (published 1673), and Peder Hansen Resen: Atlas Danicus, Færöerne (written c.1680, published 1972). A century later, we have the excellent J.C. Svabo: Indberetninger fra en Reise i Færöe 1781 og 1782 (first published in full 1959), and the plodding work of Jörgen Landt: Forsög til en Beskrivelse over Færöerne (published 1800).

An excellent outsider's account of Faroese village life early in the present century is Daniel Bruun: Fra de færöske bygder (1929), while of the numerous Faroese village histories the best are Mikkjal Dánjalsson á Ryggi: Miðvinga söga (1940), Rasmus Rasmussen: Sær er siður á landi (1949), Jóan C. Poulsen, Hestsöga (1947), and Johanna Maria Skylv Hansen: Gamlar götur (1969-73). Much can be learned of village customs in earlier times from the folk-tales in Jakob Jakobsen: Færöske Folkesagn og Eventyr (1898-1901). On the technicalities of shepherding, sheep slaughter and culinary treatment, the series of four little books by Robert Joensen: Royvið (1959), Greivabitin (1960), Býta seyð og fletta (1968) and Vambarkonan (1972) is superb. Finally, one should not forget the Folkelivsbilleder in V.U. Hammershaimb: Færösk Anthologi (1891).

The law collection, T.E. Bang & C. Bærentsen: Færösk Lovsamling (1901) has been of great service, as have sometimes its successors published in 1932 and 1953. The most valuable printed source of all, however, not only for law but also all other aspects of Faroese land tenure, will always be the supplement to the 1908 Land Commission's report, Tillæg til Forslag og Betænkningen afgivne af den færöske Landbokommission (1911), a

collection of deliberations, drafts and land laws from 1298 onwards, together with reprints of works on Faroese land tenure not elsewhere easily obtainable, for instance J.A. Lunddahl: Nogle Bemærkninger om de færöske Landboforhold (written 1843, published 1851). Also valuable in many ways is the report of the Land Assessment Commission of 1868-71, Taxationsprotokol (1872-3).

Two works by the late archivist of the Faroe Islands, Anton Degn, merit mention: Oversigt over Fiskeriet og Monopolhandelen paa Færöerne (1929), the only really scholarly treatment of the Monopoly, and Færöske Kongsbönder 1584-1884, exhaustive on crown leaseholders, their farms and rents.

Specialist articles of importance are to be found in the two-volume Dansk-Færösk Samfund: Færöerne (1959), and in the periodicals Varðin (from 1921) and Fróðskaparrit (from 1952).

Only two writers have during the past thirty years published considerable works on Faroese land tenure. One is a Faroese lawyer and politician, Poul Petersen, whose Ein föroysk bygd is a valuable and comprehensive collection of material, but lacks a coherent historical dimension. The other is a Dane, E.A. Björk, until his sudden death in 1972 the sorenskriver of the Faroe Islands. His three-volume Færösk Bygderet, the duplicated texts of lectures delivered 1956-9 is a thoroughly scholarly work with much useful historical material on many individual topics. It is, however, more concerned with defining the contemporary legal position than presenting an overall picture of the development during a past age.

None of the above works thus attempts, as does the present thesis, to look at Faroese land tenure as it existed at a given time, to chart its general tendencies, and to point to long-term and short-term forces at work.

Principal amongst the forces acting upon the Faroese village commonwealth during the period under review were:

1. Population growth allied to absence of any primogeniture system led to fragmentation of the allodial segment of village land holdings.
2. The growth of the fishing industry led to a new species of demand on land usage unprovided for by the traditional rules,

and eventually brought about a labour famine on the farms.

3. Enlightened Danish civil servants wished the Faroe Islands to share in the economic prosperity of the kingdom as a whole.
4. Abolition of the trading monopoly opened new economic opportunities, and led to the substitution of a money for a natural economy.
5. Emulation of constitutional progress in metropolitan Denmark, and new government activities such as compulsory education, placed fresh demands on provincial taxation.

One response to these forces would in the ordinary way have been an increase in agricultural efficiency through a general enclosure. This was in the Faroe Islands ruled out by geography. This thesis seeks to define the consequent directions of adjustment of Faroese rural society during the nineteenth century, and to outline the reasons for the changing character of Faroese land tenure during that period.

CHAPTER ONE THE PHYSICAL AND HISTORICAL SETTING

LOCATION AND TOPOGRAPHY

The Faroe Islands, a small Danish dependency, occupy an isolated position in the north Atlantic, about 300 km. from Shetland and 450 km from Iceland, on a direct line between them. The nearest coast of Norway is some 675 km. distant, and it is about 1,500 km. by sea to Copenhagen. Tórshavn, the capital, fairly central in the archipelago, lies almost exactly in 62°N and 6°45′W.

Besides stacks, reefs and skerries, there are twenty islands in the group, seventeen inhabited. The total land area is slightly under 1,400 sq. km., though the distance between the most northerly and most southerly points is about 113 km., and the most easterly and westerly points are about 75 km apart, giving a geographical spread comparable with Lincolnshire.

The islands are composed of layer upon layer of basalt laid down by submarine volcanic action in Tertiary times. The basalt layers are often separated by layers of friable tuff, and subsequent erosion has given the islands their characteristic "layer-cake" appearance, since in the main, the strata hardly vary from the horizontal. A few thin seams of coal lie between the lowest of the Faroese basalt strata, in Suðuroy, Vágar, Tindhólmur and Mykines, but only on Suðuroy in significant quantity. Erosion by glacier, ocean and climate has worn down what was originally a great plateau into a group of islands separated by channels running NNW to SSE. The coasts, especially the most northerly ones, are precipitous when they face the open sea. Inland, there is much wet moorland, with many barren stony patches, especially on the tops of the hills, There are no large rivers, but the considerable precipitation is carried off by a multitude of large and small streams. Small lakes are found everywhere, and large lakes on Vágar and Sandoy.[1]

CLIMATE

Despite their sub-arctic latitude, the islands have a mild climate, because of their oceanic position and the influence of the Gulf Stream. During the period from December to March, the

average temperature is about 4.5°C., and in July and August about 11°C; the lowest temperature since official records began has been -11.6°C., and the highest 21.2°C. Prolonged frosty weather is most uncommon; indeed, two-thirds of the winter nights in Faroe are frost-free. Precipitation is high. In the 25 years 1926-50, an annual average of 1,422 mm. fell in the Tórshavn region. Winter storms, too, can be extremely violent, with an average during the same period of 3.4 storm days per year in the sheltered Tórshavn, and 15.4 per year on the exposed Mykines.[x] Humidity is high, misty and choudy weather being the prevailing type.[2]

Comparison between the periods 1873-97 and 1926-50 shows a tendency for the average temperature througout the year to rise slightly, and the total precipitation, as well as the frequency of rainy or foggy days, to fall slightly. Until 1920, however, the amelioration seems to have been slow, and has been without observable effect on Faroese agriculture.[+3]

VEGETATION

During the last ice ages, Faroe was completely covered by an ice-cap, and the pre-glacial vegetation was exterminated. The islands were botanically re-colonised from western Europe, and the species now found there are closely related to those of northern Scotland. Some species may also have migrated from Iceland.

The natural vegetation has been profoundly modified by eleven centuries of human occupation. Juniper and willow scrub have been practically exterminated by their use for fuel and the nibbling of sheep. Trees have never flourished, and only during the present century have some eleven small plantations been painstakingly created.

The predominant vegetation in recent centuries has been of flowering grasses in areas of reasonable drainage, and swamp plants where the surface water cannot easily run away. The most

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[x] A storm day is one on which the average wind speed throughout the 24 hours equals or exceeds Force 9.

[+] The term "agriculture" will throughout this thesis be used to include stock-raising.

luxuriant vegetation is found on certain islets and in sheltered gullies inaccessible to sheep. Restricted sand dune and lakeside habitats are found, especially on Vágar and Sandoy.

Flowering plant species number just over 400, a small total compared with Scotland or Norway. The Faroese coast, however, is rich in seaweed species, and "forests" of broad-leafed seaweeds flourish a few metres beneath low-water mark in many places.[4]

FAUNA

As might be expected from its situation, Faroe has very few species of land animals. Reptiles and amphibians are completely lacking, and the land mammals are few and owe their introduction to man. Mice have probably inhabited Faroe as long as man, and the black rat was known until it was superseded by the brown rat, which first arrived in 1768. Hares were deliberately introduced in 1854 and have flourished.

By contrast, there is an abundant bird population. Williamson lists 224 species, of which 53 regularly breed, some of the sea-birds in immense numbers. The most important birds are: puffin, guillemot, kittiwake, fulmar, razorbill, black guillemot, Manx shearwater, stormy petrel, shag, arctic tern, eider duck, gannet, oyster-catcher, whimbrel, golden plover, snipe, crow, ravem, starling, wrem and several species of gull.

Humbler animal families are not lacking, but fewer varieties are found in Faroe than in mainland Europe or the British Isles. Freshwater fish are represented only by the trout, stickleback and eel, to which man has lately added the salmon.[5]

HUMAN SETTLEMENT

The Faroe Islands were discovered and settled by Irish anchorites about 700 A.D., and they were doubtless responsible for the introduction of the breed of wild sheep, closely resembling the Soay sheep of St. Kilda, which survived on the uninhabited island of Lítla Dímun until 1868.[6] The Norse seafarers became aware of the Faroe Islands about a century later, and started settling early in the ninth century, driving away, killing or enslaving the Irish. The newcomers probably came principally from west Norway and the Hebrides. They gave the islands the name Færeyjar (modern Föroyar), meaning "sheep islands". According to the sagas, the first Norse

settler was called Grímr Kamban, and his arrival has been convincingly calculated to about 825.[7]

Remarkably little is known of pre-Reformation Faroese history. Archaeological evidence for the earliest period is rather scanty. Very few pre-Norse and only a small number of pre-Christian relics have come to light. This is in part due to the continuous habitation of the limited number of environmentally suitable sites, so that modern houses stand on the ancient remains. Also, a slow subsidence of the islands (or else rise in the sea level) during the past 1,000 years has probably caused many Viking relics to disappear into the sea.

Dwellings excavated in Kvívík in 1942, Syðragöta in 1950, and Fuglafjörður in 1958, present a picture of a peaceful pastoral community living a comfortable, though not opulent life in more or less self-sufficient farmsteads. At Kvívík, the foundations of a rectangular hall and adjacent byre were uncovered. The dwelling was 21 metres long and 5 3/4 metres in breadth. There were stalls for eight to twelve cows, while pigs, sheep and horses picked up a living in the outfield.[x] From the sea the inhabitants caught a regular supply of fish, particularly cod. They also caught seals, pilot-whales and various kinds of sea-fowl. The settlers wove their own clothes and may also have sold woollen cloth, made on the upright loom, to buy the foreign goods of which traces were found.[8]

Shielings (sæters) were in use in Faroe during the Viking period. Through analysis of place-names containing the Celtic loan-word ærgi, Christian Matras in 1956 concluded that during the Viking period at least a score must have existed in Faroe. The Faroese archaeologist Sverri Dahl has since excavated a Viking-period shieling on Suðuroy.[9] As a shieling is a base for the exploitation of upland summer grazing for cattle, its use suggests a population of low density and an extensive rather than intensive use of the outfield. A peaceful population of low density is one in which social divisions are likely to be small. If the Norsemen brought

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[x] In this thesis, I use the term outfield to denote the uncultivated hill pasture, outside the wall enclosing the cultivated infield, which is generally situated near the dwellings. This use of the term follows Kenneth Williamson, and is at variance with its significance in Shetland, where the outfield is in occasional cultivation. The Scottish term is outrun.

thralls with them, their conditions of living probably differed little from those of their masters.

Even if one chooses to doubt the colourful adventures recounted in Færeyinga saga there seems no reason to doubt its statements that the islanders were converted to Christianity about 999, and that the islands were finally incorporated as tributary to the Norwegian crown about 1035.[10] A bishopric was established about 1100, but its archives have not survived. The famous king Sverre of Norway (reigned 1184-1202) was educated at the Kirkjubøur seminary, but Sverrissaga has only a few casual and unimportant references to events in the islands.[11]

SEYÐABRÆVIÐ

By the late thirteenth century, the isolated farmsteads of the Viking period had probably become small hamlets, Faroese topography favouring nucleated settlement; and there were now considerable differences of wealth between one man and another. Intensive, instead of extensive use of the outfield was leading to oppression and injustice; and in 1298 the first land legislation was issued for the Faroe Islands.

The late thirteenth century was an age of law reform in the Norwegian kingdom, particularly the reign of king Magnus Lagabøte (reigned 1263-80). In his reign the old Norwegian provincial law-codes were superseded by a new lawbook valid for the whole country, adopted by the various Norwegian provincial courts between 1274 and 1278.[12] In certain respects Faroese conditions were not amenable to the land law in the new code, and hence in 1298 was issued a supplementary ordinance valid for Faroe alone, ever since known as Seyðabrævið, the Sheep Letter.[13] Its provisions form the bulk of surviving evidence for social conditions in contemporary Faroe (see Appendix "A").

From the Sheep Letter it is clear that society was now divided into large and small landowners, and that there was a landless class, and the law sought to bring about justice between them. But the chief malpractices the law sought to regulate had arisen through the full stocking of the outfields by the system known in Faroese as kenning, the pasturage of individually-owned sheep on jointly-owned outfields. When practised by owners of very unequal wealth in a fully-stocked outfield, kenning contains a strong inbuilt tendency

to disorder. The provisions of Seyðabrævið were probably based on current practices in the best-ordered Faroese outfields. It will be further considered in Chapter Three.

THE DEVELOPMENT OF FAROESE AGRICULTURAL SOCIETY

Precise figures for the Faroese population are not available before the 1801 census, though it was certainly under 5,000 until the late eighteenth century. A 1327 assessment indicates 270 Faroese households paying Peter's Pence, suggesting a population of about 2,500.[14] A fifteenth-century law regulating numbers of permitted sheep-dogs names 42 villages, probably the overwhelming majority of those then existing, and again consistent with a population of this order. There is no documentary evidence of the effects of the Black Death, though oral traditions speak of villages left with few or no inhabitants. By analogy with Norway and other agriculturally marginal countries, one would expect the plague to strike the economy hard, and for a period of decline to set in - perhaps in Faroe witnessed by the unfinished cathedral at Kirkjubøur.[15]

The meagre evidence of Faroese conditions between Seyðabrævið and the Reformation points to two features - the existence of a class of very wealthy farmers, and the dominating position of the Church as a landowner.[16] Administratively, the islands, together with metropolitan Norway, were united with Denmark in 1380, and since the ruler of the twin kingdoms was normally resident in Denmark, there was a long-term tendency for Faroe to be governed as a Danish rather than a Norwegian province; and in 1814, when by the Treaty of Kiel Norway was lost by Denmark to the Swedish crown, the Faroe Islands, Iceland and Greenland were retained.

During the period of Faroese independence, the legislative body and high court (if Færeyinga saga is to be credited) was an alþing, or assembly of all freemen. But a law dated about 1400 reveals that the high court was now a lagting with restricted membership, and when continuous written records of this assembly begin, in 1615, it had clearly long been constituted like all the other provincial courts of Norway. Of the government officials, that of lawman was probably the most ancient institution, and that of landfoged (king's bailiff) is known from the latter part of the twelfth century.[17]

On the eve of the Reformation, the following was the approximate land ownership position in the Faroe Islands:

Table 1 FAROESE LAND OWNERSHIP, ABOUT 1530

Crown estates	5.2%
Church estates	48.0
Monastic estate	1.2
Two noblemen's estates	11.5
Estates of peasantry	34.1

At the Reformation, the church lands were sequestered to the crown. A glebe farm was allotted to each of the seven priests. The one Lutheran bishop of Faroe, an old man, retired to a Norwegian see after having been three times plundered by pirates. The Faroe Islands were subsequently placed under the ecclesiastical care of a provost, who was given the income of a second farm in addition to the glebe he held as a parish priest.[18]

The king's acquisition of the church lands (between 1538 and 1557, in two stages), changed him from being a relatively unimportant landowner to proprietor of nearly half the land in the country.[19] Some of this land was granted in stipendiary estates. Thus the lawman was in 1555 granted the excellent 24-mark[x] farm of Steig in Sandavágur.[20] The bulk of the land was, however, leased out to tenant farmers. Thus the landfoged, from this time onwards, wielded an immense power of patronage, and in 1559 Frederik II found it necessary to forbid any landfoged to turn a peasant out of his lease as long as the rent was being regularly paid, the farm maintained in good order, and the tenant was behaving as a true subject ought to do.[21]

The Tórshavn school and the Argir leper house, both very probably medieval church foundations, were each granted a meagre income to be paid by the landfoged annually.[22]

At the time of the Reformation, a trade monopoly was imposed on the islands. The first known monopoly grant was made in 1535, partly as a security measure during a time of civil war in Denmark.[23] The prevalence of piracy during the sixteenth and early seventeenth centuries led to its continuance, though under strict conditions,

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[x]For the significance of the mark unit of land see Chapter Two. It should here be sufficient to remark that in an average year some 480 sheep and lambs would be slaughtered on this farm.

including fixed prices for buying and selling. The first monopolist was Thomas Koppen, a Hamburg merchant closely associated with Christian III. Later in the sixteenth century the monopoly was managed by various German and other merchants, including one Faroeman, the freebooter Magnus Heinason. From 1597 to 1619 the monopoly was in the hands of various Bergen partnerships; in 1620 it passed to the Icelandic Company of Copenhagen; and in 1662 it was granted to the feudal lord of the islands, Christoffer von Gabel.[24] From 1709 the monopoly was under direct government control until free trade was introduced in 1856.[25]

Early in the seventeenth century the priests found that their income was insufficient, and in 1632, as a result of a petition submitted the previous year, they were each granted, free of rent and tithe, a so-called annexed glebe.[26] This income, together with their share of the tithe and a regular small offering from each communicant called <u>presttal</u>,[27] placed them amongst the most prosperous of the inhabitants of the Faroe Islands, and their children tended to marry into the wealthiest of the peasant families.

In order that the crown revenues should be regularly paid into the royal treasury, and the government be spared the tedium of their collection, it had been the custom to farm out the Faroese revenues to a merchant or courtier in account with the king. Thus Thomas Koppen, the first monopolist, was also granted the Faroese revenues in return for a yearly cash payment. The Faroese paid their taxes in kind, which Koppen then disposed of in the course of his trade. Naturally, any tax-farmer expected to make an income from his concession, so the privilege was usually granted on easy terms to persons whom the king had reasons for rewarding. Thus in 1634 we find it granted to a <u>borgmester</u> of Copenhagen; in 1644 to a treasury official; and in 1651 to an army officer.[28] Thus there was good precedent when in 1655 the revenue of the islands was granted to Christoffer von Gabel against the payment of 1,000 rdlr. annually to the king's treasury, and the defrayment of the administrative expenses of the country.[29]

Christoffer von Gabel (1617-73) was one of Frederik III's most trusted counsellors. He is characterised as a man of moderate ability but of boundless fidelity to his master, as an unscupulous intriguer against his enemies, and in private life as a cynical

egoist ever seeking for ways of enriching himself. His hour of greatest glory was his share in the relief of Copenhagen in October 1658, when he had been largely instrumental in bringing the relieving Dutch fleet just in time to save the kingdom from extinction at the hands of the Swedes. He was subsequently one of the architects of the Danish absolute monarchy instituted in 1660. His power in the kingdom lasted until the death of Frederik III in 1670.[30]

One of the reforms accompanying absolute monarchy was the ending of revenue farming and the introduction of fixed salaries for provincial officials.[31] The new administrative method was not, however, immediately introduced into Gabel's Faroese fief. Indeed, by a grant of 19 January 1661, the Faroese revenues were confirmed to Gabel, and after his death to his son, free of all payments to the treasury.[32] The islands were not brought under direct government control again until 1709, after the death of Gabel's son Frederik. From 3 April 1662, moreover, after the collapse of the Icelandic Company that for over forty years had supplied the islands, Gabel was granted the trade monopoly.[33]

Gabel did not, of course, personally administer his fief, and never set foot in the Faroe Islands. He governed through subordinates as grasping as himself. With trade, defence and administration all concentrated into the same hands, it became difficult for the Faroese to get their grievances properly considered. Indeed, it was often difficult even to get letters carried out of the islands. The regime of Christoffer von Gabel, which lasted until his death in 1673, was more oppressive than that of his son, and only after the elder Gabel's fall from royal favour in 1670 did the malpractices in the islands come under scrutiny, and then largely through the efforts of Lucas Jacobsön Debes (1623-75), priest in Tórshavn from 1651 until his death, and the author of the first full-length account of Faroe to appear in print.[34]

Eventually, in a petition dated 18 October 1672, the grievances reached Copenhagen, and were made the subject of investigation by a royal commission.[35] Gabel's agents were accused of various types of extortion. The crown leases had, in the course of time, become far more valuable than the customary rents paid for them, and Gabel's landfoged was accused of refusing

to grant leases to the sons of deceased crown leaseholders except on payment of a bribe. The outcome of the commission's work was a royal ordinance, dated 16 April 1673, providing first and foremost, that crown leases should henceforth be heritable by either the widow or the eldest son of the deceased leaseholder. Other important clauses provided that the widows of priests should have the annexed glebes by way of pension, and that the sons of priests should have an equal right with the other inhabitants of Faroe to be granted vacant crown leases. Various minor abuses were subjected to detailed regulation.[36]

Frederik von Gabel (c.1645-1708) was a far more lenient master than his father had been. During his regime (1673-1708), the chief Faroese complaints concerned the monopoly. Petitions went to Copenhagen in 1683 and 1690, the latter leading to a second royal commission on the islands. The outcome was a royal ordinance of 30 May 1691, dealing principally with commercial matters, but repeating a number of the more important land tenure clauses from the 1673 ordinance, so that they might be printed.[37]

During the Gabel period, the land owned by the two families of Norwegian nobility passed into peasant ownership. By the mid-seventeenth century these estates had become much split by inheritance, and since the landlords never visited the islands, they were difficult to administer. Much of the land was bought by the resident trading agent in Faroe, Severin Laugesen Fohrmann, who resold it, generally to the tenants, at what the Faroese considered high prices. By about 1690 all this land was in Faroese hands.[38]

A year after the death of Frederik von Gabel, the Danish crown resumed the fief of the Faroe Islands, and sent over a commission to settle the details and to take over the Gabel property at a valuation.[39] From 1709 onwards, Faroese affairs were administered by one or other of the administrative colleges in Copenhagen.

The eighteenth century was a period of peace and stability for the Faroe Islands. After the war with France during the years 1675-9 there were no more hostile attacks on the Faroe Islands, such as had been periodically experienced for a century and a half; the population probably rose, though only modestly; and the tariff of import and export prices introduced in the 1691 Ordinance was altered only in minor details during the succeeding century. The

land ownership pattern remained stable.

The principal export was of woollen goods, particularly knitted stockings. Tallow was also important, and amongst the minor items were butter, feathers, sheepskins, train-oil and dried fish. The export pattern in three representative decades during the century was as follows:

Table 2 FAROESE EXPORTS DURING THE EIGHTEENTH CENTURY[40]

Years	Total export value (rigsdalers)	Percentages by value				
		Tallow	Hose	Wool	Skins	Knitted Jackets
1712-1721	119,928	3.2	67.2	14.8[x]	3.2	-
1767-1776	232,463	3.6	92.5	0.1	0.7	-
1792-1801	355,510	10.7	78.0	-	0.4	0.6

	Percentages by value			
	Butter	Feathers	Train Oil	Fish[+]
1712-1721	2.0	0.7	3.7	5.2
1767-1776	0.4	1.0	0.5[u]	1.2
1792-1801	0.1	0.5	3.9	5.8

[x]The Faroese never liked exporting raw wool, as thereby they lost the opportunity of winter earnings; but at this period a proportion of raw wool had to be tendered with knitted goods brought to the Monopoly.

[+]Overwhelmingly in the form of dried cod (stockfish).

[u]This decade was during a period when practically no schools of pilot-whales (a principal source of train-oil) were killed.

The import tariff of 1691-1790 deliberately set a low price on essentials such as boat-timber and barley. Barley, indeed, was for most of the eighteenth century selling at or below cost. There was a consequent discouragement to the Faroese peasant to grow his own; and poor people with little or no land found it possible to maintain themselves by knitting stockings for the Monopoly. The annual import of barley rose from about 2,600 barrels around 1720 to about 5,200 barrels around 1770, at considerable cost to the Danish exchequer.[x] It was asserted that

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[x]The Danish barrel (corn measure) contains 1.44 hectolitres.

many of the hose-knitters were landless folk who had migrated to Tórshavn, and who maintained themselves only by making annual begging-trips each June round the villages for wool. This, it was said, caused a vagrancy problem, and at the same time a shortage of farm labour, hindering those peasants who wished to clear more land and increase their barley acreage.

The outcome of these complaints was a royal ordinance issued by Christian VII on 21 May 1777, containing several provisions in restraint of vagrancy. It was also directed that the sysselmænd (district sheriffs), on their annual rounds to gather up the wool tithes, should in various ways encourage crown leaseholders to enclose more land for corn cultivation. One clause went so far as to forbid landless persons without some lawful means of subsistence from marrying, unless they had served four years or more on a farm, showing faithfulness, skill and diligence.[x41]

Thus on the eve of the nineteenth century the Faroe Islands had a population of just over 5,000 persons, living largely off the land, but taking part in the inshore boat-fishery as opportunity presented itself. Some three hundred of the peasants were prosperous crown leaseholders, many of whom owned land of their own in addition to their hereditary leases. A rather larger number of peasants owned their own land, but few of these could compare in prosperity with the crown leaseholders. There was also a landless class dependent on the former two, especially the crown leaseholders. There were no merchants, since direct trade with the Monopoly was open to all. The highest social group was that of the officials. The landfoged, sorenskriver and commandant of the fort lived in Tórshavn; the lawman lived in Vágar; and there was a clergyman each for Suðuroy, Sandoy, Vágar, north Streymoy, south Streymoy, Eysturoy and the Northern Islands. The sysler (law-districts) were the same as the pastorates, except that Streymoy formed a single syssel. Each had its sysselmand, who represented government in the six to fifteen villages of his district.

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[x]This measure was repealed in 1846.

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FARMING AND FISHING, 1709-1899

The Faroese economy is today completely dependent on the export of fish, farm produce contributing only a few per cent to the Faroese national product.[1] Fishing has always been of domestic importance to the Faroe Islanders, but it was in the 1830s and 1840s that sea produce began its rise to the dominating position in the Faroese economy that it occupied by the end of the century.

In the 80-year period 1709-88, only 1748-50 could be called a good export period for fish. Only in those years, and in 1757, 1766 and 1788, did more than two thousand vog of fish leave the country.[x] During the 40-year period 1789-1828, there were eleven years when over two thousand vog left the country, and during 1808-13 no fish was exported at all because of war conditions. From 1829 onwards, there was only one year (1839) in which less than two thousand vog were exported, and on four occasions in the 1830s the annual export exceeded four thousand vog. From the 1840s onwards, four thousand vog made a bad year and twenty thousand vog a good year.[2] The change in distribution of the export of land and sea products may be summarised as follows:

Table 3 COMPARATIVE EXPORTS FROM FAROE - PERCENTAGES[3]

Average during period	Land produce	Sea produce
1712 - 1721	91.1%	8.9%
1767 - 1776	98.3	1.7
1792 - 1801	90.3	9.7
1841 - 1850	61.0	39.0
1895 - 1899	6.3	93.7

The period under review, therefore, was one during which the fishery was steadily overhauling farming in economic importance. Until 1872, this was due to the expansion of the open-boat fishery; but from 1872 onwards, the Faroese began to purchase wooden fishing smacks, of which there were 80 in the islands by 1900 and 137 by 1910.[4] Towards the end of the century, the expansion of fishing

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[x] 1 vog = 18 kg., thus 2,000 vog = 36 metric tons.

brought about a labour shortage on the land. The development of Faroese agriculture during the nineteenth century has to be viewed against the background of this economic revolution.

LAND CATEGORIES IN A VILLAGE COMMONWEALTH

The land belonging to a Faroese village commonwealth falls naturally into four broad categories: (i) village area; (ii) _böur_; (iii) _hagi_; and (iv) shore.

(i) I use the term _village area_ for those parts of the Faroese village land not comprised under the other three headings. It does not correspond with any precise Faroese category, but with the shore makes up what the Nólsoy villagers term _almenningur_,[5] and includes house sites, garden plots, lanes, inter-village grazing-land, rickyards and so on.

The village area may be divided into widely separated pieces, since a village often consists of several hamlets (_býlingar_). Thus, during the nineteenth century, Miðvágur consisted of the following _býlingar_ in order from north to south round the bay: Í Húsi, Eirikstoftir, Á Ryggi, Við Kirkjar, and Jansagerði. Á Ryggi was nearly a kilometre from either Í Húsi or Jansagerði, and _böur_ lay between. The village area comprised the following land types:

(a) _Heimrustir_,[x] subdivisible into building sites (_grundir_) and inter-village grazing (_heimabeiti_).

(b) _Tún_, the village lanes.

(c) _Geilar_, cattle tracks leading from the inhabited parts of the village area to the outfield. They were usually walled to prevent cattle from straying on to the cultivated infield.

(ii) _Böur_, in its broadest sense, includes all enclosed and cultivated land. It is divisible into:

(a) _Gamal böur_, or ancient infield, that part included in the old land tax registers.

(b) Intakes, made by clearing and enclosing portions of outfield, and variously known as _traðir_, _gerðir_ and _viðurbyrgi_.[+]

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[x] On Sandoy called _rustari_ and on Suðuroy _skattagrundir_.

[+] Though Svabo makes a distinction between them, Faroese practice uses these terms without precision or consistency.

(iii) Hagi, which I term outfield, consists principally of hill grazing. Im addition there are certain places of special advantage, such as fowling-cliffs, seal-caverns, and specially rich portions of pasture known as feitilendi.

(iv) Shore includes intertidal land and the sea-bed for some way beyond.

Broadly speaking, the ownership of land in a village comprehended individual and identifiable plots of böur, and proportional rights on the other land categories. Im the almenningur, these were subject to prescriptive rights of occupancy, but im the hagi, the rights were exercised jointly with other landowners. The total village hagi would often be divided for convenience into several hagapartar or commons. The böur holdings corresponding with a given hagapartur might be all in one locality, but frequently were not. Ownership of böur without hagi, or hagi without böur, was not altogether unknown, but such instances were regarded as anomalous, both categories being needed for the traditional form of peasant farming.

The unit of land ownership was the mark (Faroese mörk). Each mark consisted of sixteen gylden (Faroese gyllini), and each gylden of twenty skind (Faroese skinn). The mark of land is a highly variable unit, even within a village. An infield mark commonly varied between producing enough hay for half a cow to three cows, and an outfield mark might produce between eight and forty lambs at the autumn slaughter. The unit had two principal functions: (i) it formed the basis for land tax assessments until 1899; (ii) it was the measure of rights and duties of joint owners in each hagapartur, and to a lesser degree, in the almenningur, especially in the heimabeiti. The total land holding in a village or a hagapartur was known as the markatal, and I refer to land holdings either as an owner or a lessee as "ownership in the markatal".[6]

INFIELD CULTIVATION

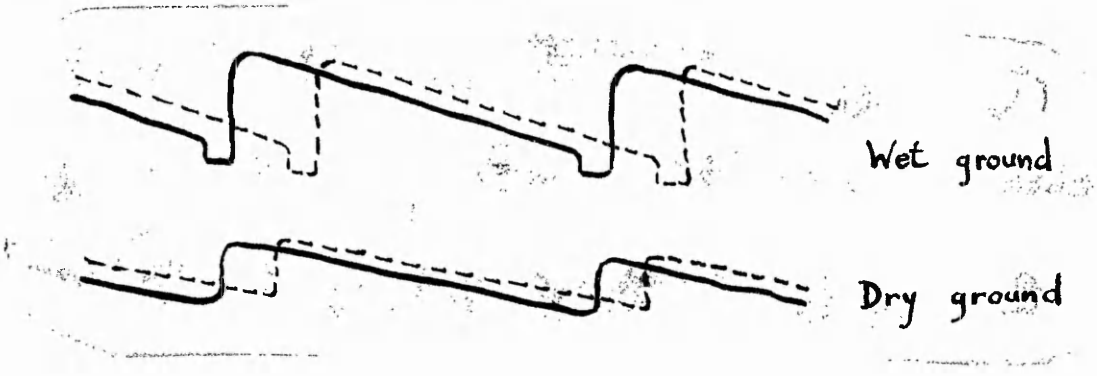
The principal böur crop has always been hay for winter feed for cattle. The only grain grown was barley of the hardy local strain. About 1800, potatoes were cultivated in only one or two places, but their culture spread through the islands generally during the period 1810-40. Various kale and root vegetables were

were also grown in small quantities, rather as garden than infield crops.[7]

At the beginning of the nineteenth century, it was rare to find any extensive level fields in the _böur_ except on Sandoy, the least mountainous of the islands. The _böur_ would generally be split into long narrow strips called _teigar_. A _teigur_ runs straight down the hill, and in wet ground is bounded on each side by a drainage ditch. The higher edge of a _teigur_ (the northward, for preference) stands about half a metre or more higher than the other. The drainage ditches were generally not grassed.[8] _Teigar_ are still sometimes found in Faroe.

The plough was not used, for a number of reasons. The steepness and narrowness of the _teigar_ (commonly about 3 metres wide) and the frequency of drainage ditches in itself made ploughing difficult, and the soil cover was often too thin for the plough to be satisfactorily used. The Faroese breed of horse, or rather pony, was too small and ill-nourished for work with the plough; and the islands lacked timber for the repair of the plough when this was needed. The _böur_ had by 1800 already become very fragmented by inheritance, and only on the larger crown tenancies was there a chance of feeding draught horses or oxen to the required degree.[9]

Barley. Cultivation of the higher stretches of infield, requiring a longer growing season, would begin towards the end of March. The lower-lying stretches would be dug during April and the first two weeks of May. The instrument used was a local form of spade, known as _haki_. The method was to rough-dig the grass-covered fields, spreading manure over the clods. If _teigar_ were being cultivated, a spit at the summit of each strip would be dug out, forming a fresh ditch where necessary, filling in the old one and raising the height of the _teigur_ with the remainder, according to the following diagram:[10]



The two principal manures used were cow-dung and seaweed. The former was preferred, but there was never sufficient for all the cornland, partly because most of the cattle spent their summer months in the hagi, and their dung was thereby lost. Seaweed was gathered either in autumn or shortly before the soil was tilled, left to rot in special middens, and afterwards spread on the land.

The seed was sown broadcast immediately after cultivation, and the clods were then broken down with the haki, a process corresponding with harrowing. Afterwards, the ground was hammered with an instrument called klárur, a rectangular board with a long handle fixed to it at an angle. Apart from a little weeding, no further attention was now needed until harvest-time other than akting, i.e. the expulsion of intruding sheep from the infield.

Reaping was about the end of September or early in October. The implement used was not the scythe but a sheath-knife.[x] Faroese barley does not ripen fully on the stalk, and as in Shetland and Orkney, artificial drying was necessary. After a few days of wind-drying the sheaves were taken indoors for the ears to be stripped from the stalks.[+] The straw and ears were now dried over a peat fire. Farmers growing considerable quantities of grain, especially those on Suðuroy, used a special kiln-house, called sornhús, while others would employ a woollen net stretched over a frame or a barrel-hoop, a device called a meis, which could be hung over the hearth in the farmhouse. The ears required 24-36 hours of gentle heating before they were fit to be threshed. Threshing was done with a specially shaped wooden club, treskitræ, and the grain was winnowed in a large wooden dish, tíningartrog. Drying, threshing and winnowing were all women's work, and their supervision was normally entrusted to an older woman of considerable experience.[11]

The straw was used for thatching haystacks and the repair of roofs, and in some places was more highly regarded than the grain,

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[x] Svabo and Landt remark on one farmer's use of the sickle as an innovation.

[+] Traditionally this had been done by hand alone, but in the mid-eighteenth century, the lawman Hans Jacobsen Debes invented an iron comb for the purpose, use of which was becoming widespread in 1800.

since in normal times Danish barley was cheap. A further motive for barley-growing was that the growth of grass in the infield was stimulated by a barley crop every seven years of so.[12]

The grain was ground either in hand-querns or with the aid of tiny horizontal mills of the so-called Greek or Norse type.+ The resultant flour was generally converted into a kind of long, cylindrical, unleavened loaf called dýflur, baked in the embers of the peat-fire.[13]

The total production of barley throughout the Faroe Islands during the nineteenth century was normally between 1,700 and 2,500 barrels annually, with a slow rise over that period.[14]

Hay. Hay has always been the most important infield crop. The grasses composing Faroese hay during the nineteenth century were always those springing up naturally, the sowing of grass seed being unknown until the present century, and far from common even today.[15]

In the year immediately succeeding barley cultivation, a Faroese field yields grass luxuriantly, but it becomes progressively finer, but smaller in quantity. The best hay is from teigar that have been under grass for three or four years, or from flat fields that have been under grass for two or three. After six to eight years under grass, it was necessary to grow a cultivated crop in the field, preferably barley.[16]

The hay harvest normally began about 8-10 August, unless wet weather occasioned a delay. Haymaking methods varied from district to district because of local conditions (e.g. the exceptionally high winds on Mykines), but the following was a typical method.

The grass was cut with a short-bladed scythe, since the fields were narrow and stones frequent. The older fields, where the grass was more advanced, would be cut first. The swathes would first be allowed to lie evenly over the fields; after they had dried a little, they would be gathered into loose heaps the size of mole-hills, known as klúkar, which could be penetrated by the wind and the warmth of the sun. At the same time the damp field would dry out. The klúkar would be turned several times at

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+These mills were of recent introduction. Svabo, writing in 1782, said that the first of them had been constructed little more than 40 years earlier, and that he knew of only nine in the whole country. Landt, in 1800, speaks of over a score. They became extremely common in the course of the nineteenth century.

intervals of a couple of hours or so. If rain threatened, or when night was approaching, three or four klúkar would be gathered into a small stack (hoyrúgva). In the morning, or after the rain had passed, the hay would be spread out once again.

When thoroughly dry, the hay would be heaped up into tramp-cocks (sátur) about two metres high. The sáta would be bound with hay-ropes to prevent the hay from being blown away. The hay harvest would take two or three weeks for it all to be in sátur, if there had been good drying-weather; but in a rainy August or September it might take much longer. The hay remained in sátur two to four weeks, after which it was carried home to the rickyard, a walled enclosure near the house, where haystacks would be built and thatched with barley-straw. It was seldom brought into a barn as is the usual Faroese practice today.

A cow's winter fodder was reckoned to consist of 160 lispund, or 1,280 kg. of hay.[17]

Potatoes. The first reference to potatoes in the Faroe Islands occurs in 1686,[18] though Svabo, a century later, speaks of prejudice against growing them, even though they were less liable to crop failure than was barley. The two principal reasons were that barley provided straw for roofing, and that grass growth after a potato crop was slower than that after a crop of barley. The places where potatoes were then being grown on a considerable scale were Sandavágur and Miðvágur on Vágar, and in Fröðböur and Hov on Suðuroy, but only by isolated farmers.[19]

Landt, by the turn of the century, reported that potato cultivation was becoming more and more customary.[20] A British Admiralty report of 1811, however, reported potatoes as grown only in Suðuroy and Streymoy. In the former, 100 barrels were produced, compared with 650 barrels of barley; in the latter, only 20 barrels, compared with 800 of barley.[21] But by 1835, the cultivation of potatoes had spread through all the islands, the crop being over 5,000 barrels annually, far larger than the barley crop. By 1917, a peak year, over 20,000 barrels were being grown.[22]

The earliest method of potato cultivation in Faroe closely resembled the procedure with barley. The more efficient ridge-and-furrow method or lazy-bed cultivation made way only slowly. Many were unwilling to use grass-fields for potato cultivation, since

the grass sprang up more slowly after potatoes than after barley.[23] The most infertile parts of the infield were often reserved for potato-growing; and well into the nineteenth century the Faroese did not yet appreciate that the potato thrives best in a loose, dry, sandy soil.[24]

Root Vegetables. Two varieties of turnip were cultivated, but not on any considerable scale. They were destined for human consumption, and do not ever seem to have been fed to cattle. The so-called Norwegian turnip, brassica rapa, and the Faroese turnip, brassica napus, were commonly used in soup, and both were also eaten raw, especially the latter, which after keeping for a year turned very sweet. Their manner of cultivation was similar to that of the potato.[25]

THE USES OF THE OUTFIELD

The principal use of the hagi was for sheep pasturage. The lower outfield stretches, especially those nearer to the village, were also employed as húshagi (summer cattle pasture). A certain number of horses were also permitted to graze the outfield, and geese were occasionally to be found.[26] In 1811 the domestic animals held in the islands were as follows, the poultry being kept in and around the houses:

Table 4 FAROESE FARM STOCK, 1811

	Cattle	Sheep	Geese	Poultry
Streymoy	600	18,066	50	200
Eysturoy	550	16,700	-	200
Northern Islands	300	8,600	-	-
Vágar	380	7,400	-	-
Sandoy	350	7,600	-	-
Suðuroy	420	8,900	650	200
Total	2,600	68,060	700	600

There were also 680 horses throughout the whole of the islands.[27]

In 1800, the keeping of pigs in the outfield had become a distant memory only, preserved in place-names and in a legend from the sixteenth century. A royal commission of 1709-10 said that the Faroese had ceased to keep them because of the damage they did to field and to pasture.[28]

The outfield was also a hunting-ground. The cliffs and screes yielded large numbers of sea-fowl and their eggs; and the

caves and the flat rocks were breeding-grounds for two kinds of seal, which were hunted yearly.[29]

Finally, the outfield contained the peat cut by the islanders for fuel; green turf used for roofing buildings; cinquefoil root used for tanning; and certain lichens used in the preparation of dyestuffs.[30]

Cattle. Faroese cows at the beginning of the nineteenth century were small and gave little milk, commonly no more than four litres a day; the breed was then thought to be degenerating, but during the century foreign animals were brought in from time to time, and some improvement resulted.

As soon as the weather permitted it in spring, usually by mid-April, the cattle were grazed out-of-doors during the daytime and brought in again at night. Cows that had newly calved, or were soon to calve, however, were kept in stall. By the end of May, provided that the snow was gone and the weather permitted it, the cattle would be grazed out-of-doors day and night. From mid-October they were brought indoors at night, and from the end of November they were kept permanently within doors. Their winter feeding was generally the minimum that would preserve life, and consisted principally of hay, sometimes also straw, and the cooked flesh of the pilot-whale when this was abundant.

The cows were milked twice a day. In summer the milking-women would go out together about 9 in the morning and 8 in the evenings with little wooden pails on their backs, to find the cows and milk them. On the misty hills this was sometimes a difficult, and not infrequently a dangerous task, and many stories are told of milking-women losing their way and sometimes their lives.

The maintenance of bulls was unsystematic. Generally, each hamlet in a village would keep a bull, but would keep two if it was a large hamlet, and share a bull if it was a small one. It was reckoned that one bull ought to serve not more than 50 cows, but there were instances of bulls having to serve 60 or even 70 cows. A bull normally began to serve cows at two years old, and was replaced when it was seven or eight years old. A cow was normally kept until it was 14 years old.

Cattle were not usually fattened for slaughter, except in one or two specially suitable places such as Mykineshólmur. A certain

number of cattle would be killed every autumn because of the limited hay supply, and these might be fattened to a certain extent. But the principal purpose in keeping cattle was to produce milk, which would be either drunk in liquid form, or converted into butter, or more rarely, cheese.[31]

The heimabeiti fulfilled two functions in Faroese cattle-keeping. It was used as summer pasture for sick cows, calves and for cows about to calve, and it was also used for the grazing of cows at the height of their milking. During the periods when cows were grazing out during the day and were in stall at night, the böur was in some villages used for cattle; but the more provident allowed this only in frosty weather, lest the cattle should destroy more grass than they ate.[32]

The total cattle holding in the Faroe Islands naturally fluctuated with the annual hay harvests, but during the nineteenth century there was a slow tendency for the number to rise. By the end of the century there were over 4,000 beasts, of which 3,000 were milch cows.[33]

Horses. Faroese horses were small, thick-set creatures, not unlike Shetland ponies. They were never kept in stall, but grazed the hagi all the year round. They carried dung and seaweed to the fields in spring, and brought home peat during the summer and autumn, but the rest of the year they were in only occasional use, to bring a load of trade goods from the beach to the house, or to carry an official's or priest's baggage from one village to the next. Each hagi had its tally of horses, but while numbers were controlled, no attempts were made at improving the breed. Numbers fluctuated between 600 and 800 during the century, but after 1930 sharply diminished with the introduction of motor transport.[34]

Geese. In most villages where geese were kept, their numbers were strictly limited. The geese were housed during winter in little turf huts near the houses. They would lay in April, and when the young were half-grown, the geese would be driven into the outfield, where they would stay until winter drove them home again. Though the goose was often a source of much disharmony in the Faroese village, as will be detailed in Chapters 5 and 6, the numbers of geese increased sharply during the century, and by 1886, some 3,000 were being slaughtered annually.[35]

Sheep. In 1800, there were three varieties of sheep in the Faroe Islands: (i) The wild sheep of Lítla Dímun, found only on that uninhabited island. (ii) The norðanfjörðs sheep, found on Stóra Dímun, and on all the islands north of Skopunarfjörður. (iii) The sunnanfjörðs sheep, found on Sandoy, Skúvoy and Suðuroy. The norðanfjörðs sheep were of a bigger and stronger build than the sunnanfjörðs. The Lítla Dímun sheep were very small and dark, impossible to round up in the usual way, and were culled by shooting. The owners of the island exterminated them in 1868, to replace them with a more profitable breed.[36]

Faroese sheep have always been kept outside winter and summer. The only exception was in Suðuroy, and a few other places, where lambs might be kept in stall during their first winter.[37] The infield gates were opened for the winter period, 25 October to 14 May, and during this time the flocks occupied the lower stretches of the outfield and the entire infield, other than such portions as were by agreement protected from grazing.[38]

Since the seventeenth century, sheep in the Faroe Islands had by law been jointly owned. A Faroese peasant owned, not individual sheep, but such-and-such a holding in the markatal of a given hagapartur. The day-to-day management of the flocks was in the hands of one or more shepherds (usually informally elected at the autumn round-up), but for the repair of folds or boundary walling, or rounding up the sheep, each owner had to contribute labour in proportion to his ownership in the markatal; and the wool and mutton produced were divided in the same proportion.

If the flocks were insufficiently tame, they would be driven to fold in early April, before lambing-time, to accustom them to being rounded up. The lambing, from mid-April to mid-May, was managed by the shepherd alone. Usually, the first call on the owners was for the spring drive, which took place some time between the end of May and the beginning of June. When the sheep were folded, the shepherd would castrate the ram-lambs destined to winter over as wethers. Then all the lambs would be earmarked to show which common they belonged to. Finally, the wool would be plucked from the sheep - shears were seldom used. The flocks would now be turned out on the hagi again, and would need no attention until early September - unless the sheep had to be driven

into the higher stretches of pasture from time to time to make sure that these were fully grazed during the summer months, conserving the under-pasture for winter.

The autumn slaughter took place in four stages. Early in September some of the gimmer-lambs[x] were removed for slaughter - for a gimmer would hardly survive a Faroese winter if it had to give suck. In early October the ram-lambs and remaining gimmer-lambs were slaughtered; in mid-October the weakest and oldest sheep were removed; and at the end of October, the main slaughter took place, leaving only the winter stock and the Christmas sheep (including the traditional gifts of one for each manservant, and a half for each womanservant).

To shelter the sheep during stormy or snowy weather, there were in the hagi sheep-shelters known as ból or stöður. These consisted of a stone-and-turf wall, 3 or 4 feet high, semi-circular in shape, with an opening directed to the south. The provision of hay for the sheep taking refuge in these shelters was sometimes suggested, but rarely implemented.

The bulk of the carcasses were hung up in specially-designed outhouses (hjallar) so that the wind would dry them and convert them into the prized skerpikjöt. Other important products were the skins and the tallow, while the blood was converted into blóðmörur, a kind of black pudding.

Tupping-time lasted for most of December, and was reckoned to be over by Epiphany. Towards the end of January, the shepherd would remove the inferior rams for slaughter, and take the best on to grassy terraces from which escape was difficult, so that they would not stray on to other hagapartar and be lost.

Faroese ewes had once been milked, but by 1800 this was an almost-forgotten practice.[39]

Fowling. The three most important birds in the Faroese economy were the puffin, guillemot and razorbill. Caught when opportunity allowed, but of less significance, were the shag, kittiwake, gannet, cormorant, black guillemot, great skua and the young of the Manx shearwater. The greylag goose was shot on certain freshwater lakes.

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[x]The offspring of gimmers, i.e. one-winter ewes.

The puffin comes to Faroe in immense numbers in the middle of April, and departs early in September. It breeds in holes in the steep screes or in earth-decked ledges in the cliffs. Puffins were caught in two ways, dráttur and fleyging. Dráttur was the process of pulling young puffins out of their breeding-holes by hand or hook, a task that used to begin in mid-May and lasted a fortnight. Sometimes eggs were gathered also. Fleyging was catching birds on the wing with a triangular net on the end of a pole some three and a half metres long. To reach the hunting-ground, the fowler had often to climb up the cliffs from a boat, traverse the cliff on ledges from one end, or descend from the cliff-top on a stout rope held by half a dozen companions. The birds were either eaten fresh, or preserved by salting or drying.

The chief breeding-grounds of the guillemot and the razorbill are on Fugloy, on the northern cliffs of Vágar, on Skúvoy and the Dímuns, and in certain parts of Suðuroy. The two birds are in Faroe for almost exactly the same period, arriving about 10-12 March, and departing in August.

The first important stage in the guillemot season was ræning, the gathering of eggs and sometimes a few birds with them. This began about 10 June and lasted eight days. Towards the end of July, the netting of birds perching on the ledges began, and continued for about a fortnight, a somewhat larger net than a puffin-net being used for this purpose. Guillemots and their eggs were of special importance on Skúvoy.

The razorbill was hunted in much the same way as the guillemot, but was less abundant and tended to build on looser cliffs, sometimes, like the puffin, on scree-slopes. It lays its eggs in holes instead of on the open ledges, and this made collection more difficult.[40]

The only other bird worthy of special mention is the gannet, which breeds only on Mykineshólmur, but which was of some importance for the economy of Mykines. The gannet arrives about 25 January, lays in mid-April, and departs early in November. Just before laying, the birds sit and sleep all night on the cliff ledges, and at this time can be taken by hand. The young ones were also taken by hand early in September. The annual catch was about 200 of each for this one small island.[41]

Seal-hunting. Two species of seal are commonly found in the Faroe Islands, the common or harbour seal (phoca vitulina) and the grey or Atlantic seal (halichoerus grypus). Both were regularly hunted, and as with sea-fowl, property in them pertained to the markatal.

The common seal was either shot or clubbed when it was lying on the flat rocks. The grey seal, which breeds in the many caverns round the Faroese coast, was hunted in October, when the young ones were about three weeks old and at their best. Two boats would go to the seal-caverns; one would enter, while the other would remain at the mouth, while a rope was stretched between the two, so that the boat entering could be dragged out if it became waterlogged. The huntsmen, on their arrival at the breeding-ground at the end of the cave, would suddenly produce linen-and-tallow flares, and dispatch the old seals by clubbing them and cutting their throats. The young ones would afterwards become an easy prey.

Sealskin was used for shoes and bags. The fat was rendered down into train-oil for export, and the flesh was sometimes eaten.[42]

Peat-cutting. Since there is no timber in Faroe other than driftwood, peat-cutting was a necessity for the Faroese villager. Even those inhabitants of Suðuroy with access to the thin seams of coal that occur there, needed peat for drying out their barley, since coal would give too hot a fire.

The peat was cut in May with the haki, the long Faroese spade. In 1839, however, the Shetland peat-spade was introduced, which has a side-flange, enabling each peat to be cut with a single stroke instead of the two previously needed. The peats were first spread out on the grass for an initial drying, then stacked for the wind to dry them further. Finally they were stored, often in a long, low stone enclosure called a krógv.

Whenever possible the peat would be brought back to the village by boat or on horseback, but when this was not possible, it had to be fetched in by leypur, i.e. in a square tapering slatted creel made out of driftwood, carried on the back and supported by a head-band.

The unskilful cutting of peat could damage the outfield grazing severely; but correct use of a turbary could help to drain off outfield water and improve the quality of the grass.[43]

Turf, cinquefoil, lichen. Green turf was cut in the outfield for roofing purposes - a Faroese grass roof would need replacement every fifty or sixty years. Cinquefoil root was used in the tanning of skins. Lichens used in dyeing were scraped from rocks in the outfield. Leave to gather these products was normally granted readily to all villagers.[44]

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1. Rigsombudsmand på Færöerne, Årsberetning 1970 (Tórshavn, 1971), p. 14, and Årsberetning 1973 (Tórshavn, 1974), p. 67, give the following figures for exports:

Table 5 FAROESE EXPORTS, 1969-72 (million kroner)

	1969	1970	1971	1972
Fish and fish products	180.5	248.4	270.6	308.1
Ships	-	0.1	3.7	10.0
Woollen goods	0.7	1.2	2.8	2.5
Other products	1.0	1.3	1.6	1.5
Total	182.2	251.0	278.7	322.1

Thus farm products are of little importance in the Faroese overseas trade of the present day. Even when domestic consumption is included the picture is changed only a little. In 1964, the agricultural share of the Faroese national product was valued at 16.2 million kroner, or 4.88% of the whole. To this may be added a further 0.96 million kroner as the value of the product of two further traditional peasant occupations, the driving of pilot-whales, and the taking of sea-birds and their eggs, making the produce of the farms in a broader sense 5.17% of the national product. In 1970 this was down to 5.0%. Trap, op. cit., pp. 83, 101; Rigsombudsmand på Færöerne, Årsberetning 1972 (Tórshavn, 1973), p. 75.

2. Degn (1929), pp. 134-40; Svabo, op. cit., pp. 289-91.

3. Degn (1929), pp. 1, 141-6; Erlendur Patursson, Fiskiveiði - Fiskimenn 1850-1939 (Tórshavn, 1961), pp. 55-8, for the 1895-99 figures. In the latter work the 1841-50 percentages are inaccurately summarised, taking tallow into the total of sea products.

4. E. Patursson, op. cit., pp. 9-23, 37-45, 83. See also Chapter 12.

5. M.A. Jacobsen & Christian Matras, Føroysk-Donsk Orðabók (Tórshavn, 1953), p. 8.

6. Svabo, op. cit., pp. 331-3; Landt, op. cit., pp. 167-8; J.A. Lunddahl in LBK Tillæg, pp. 426-33, 438-42, 455; Poul Petersen, op. cit., 9-27; M. Winther-Lützen, Landbruget paa Færöerne (Tórshavn, 1924), Chapter III.

7. Svabo, op. cit., p. 331; Landt, op. cit., pp. 167-89; PRO (Public Record Office): Admiralty 1/694; Daniel Bruun in LBK Tillæg, pp. 601-2; Rasmus C. Effersöe, Landbruget og Husdyrbruget paa Færöerne (Copenhagen, 1886), pp. 13-18. Christian Plöyen, Erindringer fra en Reise til Shetlandsöerne, Örkenöerne og Skotland i Sommeren 1839 (Tórshavn, 1966), p. 183, says, "There is scarcely a household in the Faroe Islands where potatoes are not eaten at least once a day."

8. Svabo, op. cit., pp. 331-3; Landt, op. cit., pp. 167-8; LBK Tillæg, pp. 600-01, plate XXI; Kampp, op. cit., p. 72.

9. Svabo, op. cit., pp. 344-5; Landt, op. cit., pp. 172-3; Plöyen, op. cit., pp. 176-7; J.H. Schröter, Samling af Kongelige Anordninger og andre Documenter, Færöerne vedkommende (Copenhagen, 1836), pp. 46-7. Landt explains that another principal reason for the unwillingness of the Faroese to plough was the primacy of grass as a crop. One of the main purposes of ploughing, he says, is to rid the ground of grass-roots, so that the power of the soil is applied solely to the newly-sown seed. But the Faroese motive in their cultivation was merely to arrest the growth of grass in the cornfield, and yet to preserve the grass-roots for a hay crop in subsequent years.

From at least the seventeenth century onwards, there have been repeated attempts to introduce the plough, but until late in the nineteenth century none was successful. Only in our own time, indeed, has the plough, now powered by the miniature tractor, begun to make real headway. Typical of the many trials was the one made on the Miðvágur glebe farm during the ministry of Sören H. Hjort from 1879 to 1885. For the whole time he had with him his father-in-law, who had farmed in Denmark and tried to work the land with Danish implements. After a few years he abandoned ploughing, because of the slowness of the grass to grow on fields that had been ploughed compared with those that had been dug. But the harrow served him well, and within twelve years had been introduced generally through the village - proof that resistance to the plough was based on more than mere peasant conservatism. See Mikkjal Dánjalsson á Ryggi, Miðvinga söga (Tórshavn, 1965), pp. 168-9.

10. Kenneth Williamson, The Atlantic Islands (London, 1970), p. 55; Kampp, op. cit., p. 72; LBK Tillæg, plate XXI; Rasmus Rasmussen, Sær er siður á landi (Tórshavn, 1949), pp. 6-7; Botany of the Faroes (Copenhagen, 1901-8), p. 1007.

11. Svabo, op. cit., pp. 342-3; Landt, op. cit., pp. 179-80; Daniel Bruun, Fra de færöske bygder (Copenhagen, 1929), pp. 186-8; Sámal Johansen, Á bygd fyrst í tjúgunda öld (Vágur, 1970), pp. 12-14; Rasmus Rasmussen, op. cit., pp. 73-80; Johanna Maria Skylv Hansen, Gamlar götur, Bd. 1 (Tórshavn, 1968), pp. 23-6; Jóannes Patursson, Kirkjuböar söga (Tórshavn, 1966), pp. 85-93.

12. Daniel Bruun in LBK Tillæg, p. 606; Svabo, op. cit., pp. 157-8; Landt, op. cit., pp. 167-8; Plöyen, op. cit., pp. 172-3. I myself heard of the stimulating qualities of barley on the grass crop from the Nólsoy villagers on my first visit to the Faroe Islands in 1956.

13. Svabo, op. cit., pp. 116, 179-80; Landt, op. cit., pp. 180-82; Johansen, op. cit., pp. 128-9.

14. Kampp, op. cit., p. 73; Winther-Lutzen, op. cit., pp. 54-5; E.A. Björk, Færösk Bygderet (Tórshavn, 1956-9), Vol. II, p. 28. Effersöe, op. cit., p. 19, estimates 4,000 barrels annually about 1885, which seems to me too high - I am unaware of any reason for a peak about this period.

15. LBK Tillæg, p. 606; Plöyen, op. cit., p. 178.

16. Svabo. op. cit., p. 356; Landt, op. cit., pp. 182-3.

17. Svabo, op. cit., pp. 353-7; Landt, op. cit., pp. 182-7; LBK Tillæg, pp. 606-7; Johansen, op. cit., 31-8; Rasmus Rasmussen, op. cit., pp. 55-7, 64-72.

18. Andersen, op. cit., p. 131. The reference occurs in the proceedings of a lawsuit arising from the visit of a smuggler to the Faroe Islands in 1686, when potatoes were amongst the goods sold to the wife of the minister of North Streymoy.

19. Svabo. op. cit., 157-9.

20. Landt, op. cit., pp. 187, 189.

21. PRO: Admiralty 1/694. The informant was probably pastor Schröter.

22. British Museum (BM): Add. MSS. 29,718, fs. 1, 7; Björk, op. cit., Vol. II, p. 16; Effersöe, op. cit., p. 19; Winther-Lützen, op. cit., pp. 61-3.

23. LBK Tillæg, p. 602.

24. Plöyen, op. cit., pp. 183-6.

25. Svabo, op. cit., pp. 116, 159; Landt, op. cit., pp. 189, 239; John F. West (ed.), The Journals of the Stanley Expedition to the Faroe Islands and Iceland in 1789, Vol. 1: Introduction and Diary of James Wright (Tórshavn, 1970), pp. 49-50.

26. Svabo, op. cit., pp. 201-35, 54-5; Landt, op. cit., pp. 194-208; LBK Tillæg, pp. 442-6, 609.

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29. Svabo, op. cit., pp. 29-43, 48-53; Landt, op. cit., pp. 208-16; LBK Tillæg, p. 455.

30. Svabo, op. cit., pp. 134-41, 147-51, 270; Landt, op. cit., pp. 94-5, 127-8.

31. Svabo, op. cit., pp. 116-19, 342, 356, 407-12; Landt, op. cit., pp. 194-7; LBK Tillæg, pp. 445, 610-13. For stories of misadventures to milking-women see á Ryggi, op. cit., pp. 75-6, 110; J.M.S. Hansen, op. cit., pp. 51-4; Rasmus Rasmussen, op. cit., pp. 91-3.

32. LBK Tillæg, pp. 428, 610.

33. Björk (1956-9), Vol. I, p. 362A. The total number of cattle has during this century, particularly since 1950, dropped sharply, and there are now no more than 1,500 milch cows in the islands. See Rigsombudsmand på Færöerne, Årsberetning 1973 (Tórshavn, 1974), p. 44.

34. Svabo, op. cit., pp. 54-5; Landt., op. cit., pp. 197-8; Björk (1956-9), Vol. I, p. 318.

35. Svabo, op. cit., pp. 13-14; Landt, op. cit., p. 142; LBK Tillæg, pp. 445-6; Effersöe, op. cit., p. 19.

36. The explanation for the difference in size that was current in the islands towards the end of the eighteenth century was that two or three hundred years before, a hard winter and a severe murrain (svartafelli, the black death) had wiped out practically all the sheep in the islands. The northern islands had then been restocked from Iceland, and the southern islands from Orkney and Shetland. The old Lagting records mention certain great mortalities amongst the sheep, for instance in 1633, but the svartafelli which necessitated the complete restocking of the outfields, and about which oral traditions still survive, could not have taken place later than 1615, and was probably earlier than 1580. See Svabo, op. cit., pp. 201, 211; Landt, op. cit., p. 199; West, op. cit., pp. 47-8.

37. Landt, op. cit., p. 199n; LBK Tillæg, p. 76.

38. The winter grazing issue is further discussed in Chapter 5. See Poul Petersen, op. cit., pp. 209-10; Christiam den Femtes Norske Lov (hereafter N.L.) 3-12-17.

39. Svabo, op. cit., pp. 201-35; Landt, op. cit., pp. 198-208; LBK Tillæg, pp. 613-20; Rasmus Rasmussen, op. cit., pp. 86-91; and the four books by Robert Joensen, passim.

40. Svabo, op. cit., pp. 25-43; Landt, op. cit., pp. 208-14.

41. Svabo, op. cit., p. 22; Landt, op. cit., p. 148.

42. Debes, op. cit., pp. 72-3; Svabo, op. cit., pp. 42-53; Landt, op. cit., pp. 214-16.

43. Svabo, op. cit., pp. 134-41; Landt, op. cit., pp. 94-5; LBK Tillæg, pp. 446, 608-9; Rasmus Rasmussen, op. cit., pp. 15-20; Ludvig Petersen, Sandavágs söga (Tórshavn, 1963), pp. 120-27; Jóan C. Poulsen, Hestsöga (Tórshavn, 1947), pp. 36-9; J. Patursson, op. cit., pp. 69-71; Plöyen, op. cit., p. 161.

44. LBK Tillæg, p. 448; Svabo, op. cit., pp. 147-51; Landt, op. cit., pp. 127-9; E.A. Björk, "Börkuvísa (Potentilla erecta)", Fróðskaparrit, Vol. 20 (Tórshavn, 1972), pp. 99-128.

THE GEOGRAPHICAL BASIS OF COMMUNAL TENURE

Faroese communal land tenure, in the form in which it was found in the nineteenth century (and to a degree still exists today), was not a primitive survival, but a response to the imperatives of Faroese geography, a development over the centuries, inevitable if each owner and leaseholder was to secure a reasonable economic benefit from his estate.

A Faroese outfield contains stretches of land of very diverse quality. Some of the higher reaches will be suitable only for summer sheep pasture, and the lower reaches will be essential for the support of the flocks in winter; and these may be separated by cliffs or boulder-covered areas of practically no economic value. Faroese village landowners, had they wished to enclose their respective outfield holdings, would therefore have had to divide the land into long, narrow strips running from the top of the hill down to the shore, to link each portion of high pasture with a complementary stretch of low pasture. The cost of erecting stone walls of the length and height needed to keep one man's sheep from another's pasture would have been prohibitive, and the burden would have fallen hardest on those owning least land.[1]

Furthermore, because of the geological structure of the Faroe Islands, alternate layers of basalt and tuff, it is not uncommon to find the higher and lower pastures of an outfield separated by small cliffs running all round the island, and passable only in a limited number of places. Thus on Nólsoy, the summer pasture on the high round hilltop of Eggjarklettur is separated from its complementary horseshoe-shaped stretch of winter pasture by a cliff that is often no more than twenty or thirty metres of vertical height, but which is impassable for man or sheep except at perhaps three points in seven kilometres. This would mean that if the Nólsoy owners enclosed their outfield, flocks on their way between summer and winter pasture might still have to cross land belonging to four or five other owners to reach a possible point of ascent or descent.

This would not have been an end of the matter. Every owner would have had to spend two or three days every year in the repair

of walls damaged by animals or high winds. Further walls would be needed every time land was divided on inheritance. In short, enclosure would have imposed an impossible economic burden on the Faroese villagers. Even the provision and maintenance of a common sheep-proof wall between _bøur_ and _hagi_ was often no small task for the community.

The pasturage of sheep, though the most important of the Faroese peasant's occupations, was not the only economic benefit he derived from the jointly-owned outfield. Enclosure would not have hindered the pasturage of cows or horses, but special arrangements would have been needed for the territorial division of fowling or turbary rights. Even today, general enclosure of the outfield would require drastic legislation, including large-scale expropriation and very strict inheritance laws, before it could be permanently successful. The main tasks of Faroese land law have thus been to ease the inevitable difficulties arising from the joint management of common resources, and to facilitate partial enclosure of outfield to enlarge the cultivated area.

SEYÐABRÆVIÐ

The code issued by Duke Håkon Magnusson in 1298 to regulate the joint pasturage of sheep, _Seyðabrævið_, is the earliest known land legislation designed specifically for Faroese conditions. It was destined to be unusually long-lived. It was repromulgated virtually unchanged in 1637, and again with only a few modifications in 1698. Not until 1866 was there a radical revision of Faroese land law; and even then, many of the provisions of _Seyðabrævið_ were carried over into the new legislation; some govern outfield conduct to this day.

From a study of _Seyðabrævið_ emerges a picture of society in a state of radical change. The number of landowners had evidently multiplied beyond the point where simple word-of-mouth agreements could secure justice between man and man. Rich and poor landowners were all striving to place as many animals on the joint outfield as they could, without regard to its capacity. The wild and unruly sheep of some were causing difficulty for those whose sheep were more tractable. False marking was rife; and there were frequent infringements of the unfenced borders between one outfield and another.

My interpretation of the disorders referred to in Seyðabrævið is that with an increased population, the Faroese outfields were for the first time being stocked to capacity. Sæter farming (see page 17) was now a thing of the past, and the malpractices had appeared which inevitably arise where owners of unequal wealth place individually-owned animals on a jointly-owned pasture.[x] The joint ownership was probably principally, at the earliest period, in the form of areas of high pasture being used by two or more villages - such an area being known in later times as a semingsstykki (one such existed between Kirkjuböur and Velbastaður until the present century). The rules were, however, equally applicable to joint ownership within villages.[2]

Clause 1 penalises unlawful entry into another man's pasture and the removal of his animals. Despite general attachment to their home ranges, sheep will always to a certain extent cross an unfenced boundary, and will do so the more if one pasture is stocked at a higher density than the other. An owner thus has many honest occasions for entering his neighbour's pasture; the unscrupulous owner will use such an opportunity for removing his neighbour's animals, particularly unmarked lambs.

Clause 4 provides a remedy for the malpractice of joint owners scouring the outfield with dogs in search of unmarked sheep and lambs to add to their own marked animals. The rule is for two witnesses to accompany any owner taking sheep for slaughter.

Clause 5 contains several provisions. The first regulates the procedure when a man's sheep take up firm residence in another man's outfield. The second covers the maintenance of common sheepfolds. The third regulates marking procedure in the fold, including safeguards for a neighbour's straying ewe, which must be allowed to keep its lamb. The fourth aims in several ways at protecting the owner of tamed sheep from damage by wild or unruly sheep belonging to co-owners of the pasture. Finally, penalties are set for secret marking or falsification of existing marks.

Clause 6 sets penalties for owners of sheep-biting dogs. It also regulates against over-stocking of the pasture.

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[x]From the law it appears that though joint ownership of flocks was not altogether unknown, individual ownership was decidedly the usual practice.

Clause 10 lays down the procedure to be followed if a man deliberately stocks another man's outfield with his own sheep. Another provision requires permission to be sought for recovering straying sheep. Finally, the regulation concerning wild sheep is extended to protect the owner of tamed sheep in an adjoining, as well as in a jointly-owned outfield. The remaining clauses deal with matters other than sheep management.

The only other pre-Reformation land legislation is the so-called Hundabrævið, the Dog Letter.[3] This was issued some time in the fifteenth century on the authority of the lawman and the Lagting, and laid down the precise numbers of sheepdogs to be permitted in each village.

The principal provisions of Seyðabrævið were re-issued in a Danish translation in 1637,[4] subsequent to a re-codification of the Norwegian Law by Christian IV in 1604, which was in use in the Faroe Islands when the earliest surviving court record book was opened in 1615.[5] The differences between the original of 1298 and the confirmation of 1637 are trivial, insofar as they refer to the management of joint pasturage. The order of the law is slightly amended; a few of the Old Norse phrases were slightly misunderstood, and take on a different shade of meaning in the Danish; and the miscellaneous provisions regarding vagrancy, drifting whales, and so on, are omitted.

THE INSTITUTION OF JOINT FLOCKS

Hitherto, individual ownership of sheep on jointly-owned pastures (kenning) had been the prevailing system. The safeguard was that no-one was to journey into the joint pastures except in the company of co-owners able to witness that he had acted lawfully. The same rule was often applied to other joint outfield uses.

From 1655, cases began to appear in the law records of difficulties arising through large and small owners attempting to operate the kenning system. The first case, on 3 August 1655, arose from two co-owners in Syðra Göta (a notoriously litigious village) overstocking an outfield against the interests of a third. The remedy the court ordained was for the flocks to be thrown together in joint management (known in Faroese as feli), and the holding of private sheep (hjáseyðir) forbidden.[6]

The same remedy was applied in disputes brought before the Lagting in 1657 by owners in Gásadalur, Hvannasund, Kunoy and Funningur;[7] and the following year by the owners of Kvívík and the other Göta outfields. By 1659 the cases were so numerous that the Lagting decided to introduce feli into all the outfields in the Faroe Islands. Draft rules forbidding kenning were put forward by the lagretsmænd (lay assessors, members of the Lagting) from the Northern Islands, and approved in turn by the lagretsmænd of each of the other sysler. They were afterwards approved by the public assembled outside. The rules were simple. All sheep were to be in feli, owners or leaseholders contributing labour, and taking wool and meat, in proportion to their markatal holdings. Each owner was further entitled to keep as many cows in the outfield during summer as he could maintain during winter from the hay grown in the gamal bður. No-one was to cut hay in the outfield without the consent of all the joint owners. Finally, in accordance with ancient usage, no-one was to employ the húshagi for the grazing of horses.[8]

This institution of joint flocks on the joint pastures came to be enshrined in a further revision of Seyðabrævið issued by Christian V in 1698. On 15 April 1687 a new Norwegian Law was issued, in an attempt, in the new conditions of absolute monarchy, to bring up to date the largely medieval code by which Norway had hitherto been governed, and to incorporate the mass of new legislation that had been issued during the century. A further aim was to harmonise more closely the legal systems of Denmark and Norway. The new code came into force in the Faroe Islands on Michaelmas Day, 1688.[9]

The Norwegian Law of Christian V superseded all previous enactments, and a confirmation of Seyðabrævið was thus vital. After two years of deliberation by a commission of Faroemen sitting under the leadership of the lawman and the sorenskriver, a suitable text was drafted, which became the Ordinance of 2 April 1698.[10] The ancient regulations were brought into a better and more logical order, and a few more provisions added. These were: (i) a clause providing for the necessary supply of rams for each outfield; (ii) a sharpening of the penalty for failure to keep sheep properly tamed; (iii) a prohibition on travellers crossing the outfields

other than by the ancient rights of way; (iv) somewhat stricter regulations concerning dogs; (v) new regulations to promote the drainage of waterlogged outfields; (vi) the prohibition of kenning.

The provisions of the 1698 Ordinance were not, however, at first vigorously enforced. In an inheritance document of the early eighteenth century, for instance, we find kenning sheep allocated by that name by the sorenskriver to a dead man's heir. On 19 August 1757, Frederik V issued a Rescript in which it is laid down that kenning, obviously still widespread, should be liquidated according to a stated procedure. The Rescript further provided that disputes over joint ownership rights were to be brought first to the local sysselmand, and appeal made if necessary to the lawman and landfoged, so that costly law proceedings might be avoided.[11]

In 1773, five men from Göta applied to the Lagting for permission to hold sheep in kenning once again. This application was forwarded to Copenhagen and eventually rejected, but the accompanying evidence that on Eysturoy too many horses were grazing the outfields caused action to be taken on this issue. The regulations were enshrined in a Rescript issued by Christian VII on 11 May 1775. This laid down that the ancient stock figure (skipan) for horses was not to be exceeded except by resolution of the majority of the inhabitants and the sanction of the sysselmand. Any such amended skipan was to be written down and signed by the sysselmand and some of the leading inhabitants of the village, and read out at the district law-sessions (vårting), after which it would have the force of a law. Any co-owner exceeding his stint of this skipan would henceforth have to pay a pasturage charge, and the secret maintenance of horses in the outfield was to be penalised by a fine. The villagers might hold their horses in feli if they could agree to do so, but only if the ancient skipan was not exceeded. A scale of payments was laid down for the return of horses straying into neighbouring outfields.[12]

The Faroese peasant was thus bound not only by laws issued with the authority of the king, but also by Lagting resolutions. He was also bound by any convention (vedtægt) voluntarily and unanimously entered into by the owners and leaseholders of his syssel. At a vårting held in Sandur on 31 May 1692, the

inhabitants of Sandoy agreed a nine-clause convention operative over the whole island. It was signed by 37 of the principal owners in the markatal, including the priest and the sysselmand. Amongst its provisions are regulations for the keeping of sheep-dogs; journeying together to the outfields, to the beaches (in search of driftwood and seaweed) and to the fowling-cliffs; it establishes the skipan for sheep, cows and horses; it lays down rules for keeping geese, for maintaining a stock of bulls, and dividing hay cut in the outfield. It provides for an annual survey of walls and gates, and a limitation on infield grazing during spring and autumn. The following year men were summoned before the court for breach of these regulations.[13]

At village level, conventions were normally by word of mouth; or if this was unsatisfactory, the joint owners could draw up a written contract and have it registered at the vårting, i.e. read out publicly and entered in a special record book. In the course of the nineteenth century, however, a regular machinery developed for the enactment of village conventions.

COURTS AND OFFICIALS

The Faroe Islands consisted, then as now, of six sysler: Streymoy, Sandoy, Eysturoy, Vágar, the Northern Islands and Suðuroy, together constituting one lagmandsdömme (assize district). In the sixteenth century, each court of first instance (vårting) consisted of six lagretsmænd or lagrettesmænd nominated by the landfoged. The Lagting or appeal court consisted of all thirty-six lagretsmænd under the leadership of the lagmand (lawman) who was appointed by the king. Late in the sixteenth century, the office of sorenskriver (literally, sworn clerk) was instituted to assist the judicial process, since the law was becoming somewhat too difficult for amateur jurists to administer. The sorenskriver now travelled to each vårting and advised the lagretsmænd on the law, rather in the manner of a magistrates' clerk in England. Before long, he was effectively the judge of first instance, and in Christian V's Norwegian Law was expressly recognised as such.

At the Lagting, the lawman was the judge, and the sorenskriver was his clerk. When the Lagting was merely confirming a vårting judgement, only the six lagretsmænd from the appropriate syssel would be present. In more serious cases, twelve lagretsmænd

acted with the lawman and sorenskriver. Only for exceptional business did all 36 lagretsmænd assemble.

The crown prosecutor at the vårting was the landfoged, but in his absence (which was not unusual), the sysselmand substituted. At the Lagting the landfoged was always crown prosecutor. The offices of landfoged and sorenskriver were royal appointments, while the sysselmænd were the nominees of the landfoged.

By Christian V's Norwegian Law, the number of lagretsmænd was increased to 48, but they were now appointed for only a single year at a time. Their function became more and more merely ceremonial - from being assessors, they sank to being mere court witnesses. The sorenskriver correspondingly gained in importance.[14]

Besides being chief crown prosecutor, the landfoged was provincial treasurer, the sysselmænd being his agents in revenue collection. As payments were made to him in kind, he had warehouses in Tórshavn for storing the goods before they were exported via the monopoly. The public revenue will be discussed at length in Chapter Nine. It consisted of land taxes, hearth taxes and rents on crown land, together with a share of the tithes. The crown leaseholders were not, however, subject to villeinage as was the Danish peasant of that time. The only forced labour was skyds, the free forwarding of officials on public business, and this fell on all Faroemen alike, not only on crown leaseholders.

THE REFORMS OF 1816

As part of a series of administrative and judicial reforms throughout the Danish realm, the Lagting was abolished in 1816. Appeals in Faroese lawsuits henceforth went directly from the vårting to the Højesteret in Copenhagen. For a long time the Lagting had been a mere shadow of its ancient self, and carried on little but technical business. The post of lawman was abolished, and the stipendiary farm of Steig was sold.[15]

At the same time, the Faroe Islands gained a further resident official, the amtmand, or provincial governor. An amtmand was a fairly high-ranking official, in direct contact with the administrative colleges of Copenhagen, and through them, with the king. Hitherto, the amtmand in charge of the Faroe Islands had been resident in Denmark, and the islands were only a small part of his responsibility. During the war of 1807-14, the functions

of amtmand had been delegated to the commandant of the fort, Emilius Löbner, and landfoged Wenzel Hammershaimb jointly. In 1816, Löbner was given the provisional appointment of resident amtmand, and in 1821 the appointment was made permanent.[16]

Judicial authority was, by a royal proclamation dated 23 March 1813, given to the sysselmand and the amtmand in certain highly local matters. At first the power of the sysselmand to act in his own person as politiret (court of summary justice) and the amtmand to act as overpolitiret (appeal court of summary justice) was confined to the allocation in each village of the right to build and operate fishing-boats. Their jurisdiction was later extended under laws applying to peat-cutting, pilot-whale hunting, general outfield management, and several other local matters.[17]

In the resident amtmand, the Faroe Islands now possessed a proper focus of authority, such as the lawman and landfoged had previously been able to supply only imperfectly. As one of his minor responsibilities, the amtmand continued to be commandant of the fort, the small militia being under the day-to-day charge of a non-commissioned officer.

REFERENCES

1. LBK Tillæg, p. 328.

2. My interpretation of the background to Seyðabrævið differs somewhat from the one usually advanced. Christian Bærentsen, in his introduction to the text of the law in LBK Tillæg. suggests that there were two basic causes of the disorders which Seyðabrævið was designed to regulate. One was the increase in the number of landowners within each village and the corresponding decrease in the size of their holdings; the other was the rise of a landless class, which he attributes to the extinction of thralldom in the Faroe Islands. He supposes that thralldom might have persisted rather longer in Faroe than in Norway proper, where it ended about 1200. I associate the disorder that the law was designed to remedy rather to the end of sæter farming and the full stocking of the outfields, leading to rivalry between neighbouring villages, the troubles within each village being at this time fairly modest in scale. I believe it is unnecessary to postulate that the landless class arose from the descendants of liberated thralls. I regard it as likely that thralldom became extinct in Faroe before it did in mainland Norway, since abundance of land tends to produce conditions of greater social equality. I thus believe the landless of the late thirteenth century to have been simply the descendants of the improvident, or of the members of large families whose patrimony became too greatly subdivided. For Bærentsen's view see LBK Tillæg, p. 2, and the law itself on pp. 4-21.

3. Poul Petersen, op. cit., pp. 297-8.

4. LBK Tillæg, pp. 29-34.

5. Fr. Hallager & Fr. Brandt (eds.), Kong Christian den Fjerdes Norske Lovbog af 1604 (Christiania, 1855). The preface gives the circumstances in which the code was promulgated. See also Holmsen, op. cit., p. 417. The earliest Faroese court record book has been published: Einar Joensen (ed.), Tingbókin 1615-54 (Tórshavn, 1953). In it are numerous references to the code of 1604.

6. Einar Joensen (ed.), Lögtings- og Vártingsbókin 1655-66 (Tórshavn, 1958), p. 16.

7. Einar Joensen (1958), pp. 64, 72, 92, 96.

8. Einar Joensen (1958), pp. 177-80; Andersen, op. cit., pp. 338-9; Poul Petersen, op. cit., pp. 199-200.

9. Magnus Joensen, op. cit., pp. 32-3; E. Mitens (ed.), Föroyskt Lógsavn 1687-1953 (Tórshavn, 1953), p. 1.

10. LBK Tillæg, pp. 57-72.

11. LBK Tillæg, pp. 73-4; FL (Föroya Landsskjalasavn): Skifte-Protokol 1701-6, p. 7, mentions "15 Kenndings Söid", valued at 7 gylden 10 skind, as part of the estate of Johannes Jacobsen of Funningur, Eysturoy, on 9 February 1702.

12. LBK Tillæg, pp. 75-81.

13. Svabo, op. cit., pp. 142-6; E. Hjalt, Sands söga (Tórshavn, 1953), pp. 9-10.

14. Andersen, op. cit, pp. 171-82; N.L. 1-7.

15. Kancelli Plakat dated 18 May 1816, in T.E. Bang & C. Bærentsen, Færösk Lovsamling (Copenhagen, 1901), p. 24; Ludvig Petersen, op. cit., pp. 216-18, 270-82.

16. Anton Degn, Færöske Kongsbönder 1584-1884 (Tórshavn, 1945), pp. 20-23; A. Ölgaard (ed.), Færinger - Frænder (Copenhagen, 1968, pp. 62-4.

17. Bang & Bærentsen, op. cit., p. 23.

CHAPTER FOUR THE FRAGMENTATION OF ALLODIAL HOLDINGS

POPULATION HISTORY

Evidence for the size of the Faroese population before the first official count in 1769 is scanty, but seems consistent with a population of about 2,500 just before the Black Death, rather under 2,000 afterwards, and subsequently a very slow rise until the beginning of the eighteenth century. After this the population seems to have risen more quickly, and during the whole of the nineteenth century, population increase was explosive. In consequence, during the eighteenth and nineteenth centuries, allodial land was becoming more and more fragmented, the average size of holdings becoming smaller, their outfield portions sometimes becoming divided amongst the different village *hagapartar*, and the infield portions becoming split into tiny strips.

As mentioned on page 19, there were in 1327, 270 households paying Peter's Pence, suggesting a population of about 2,500. From the 1584 tax records, Arnbjörn Mortensen concludes that by 1600, the population was 3,180.[1] The troubles of the next hundred years probably made population growth during the seventeenth century rather slow. The number of land-tax accounts changed little between 1584 and 1715,[2] though the latter figure certainly represented a larger population than the former.[3] The census figures down to 1901 are as follows:

Table 6 POPULATION OF THE FAROE ISLANDS, 1769-1901

Year	Northern Islands	Eysturoy	Streymoy	Vágar	Sandoy	Suðuroy	TOTAL
1769	585	1,108	1,558	384	453	685	4,773
1801	645	1,214	1,677	482	466	781	5,265
1834	862	1,648	2,169	642	522	1,055	6,928
1840	913	1,774	2,252	694	577	1,104	7,314
1845	953	1,909	2,405	748	610	1,156	7,781
1850	980	1,993	2,502	788	628	1,246	8,137
1855	1,032	2,067	2,644	814	707	1,387	8,651
1860	1,034	2,220	2,670	829	728	1,441	8,922
1870	1,227	2,421	2,897	986	794	1,667	9,992
1880	1,397	2,712	3,137	1,130	870	1,974	11,220
1890	1,528	3,008	3,609	1,306	993	2,511	12,955
1901	1,786	3,483	4,258	1,428	1,196	3,079	15,230

Every *syssel* thus showed a consistent and high population growth throughout the nineteenth century. It is apparent from a

table of population growth by parishes (Appendix "B") that the increase was evenly spread, with a steady increase in the population of almost every parish. Temporary declines in certain parish populations can often be attributed to some short-term cause such as the 1846 measles epidemic.

FRAGMENTATION OF HOLDINGS BEFORE 1800

Inheritance inventories from 1701 onwards, Löbner's economic survey of 1813, and the earliest land registers (1842 onwards) all show that by the beginning of the nineteenth century, there was already a marked contrast between the consolidated holdings of the crown leases and the far-reaching fragmentation of the allodial holdings. Fragmentation was no new phenomenon.

As early as 1673, Lucas Debes was remarking how subdivision of private estates through inheritance had proceeded to the point where the crown leaseholders were the prosperous class and the private owners the poor.[4] In his submission to the 1672 royal commission, he proposed that any person with less than two marks of land in his control should move to Tórshavn, so that his holding could be more efficiently managed by those remaining in the villages.[5] Svabo, in 1782, likewise deplored the fragmentation of allodial holdings, and recommended two marks as a legal minimum. Taking Miðvágur as an example, he wrote:[6]

> Midvaag consists of 48 marks, of which 15 1/2 are glebe lands; 8 marks are crown lands, leased to three farmers, one of whom has 5 1/2 and the others 1 1/4 marks each. Of the remaining 24 1/2 marks of allodial land about 12 marks are farmed by tenants and the remaining 12 1/2 marks occupied by owners. The forementioned crown leaseholder is the largest farmer here (apart from the rectory and dower farms), and the remaining 27 marks are not only unequally and finely dealt amongst 25 inhabitants, but are also fragmented, so that for example a man who owns or rents 3 or 4 gylden of land, may have 5 skind in one mark, half a gylden in another and so on. One finds here half marks which are divided amongst six occupiers, of which some have only 5 to 10 skind. Again there are other marks, for example Tostansmörk, that with boundary marks are divided into five parts, of which 4 gylden belong to four men, six gylden belong to three men, and the remaining 6 gylden to three men.
>
> Note: It is not unusual that when a man owns several gylden of land in another village, and a man in that owns land in the first one, that they exchange, and each works the other's land. The surplus hay that one of them harvests more than the other, is either paid for or delivered in kind.

Commenting on the position in 1832, amtmand F.F. Tillisch wrote:

> Allodial estates, both through inheritance and in all other ways in the course of trade, are fragmented to an almost unbelievable degree. It may now be classed almost as a rarity for a man to own a whole mark of land, and it is even rarer for this mark to be found together in one place. The usual thing, on the other hand, is for a man to own only some few gylden, skind or even parts of skind, or for his estate to lie split and scattered round all the districts of the islands in very insignificant parcels. When one considers that a mark of land (that is to say a piece of land from which can be harvested fodder for one or two cows, and which annually yields about 16 lamb carcasses) is here divided into 16 gylden, and each gylden again into 20 skind, it may soon be appreciated how utterly insignificant the possession of a few skind or even several gylden may in itself be.

The average allodial holding in 35 inheritances recorded in the inventory book for the years 1701-6 was just over 1 1/2 marks. The average for 13 inheritances in the years 1810-11 was just under 1 mark. The internal fragmentation of these estates was far-reaching. In the earlier group half the land was in villages other than the home village; in the latter group the figure rises to no less than 70%, though here it is biassed by two rather unusual inheritances. The upper limit of allodial ownership about 1700 was represented by the lawman Johan Heinrich Weyhe, who at his death in 1706 owned 47 marks. In 1843, landfoged Lunddahl was of the opinion that noone in the islands owned more than about 10 marks.[8]

Hard evidence for the period before 1701 does not exist, but one may derive some notion of what was considered a viable holding for a Faroese peasant about 1600 from official policy over crown leases, then more flexible than later. In 1584, the total of 1145 mks. 2 gl. crown leasehold was distributed as follows:[9]

Table 7 SIZE OF CROWN LEASES, 1584

District	1 mark or under	Over 1 to 4 marks	Over 4 to 8 marks	Over 8 marks	TOTAL
Northern Islands	5	23	9	4	41
Eysturoy	16	29	14	5	64
Streymoy	17	17	13	14	61
Vágar	9	14	3	-	26
Sandoy	12	6	7	3	28
Suðuroy	28	8	6	2	44
Totals	87	97	52	28	264

Thus the average crown lease was 3.1 marks, and fewer than a third of the leases were of more than 4 marks. But the number of small leases was in part due to the location of the land which the crown had acquired at the Reformation. The crown owned a single mark only in Dalur (Sandoy) and it necessarily formed a lease by itself. In fact, only 52 23/30 marks were leased out in holdings of one mark or less, 226 47/60 marks were in holdings of over 1 and up to 4 marks, while 849 23/24 marks were in holdings of over 4 marks. Attempts were made from time to time to amalgamate the smaller crown leases, but the policy was necessarily slow in action, since from 1559 crown leaseholders had enjoyed lifetime security of tenure, which in 1673 had been made hereditary.

Further evidence of how much land a prosperous peasant of the early seventeenth century might be expected to farm may be drawn from the size of the annexed glebes granted in 1632.[10] Nearly a century before, when the church lands were sequestered to the crown, eight farms had been reserved for the resident clergy, one for each minister, and an extra one for the provost.[11] The value of these farms would have been thought considerable by later standards, but in a petition of 1 July 1631, the priests complained of poverty, and by a royal grant of 8 April 1632, they were each given a second farm. We may therefore suppose the pre-1632 glebes to be rather below the standards of the contemporary well-off Faroese peasant, and the post-1632 glebes to be comparable with a fairly good allodial holding of the time.

Table 8 SIZE OF FAROESE GLEBE FARMS, 1632

Pastorate	Farms granted at Reformation		Annexed Glebes		Total	
	Mks.	Gl.	Mks.	Gl.	Mks.	Gl.
Northern Islands	12	0	4	0	16	0
Eysturoy	24	0	7	0	31	0
South Streymoy	16	0	9	12	25	12
North Streymoy	7	8	6	0	13	8
Vágar	8	8	6	0	14	8
Sandoy	10	0	5	8	15	8
Suðuroy	14	8+	8	4	22	12
Provost's farm, Eysturoy	11	8		-	11	8
Totals	104	0	46	8	150	8

+Includes half a mark presented to the living by the minister Anders Henriksen (1588-1608).

A comparatively large size for peasant holdings during the seventeenth century receives further support from the records of the sale of land belonging to the two noble families of Rosenkrands and Benkestok, who until the mid-seventeenth century owned about 276 marks. Between 1667 and 1686 just over 200 marks of this land were sold, much of it to peasant proprietors.[12] None was sold in lots of less than half a mark, and only 10 1/8 marks in lots of under one mark, and then usually because the lot was the entire holding in the village or hagapartur concerned. In Sörvágur, 31 marks were sold in the following lots:

1 of 7 marks; 3 of 4 marks; 5 of 2 marks; 2 of 1 mark.

The seven-mark lot and one of the four-mark lots were bought by wealthy purchasers, for investment. The former was leased out in holdings of 4 and 3 marks, the latter leased out undivided.[x] The remaining 13 marks were bought by peasants for their own use. In the nineteenth century, it was practically unheard-of for whole marks to be sold in this way.

More direct evidence of the size of allodial holdings may be drawn from land tax records, but these figures must be used with caution. Individual holdings are not specified, but by subtracting the crown leases from Mortensen's 1584 tables, average figures for each syssel emerge as follows:

Table 9 ALLODIAL HOLDINGS AND TAX-PAYING OWNERS, 1584

District	Tax accounts	Allodial land Marks	Average per taxpayer Marks
Northern Islands	24	approx. 218	9.1
Eysturoy	28	203 1/4	7.3
Streymoy	20	148 1/4	7.4
Vágar	16	153 1/2	9.6
Sandoy	28	156 3/4	5.6
Suðuroy	40	253 3/4	6.3
Total	154	approx. 1,133 1/2	7.4

It would, however, be rash to assume from the above that the average allodial peasant was at this period farming between five and ten marks. Court records provide abundant evidence of a miserably poor landless class in the seventeenth century, and the inventory lists from 1701 suggest that there must have been a class of small owners also. But land taxes were paid in kind, and had to be carried to Tórshavn by boat. In these circumstances it would be natural for

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[x] All at the old rents, presumably to the old tenants.

the dues of the less affluent villagers to be paid in through the account of one of the richer allodial peasants or a crown leaseholder.[13] It would perhaps be cautious to suppose the average tax-paying allodial peasant of this period to have been farming something between three and eight marks.

By the late eighteenth century, official notions of a reasonable peasant holding had become more modest. The Ordinance of 21 May 1777 designed to encourage corn-growing in the Faroe Islands (see pages 24-5) set a prohibition against marriage between young folk with less than 1/2 to 1 mark of land, unless they had some other lawful means of subsistence.[14] And by 1832, as we have seen, a single mark had come to be regarded as a somewhat large holding. From all this evidence one builds up a picture of a long-term decrease in the size of holdings, in line with the population increase, this fragmentation becoming rapid by the end of the eighteenth century.

NINETEENTH CENTURY FRAGMENTATION

It is possible to follow developments in land ownership during the nineteenth century more readily, from documentary evidence. The conveyance and mortgage registers begin from 1842, and it is possible to draw some statistical evidence from Löbner's economic survey of 1813, though the latter is certainly defective. The changing pattern of land ownership was as follows.

First, there was a continued <u>increase in the number of holdings</u> and a <u>decrease in their average size</u>. The distribution og holdings in Nólsoy, Mykines and Trongisvágur is presented graphically in Figs. 1, (a-h), at the end of this chapter. This effect is slight or absent in Sunnarahelvt on Nólsoy and in all the Trongisvágur outfields from 1843 onwards, because of the next effect to be noted.

The second change was a striking <u>decrease in the holdings belonging to non-villagers</u> in villages where the fishery was important, and there was a strong consequential cash flow. Löbner's survey of 1813 showed no less than 13 marks 12 gylden of the 35 marks of allodial land on Nólsoy to be in the ownership of non-residents. Most of this originated as the patrimony of Nólsoy women marrying out of the island. By 1838 this had fallen to 11 marks 10 gylden; in 1843 it was 11 marks 2 gylden; in 1869

it was 8 marks 15 1/2 gylden; and by 1900 it had fallen to a mere 1 mark 6 gylden.[15] Figs. 2 (a-g) illustrate the process in Nólsoy and Trongisvágur, both places where the fishery early became important, and show that Mykines, where the commercial fishery was of no importance, exhibits no tendency for non-resident ownership to diminish.[16]

There was also an increase in holdings in more than one common, which I shall term "complex ownership". On Nólsoy there was little or no complex ownership in 1816, when the present outfield division was instituted. Even in 1843, few owners in one hagapartur had a holding on a comparable scale in the other. But by 1900, complex ownership was widespread (see Figs. 3 (a-c)). The effect is perceptible also in Mykines, for which Fig. 3 (d) gives a diagram for one of the four hagapartar. A satisfactory graphical presentation cannot be made for the five outfield sections of Trongisvágur, but the effect is present there also.

Finally, there is a progressive internal fragmentation of holdings. Joen Michelsen á Geil, in 1900, owned 7 gylden 9 skind in Norðarahelvt and 10 gylden 15 skind in Sunnarahelvt on Nólsoy. He had acquired the former in seven different parcels and the latter in eight. Jens Kjel Henriksen, another zealous land purchaser, had by that year accumulated 1 mark 0 gylden 6 2/3 skind in Norðarahelvt in eight parcels and 12 gylden 19 skind in Sunnarahelvt in four. Practically every large allodial holding in the islands was internally fragmented in this way.[17] The effect is painfully visible in the land registers of villages where named stretches of infield correspond with holdings in given outfields.

These developments all made the operation of joint tenure more difficult. The infield was becoming split into tinier and ever tinier fragments, uneconomic to work, impossibly expensive to fence, and to which the owner often had access only across others' plots. In the outfield, it now became more tedious to allocate work, and more difficult to share the product. The increased number of resident owners presented a conservation problem on the fowling-cliffs. Many more voices now had to be heard on decisions over policy, and unanimity between co-owners became difficult to achieve.

Complex ownership was an inconvenience rather to the individual than to the commons as a whole; but internal fragmentation presented problems of a singular kind, especially at the autumn sheep-slaughter. A man owning a tenth of an outfield which he had acquired in seven different parcels might well be compelled to take his tenth share in the form of seven different part-shares. Villagers do not usually create troubles gratuitously, but a case on this pattern arose on Nólsoy in 1921. The owner of a single gylden in Norðarahelvt had since 1899 taken his share with the owner of 15 gylden in the same outfield. The latter holding changed hands in 1921, and the new owner bought a further Norðarahelvt gylden, making up a whole mark. He now instructed his tenant not to give the one-gylden owner the sixteenth part of the spring wool from the mark in question. The sysselmand ruled, however, that no such decision could be made unilaterally, but only by the grannastevna[x] or by agreement between the parties concerned. In this case it was easy to come to an amicable arrangement, but the arithmetic was not always so manageable.[18]

What fragmentation of land holdings meant in practice may be best appreciated from the following description of the division at the Miðvágur ram-lamb slaughter about 1880:[19]

> The first division was into halves or thirds. During the division the lambs were assessed and valued. The assessment went on in this manner: the lamb was first lifted up (a ram-lamb by its horns or a gimmer-lamb by its cheek-wool), and then it was pinched in the shoulder, the ribs and the side. The valuation was in skinn: 4 skinn was an average lamb, 5 skinn a big lamb and 6 skinn an outstanding one. 2 or 3 skinn were poor lambs, and anything less than 2 skinn would be called a "cat". All this picking and handling caused unbearable pain to the sheep, but it was not for real men to take note of such things.... The division had to take its course, in the fair and customary manner that had been passed down from ancient times.
>
> But it differed how protracted the division was in the various commons. Dalurin was all glebe land, with a single owner, and Norðara Leitið was crown leasehold, all but a single allodial mark, Tvørgarðsmørk, so there too the division would be quickly made. The crown half of Nýpurin was subdivided only into halves, so there was no great work over

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[x] For an explanation of the grannastevna see Chapter Six.

that; but it was quite otherwise with the allodial half, which was parted into very small fractions after the first division into halves, Pætur's Quarter and Cross Quarter. This last name is thought to show that the division did not always go smoothly.

The other commons were all divided into small fractions, with the exception of the glebe marks in Tjörndalsegg and Kvígandalur; but the worst were the húshagar, Eggin and Heimara Leitið, where the sheep from six marks of common were divided amongst 24 marks of ownership rights. Here there were many in the division who owned only a gylden or less, and it might be that the division would be taking place in part-sheep at the finish, though at times men would be friendly enough to let one man have a whole sheep one year while the others waited, until they could take a whole sheep another year. It was a worse problem still when a man owned only some odd skind of land, or even fractions of skind, e.g. 2 gylden 5 5/12 skind, when one man might be in credit with another for several years, until the quantities amounted to something that could be paid out in wool, meat and tallow. (I remember seeing something of this sort paid out: one joint of meat, a piece of skin half the size of a wool-carder, and a small lump of tallow.)

The most remarkable thing was that nothing of all this complicated sheep division was written down. Men kept it in their memories from year to year, and it was part of their cultural tradition. That things should sometimes fall into error (a gylden had been gained or lost in every single village) when a reckoning was made from title deeds is not to be wondered at. In a sheep division men would count their fractions together in such a way as made it most convenient for the sharing, without bothering how their infield land was joined. Since conveyances were not always made publicly and entered into the official Conveyance and Mortgage Register when land was being shared between members of a family, it is easy to see how complications could enter into the country's land ownership situation.

As will be seen from the above account, the smallest owners, and the owners of inconvenient fractions, could not be paid out in whole sheep, but had to take their share in meat and tallow. A sheep was divided, by traditional Faroese butchery, into 24 joints (stykki av kjöti), which were supposed to be of equal value. There were recognised ways of dividing a sheep into two, three or four parts of precisely equal value, and since the sheep themselves varied in quality, intelligent and experienced men could make quite complicated apportionments rapidly, justly, and without recourse to paper and pencil.[20] When a certain inequality became inevitable, such devices could be employed as rotating the "first pick".[21]

REASONS FOR ALLODIAL FRAGMENTATION

The primary reason for allodial fragmentation in the Faroe Islands was, of course, the population increase acting in combination with inheritance laws by which the land was divided amongst the dead man's children. Subsidiary reasons were: 1. the scrupulous way in which land was in practice divided amongst heirs; 2. non-operation of the åsædesrettem; 3. the limited opportunities for profitable investment in nineteenth-century Faroe.

1. The division of a dead man's land was usually made with such scrupulous accuracy as to further the fragmentation of the infield. Even if a man happened to leave four equal plots of infield to four sons, each plot would normally be divided into four, to take account of any possible inequality in fertility.[22]

2. Norwegian law, from the 1274 Landslov to 5-2-63 of Christian V's Norwegian Law of 1687, had given the eldest son the right to retain undivided the ancestral home and its appertaining lands, by buying out the other heirs in one way or another. This right, known as åsædesretten, never became a factor in Faroese inheritance practice, however. The reason was probably that Faroese dwellings have always been concentrated into villages, not dispersed like the isolated farmsteads of eastern Norway, though in western Norway somewhat similar geographical conditions prevailed, and the provision of the law was likewise ignored.[23]

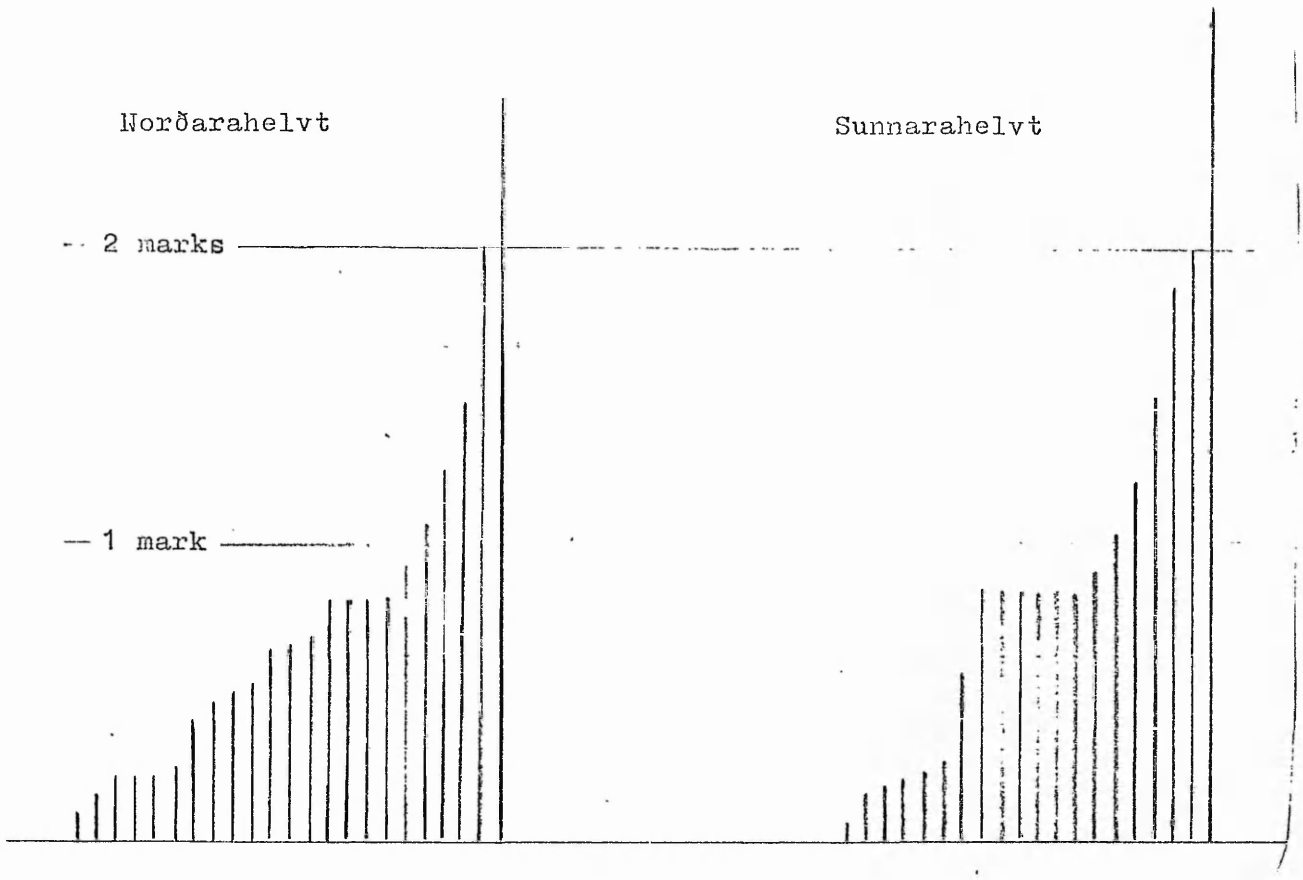
3. The main factor discouraging the owner of a few gylden or skind of land from selling out was the lack of any means of investing the sum realised. Until the foundation of the Faroe Savings Bank in 1832, the only application for surplus wealth was either to keep it in the form of coin or valuables, or to invest it in any piece of land that happened to come on the market. Even though a plot of land might yield only one per cent annually in rent, this would still be better than keeping the money idle at the bottom of a chest. The universal desire for land also meant that one had brighter prospects of building up a holding in one's own village by the exchange of plots than by their purchase.[24] Until the repeal of the paragraph in 1846, there was an added incentive to the acquisition of land in the Ordinance of 21 May

1777, whereby half a mark to one mark constituted a licence to marry.[25]

The long fight of officialdom against allodial fragmentation will be treated at length in Chapter 8. It is sufficient to say at present that the attempts were almost completely unsuccessful. Only with the passing of the first Udskiftning Law of 1926 did there seem any hope of reversing the trend. Even with the changed economic conditions of the present day, allodial holdings remain uneconomically fragmented, so that their management resembles gardening rather than farming. This fragmentation, and the consequent elaboration of detailed procedures for joint tenure, were in large measure the result of the nineteenth-century population explosion. Communal tenure the Faroese were already accustomed to; but the extent to which it was now proceeding threw up a whole range of new problems.

Fig. 1.(a)

ALLODIAL HOLDINGS ON NOLSOY, 1816 - APPROXIMATE



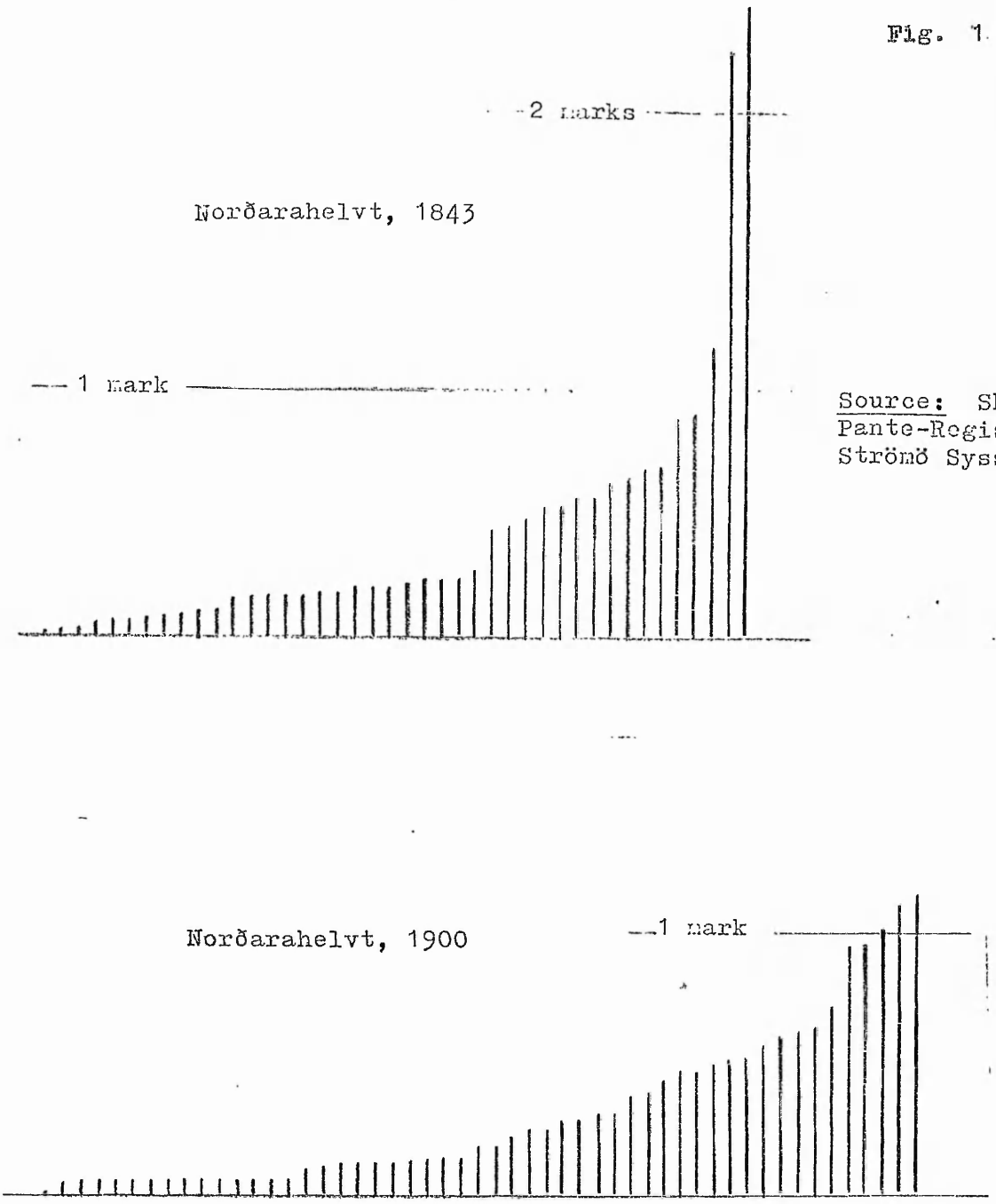
Scale: One Tenth of an Inch = 1 gylden

Sources: Commandant Löbner's economic survey of 1813 (giving approximate allodial holdings for each family), correlated with (i) conciliation award of 27 May 1816 by Syd-Strömöe Præstegields Forligelses-Commission (giving a complete list of landowners, including non-residents); and (ii) the 1843 land register, in which the holdings of non-resident owners and their heirs may be traced.

The accuracy of the above diagram is limited by (i) the probable lack of complete reliability of Löbner's survey; (ii) that the survey may bulk small holdings belonging to junior members of families with those of heads of households; (iii) the 1843 register does not permit an exhaustive reconstruction of the 1816 holdings of non-resident owners. The allodial land remaining has thus been divided equally amongst the non-resident owners whose size of holding is unknown: three Norðarahelvt holdings of 13 gl. 0 sk. each, and six Sunnarahelvt holdings of 13 gl. 12 sk. each.

ALLODIAL HOLDINGS ON HÓLSOY, 1843 AND 1900

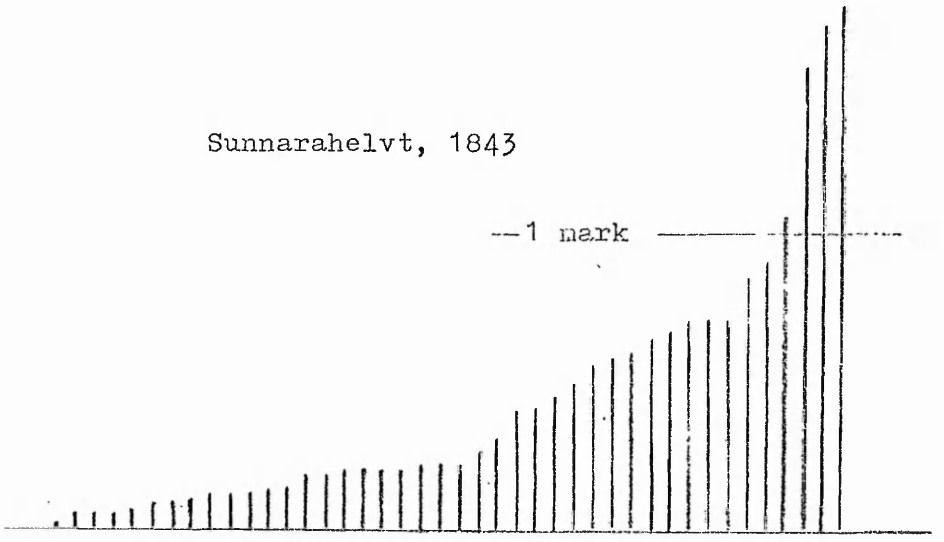
Fig. 1 (b)

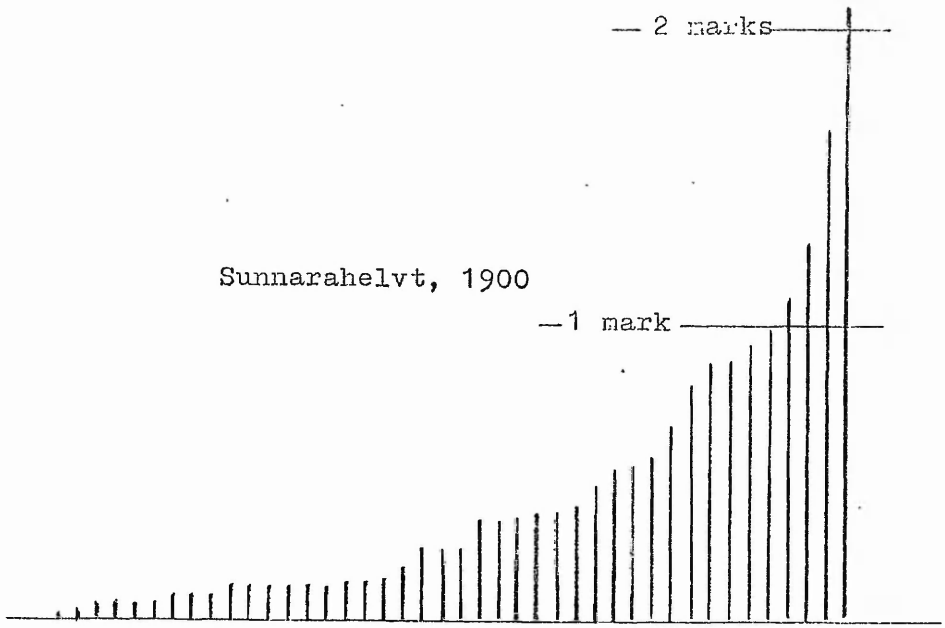


Source: Skjöde- og Pante-Register for Strömö Syssel, 1843.

Scale: One Tenth of an Inch = 1 Gylden

Fig. 1.(c)





Source: Skjöde- og Pante-Registe for Ströno Syssel, 1843.

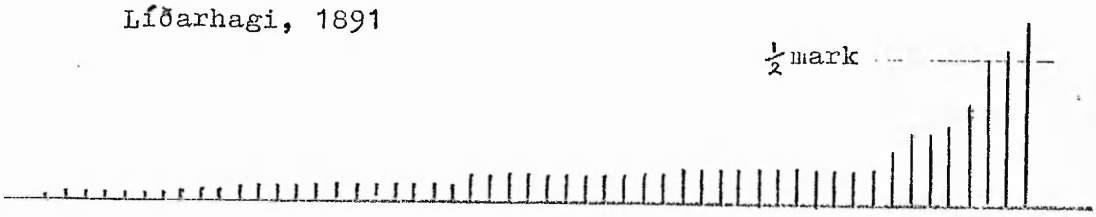
Scale: One Tenth of an Inch = 1 gylden.

ALLODIAL HOLDINGS ON MYKINES, 1843 AND 1891

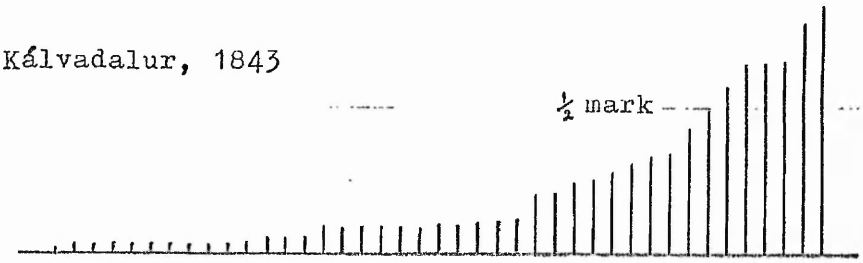
Fig. 1 (d)

Líðarhagi, 1843

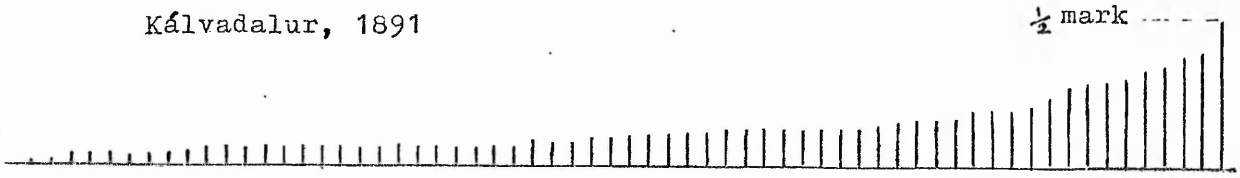
Líðarhagi, 1891



Kálvadalur, 1843



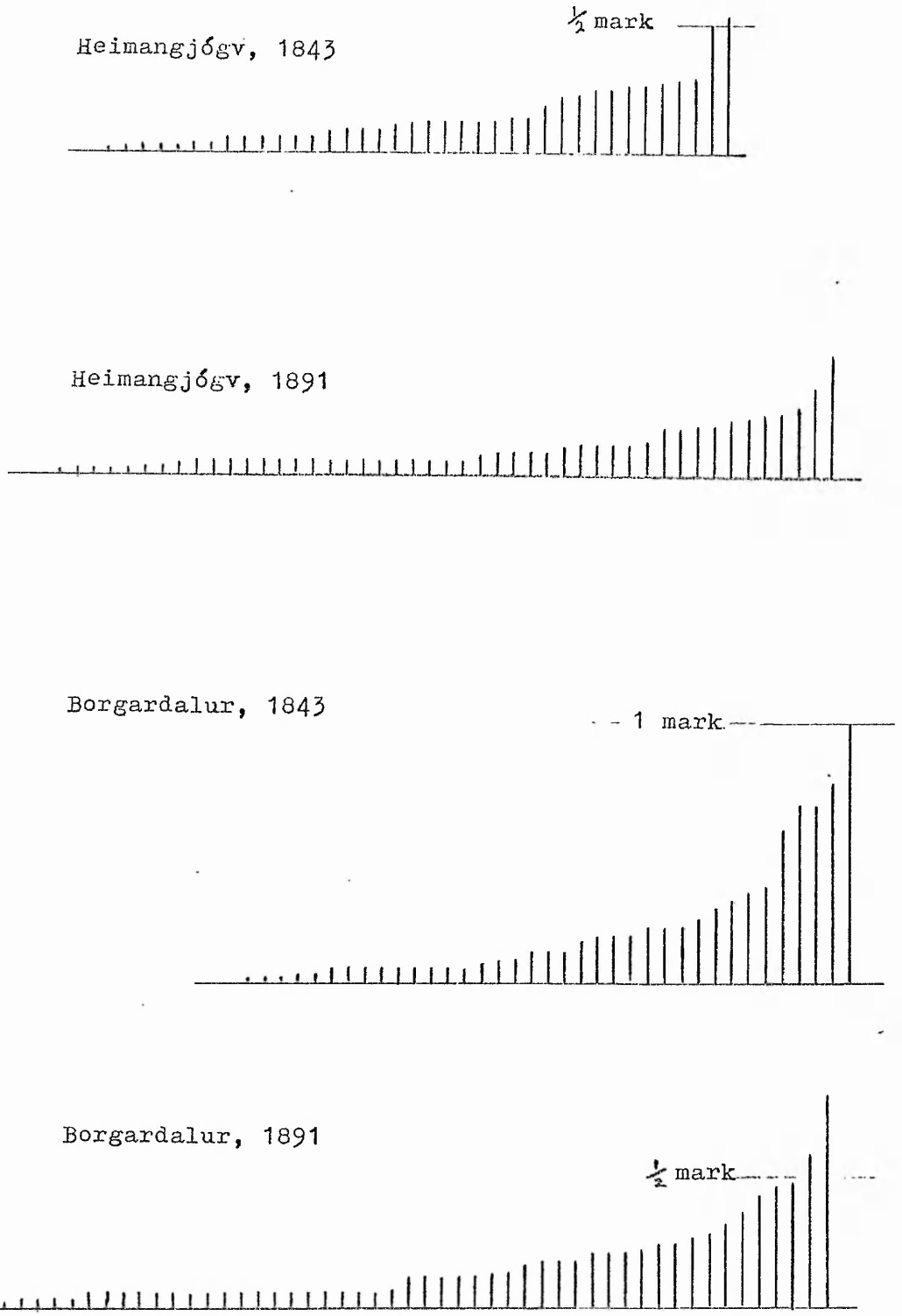
Kálvadalur, 1891



Scale: One Tenth of an Inch = 1 Gylden

Source: Skjöde- og Pante-Register for Vaagöe Syssel, 1843 & 1891.

Fig. 1.(e)



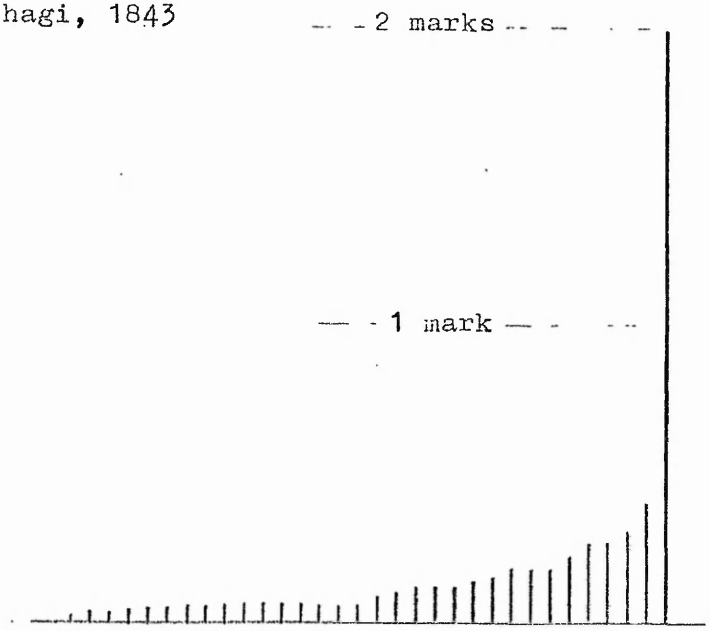
Scale: One Tenth of an Inch = 1 Gylden

Source: Skjöde- og Pante-Register for Vaagöe Syssel, 1843 & 1891.

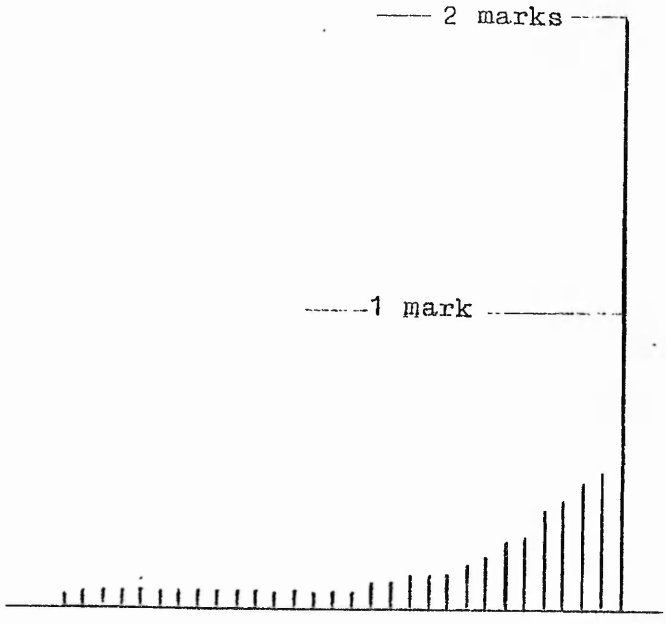
ALLODIAL HOLDINGS IN TRONGISVÁGUR, 1843 & 1891

Fig. 1 (f)

Líðarhagi, 1843



Líðarhagi, 1891

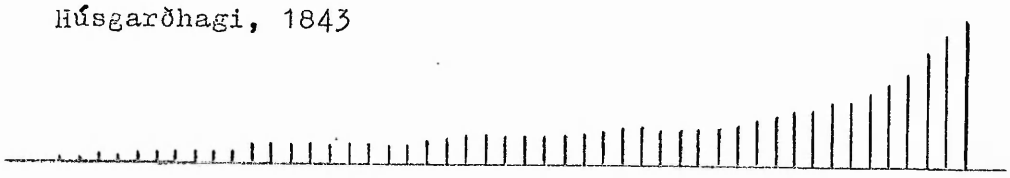


Scale: One tenth of an inch = 1 gylden

Source: Skjöde- og Pante-Register for Suderöe Syssel, 1843 & 1891

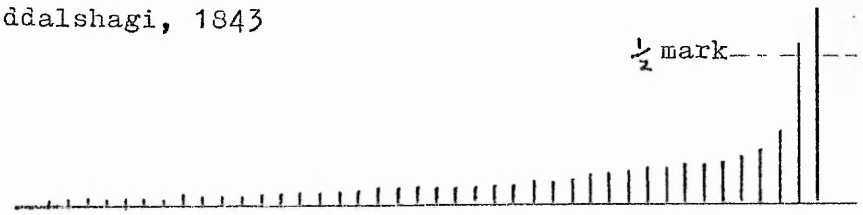
Fig. 1 (g)

Húsgarðhagi, 1843

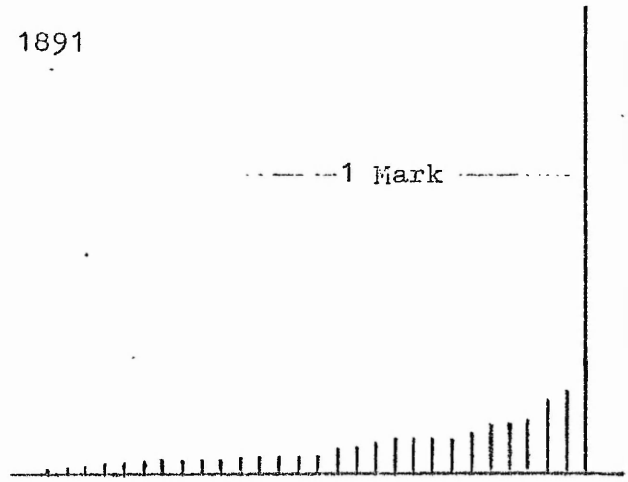


Húsgarðhagi, 1891

Riddalshagi, 1843



Riddalshagi, 1891



Scale: One tenth of an inch = 1 gylden

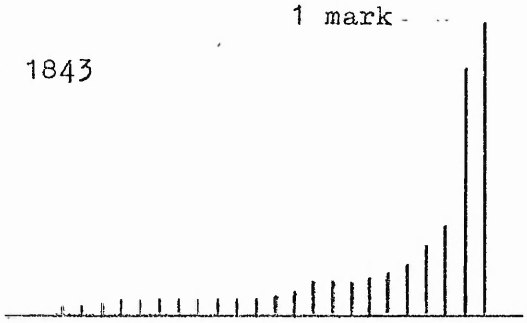
Source: Skjöde- og Pante-Register for Suderöe Syssel, 1843 & 1891

Fig. 1 (h)

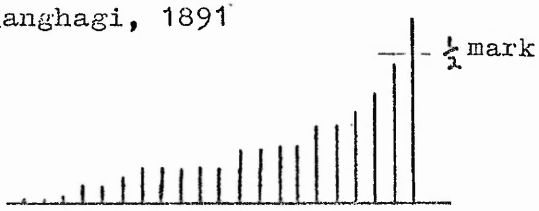
Hvamhagi, 1843

Hvamhagi, 1891

Ranghagi, 1843



Ranghagi, 1891



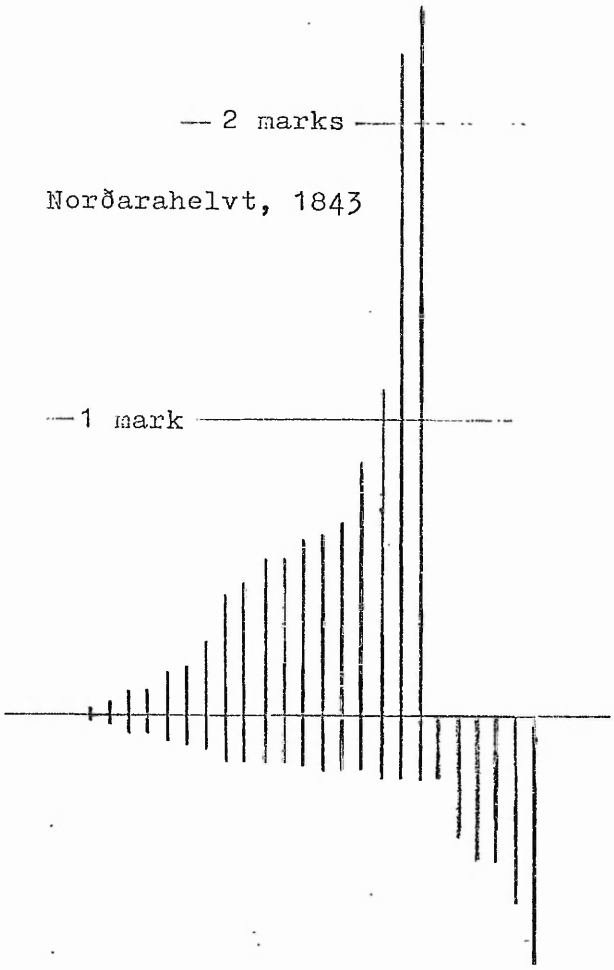
Scale: One tenth of an inch = 1 gylden.

Source: Skjöde- og Pante-Register for Suderöe Syssel, 1843 & 1891

Note to Figs. 1 (a-h): The ownership profiles of Sunnarahelvt, Nólsoy, and all the Trongisvágur outfields seem to show little change over the half-century. But in fact, the land was passing increasingly into the hands of resident owners, as the Figs. 2 will show.

THE TREND TO VILLAGE OWNERSHIP - HÓLSOY, 1843-1900

Fig. 2 (a)



Villagers' allodial holdings are indicated by lines above the x axis, non-villagers' holdings by lines below the x axis. Scale: One tenth of an inch = one gylden.

By the end of the century, the large holdings by non-villagers had gone, and in their place was an increased number of medium and small holdings belonging to villagers.

Source: Skjöde- og Pante-Register for Strömö Syssel, 1843-1900.

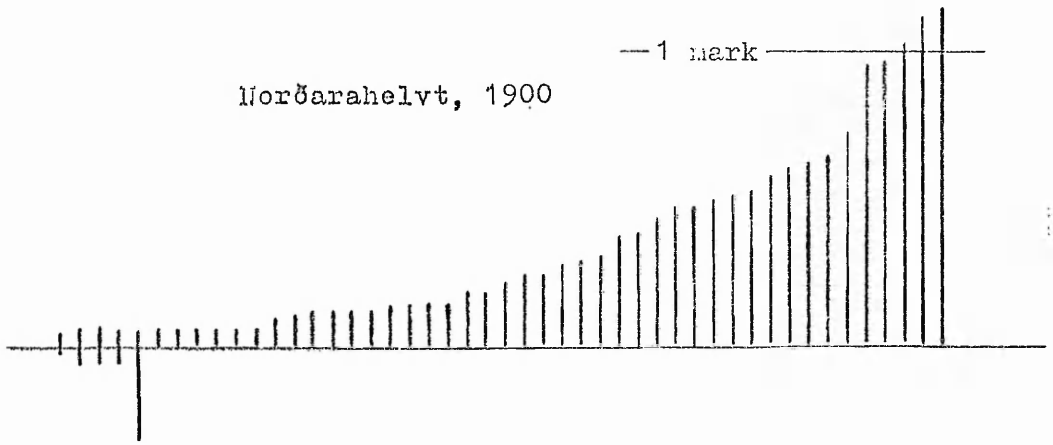
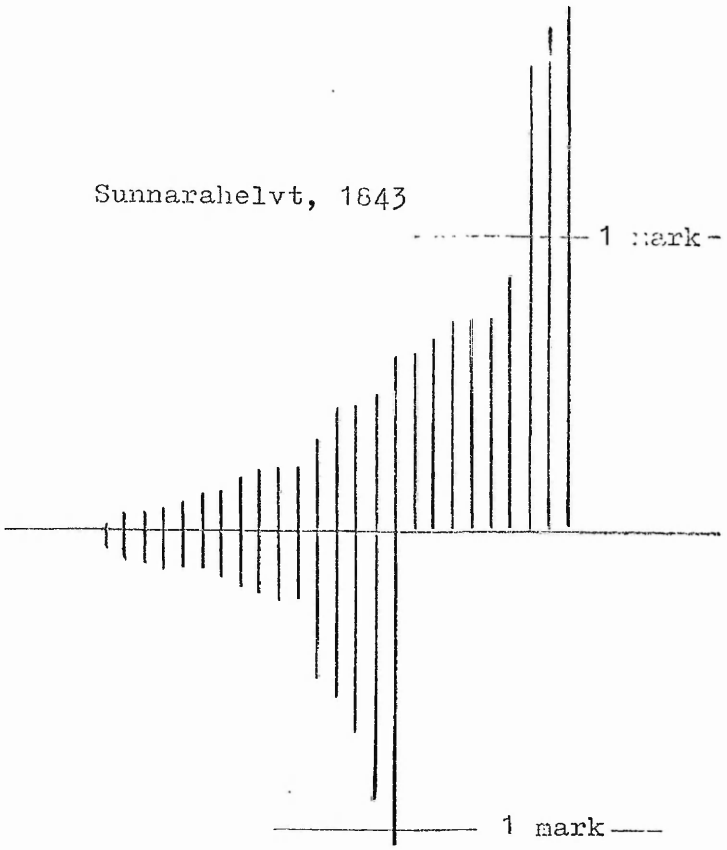
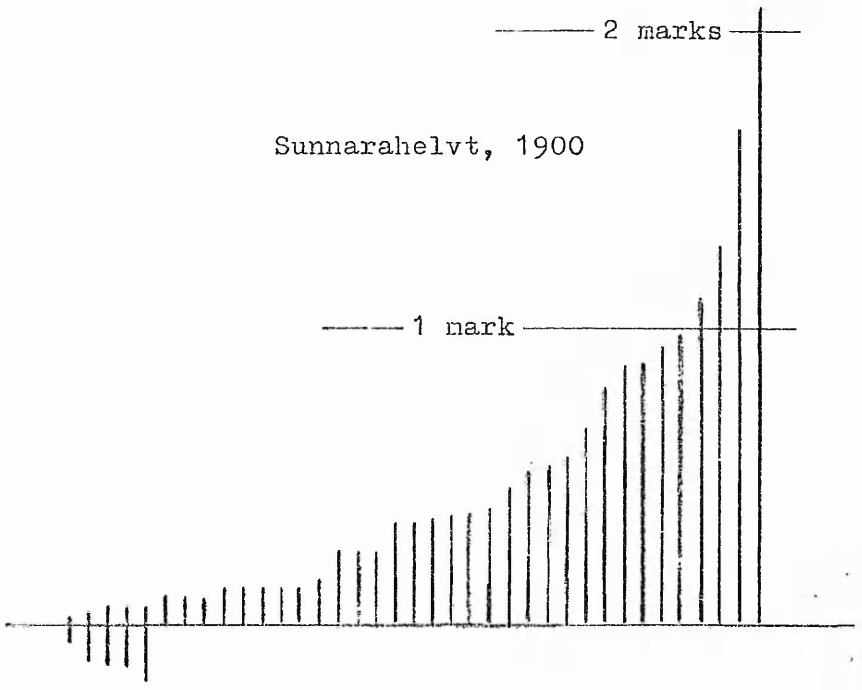


Fig. 2 (b)



THE TREND TO VILLAGE OWNERSHIP - NÓLSOY, 1843-1900

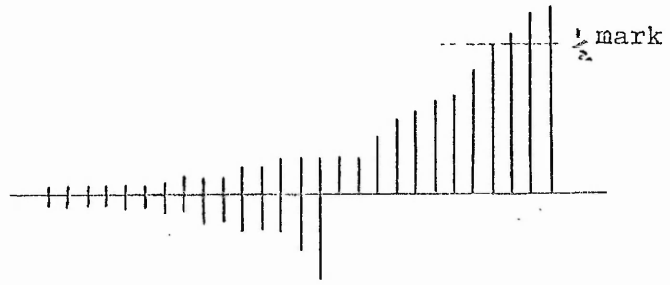
The range and size of the Sunnarahelvt holdings changed surprisingly little in 57 years, but there was an almost complete elimination of non-village ownership.



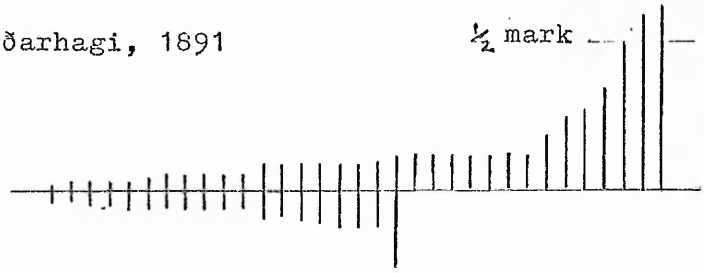
VILLAGE AND NON-VILLAGE OWNERSHIP, MYKINES, 1843 AND 1891

Fig. 2 (c)

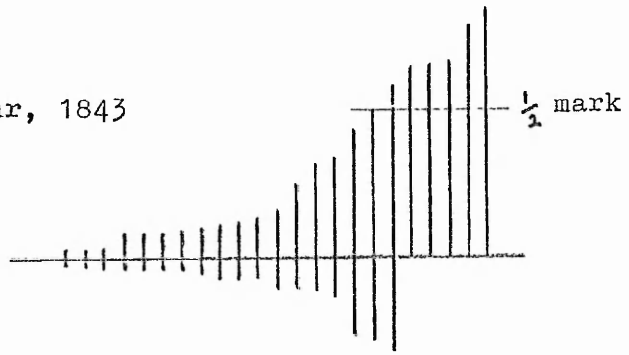
Liðarhagi, 1843



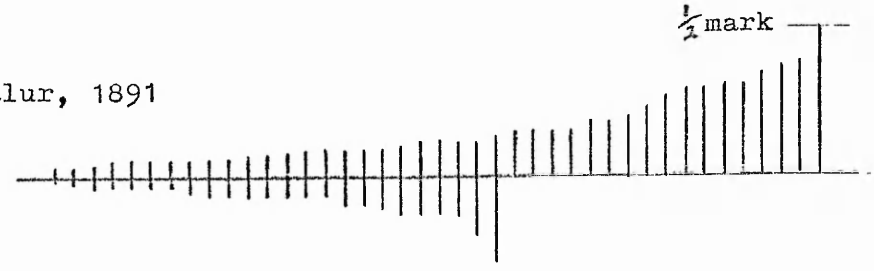
Líðarhagi, 1891



Kálvadalur, 1843



Kálvadalur, 1891

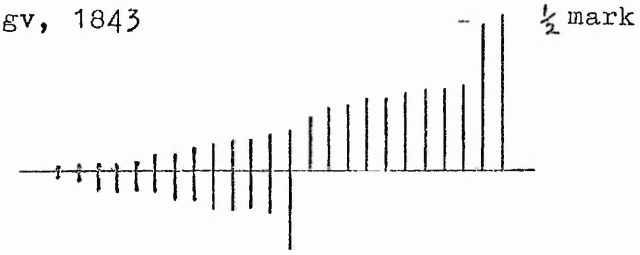


Scale: One Tenth of an Inch = 1 Gylden

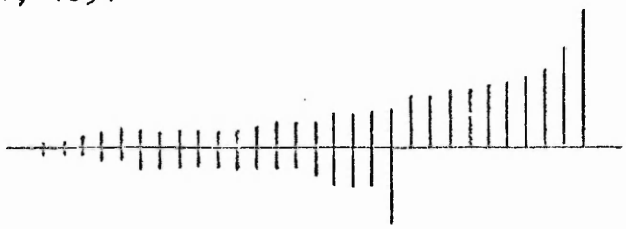
Source: Skjöde- og Pante-Register for Vaagöe Syssel, 1843 & 1891

Fig. 2 (d)

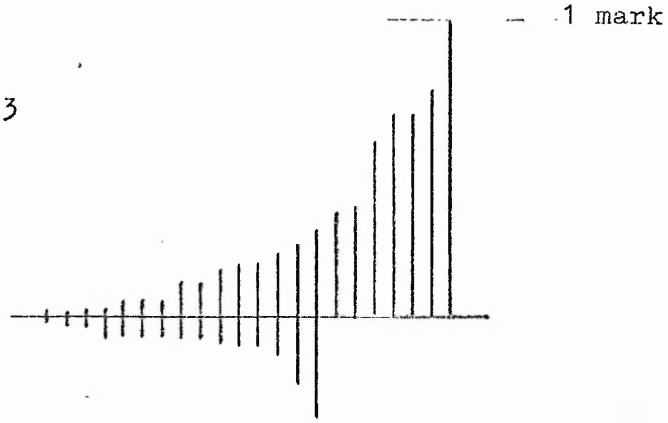
Heimangjógv, 1843



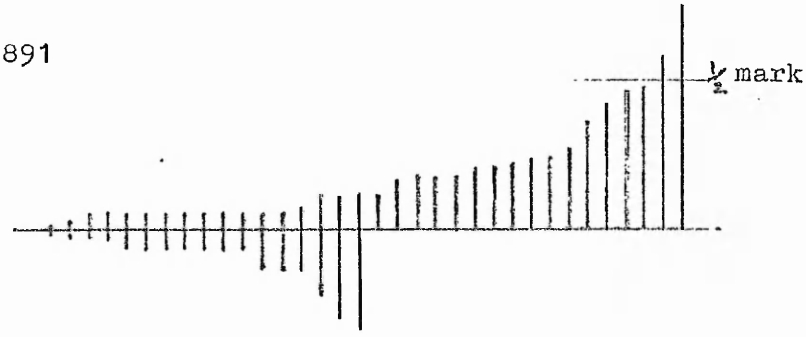
Heimangjógv, 1891



Borgardalur, 1843



Borgardalur, 1891

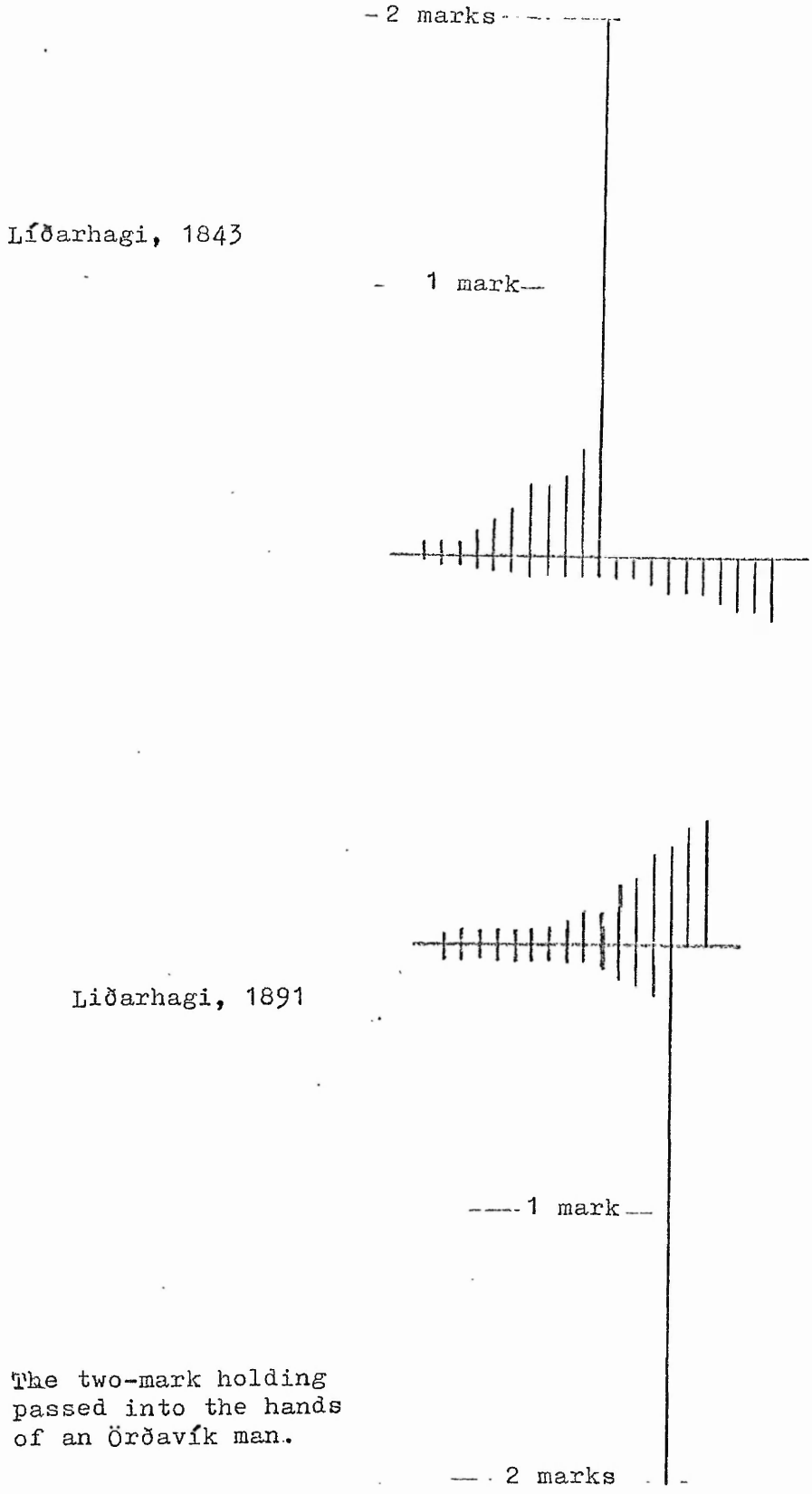


Scale: One Tenth of an Inch = 1 Gylden

Source: Skjöde- og Pante-Register for Vaagöe Syssel, 1843 & 1891.

VILLAGE AND NON-VILLAGE OWNERSHIP, TRONGISVÁGUR, 1843 & 1891

Fig. 2 (e)

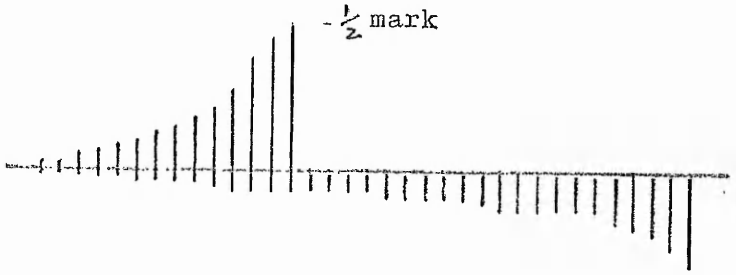


The two-mark holding passed into the hands of an Örðavík man.

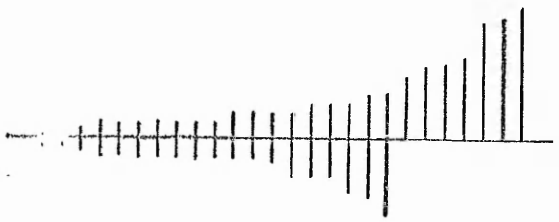
Scale: One tenth of an inch = 1 gylden.

Source: Skjöde- og Pante-Register for Suderöe Syssel, 1843 & 1891

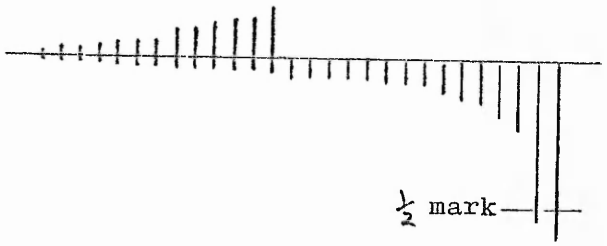
Húsgarðhagi, 1843



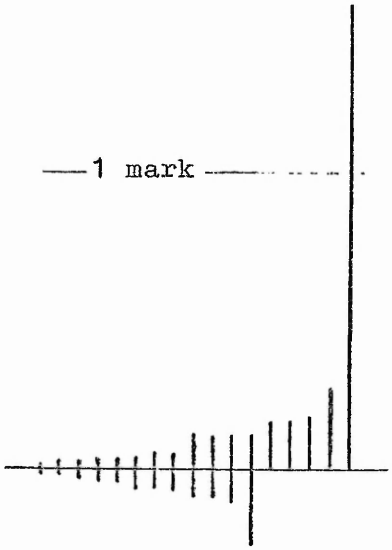
Húsgarðhagi, 1891



Riddalshagi, 1843



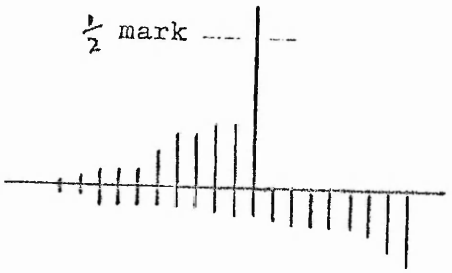
Riddalshagi, 1891



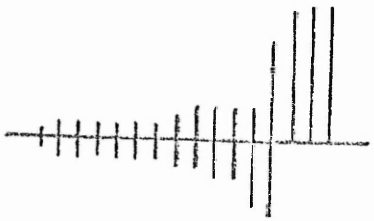
Scale: One tenth of an inch = 1 gylden

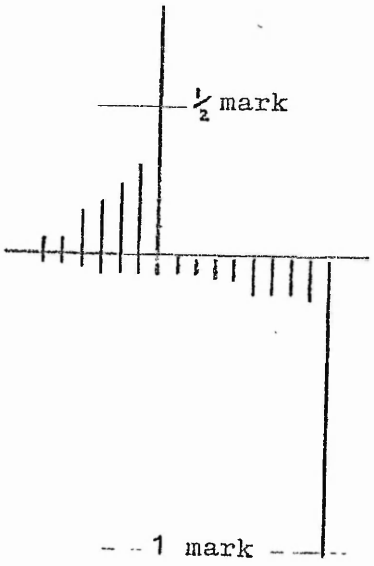
Source: Skjöde- og Pante-Register for Suderöe Syssel, 1843 & 1891

Hvamhagi, 1843

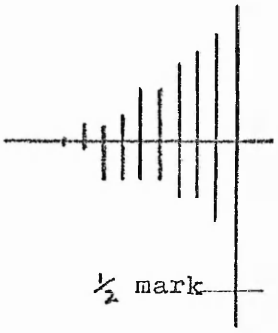


Hvamhagi, 1891





Ranghagi, 1843



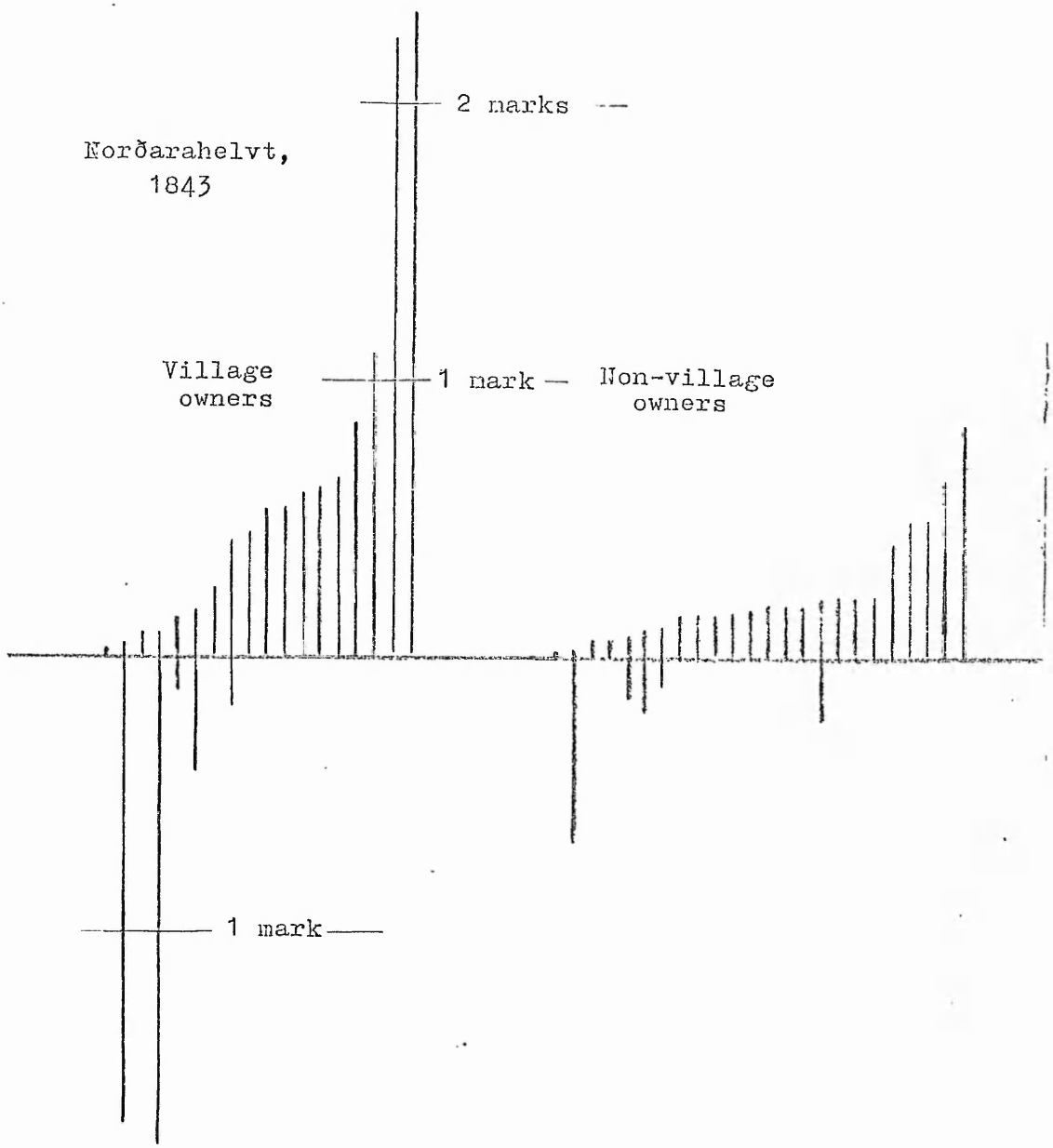
Ranghagi, 1891

Scale: One tenth of an inch = 1 gylden

Source: Skjöde- og Pante-Register for Suderöe Syssel, 1843 & 1891

THE TREND TOWARDS COMPLEX OWNERSHIP - NÓLSOY 1843-1900

Fig. 3 (a)



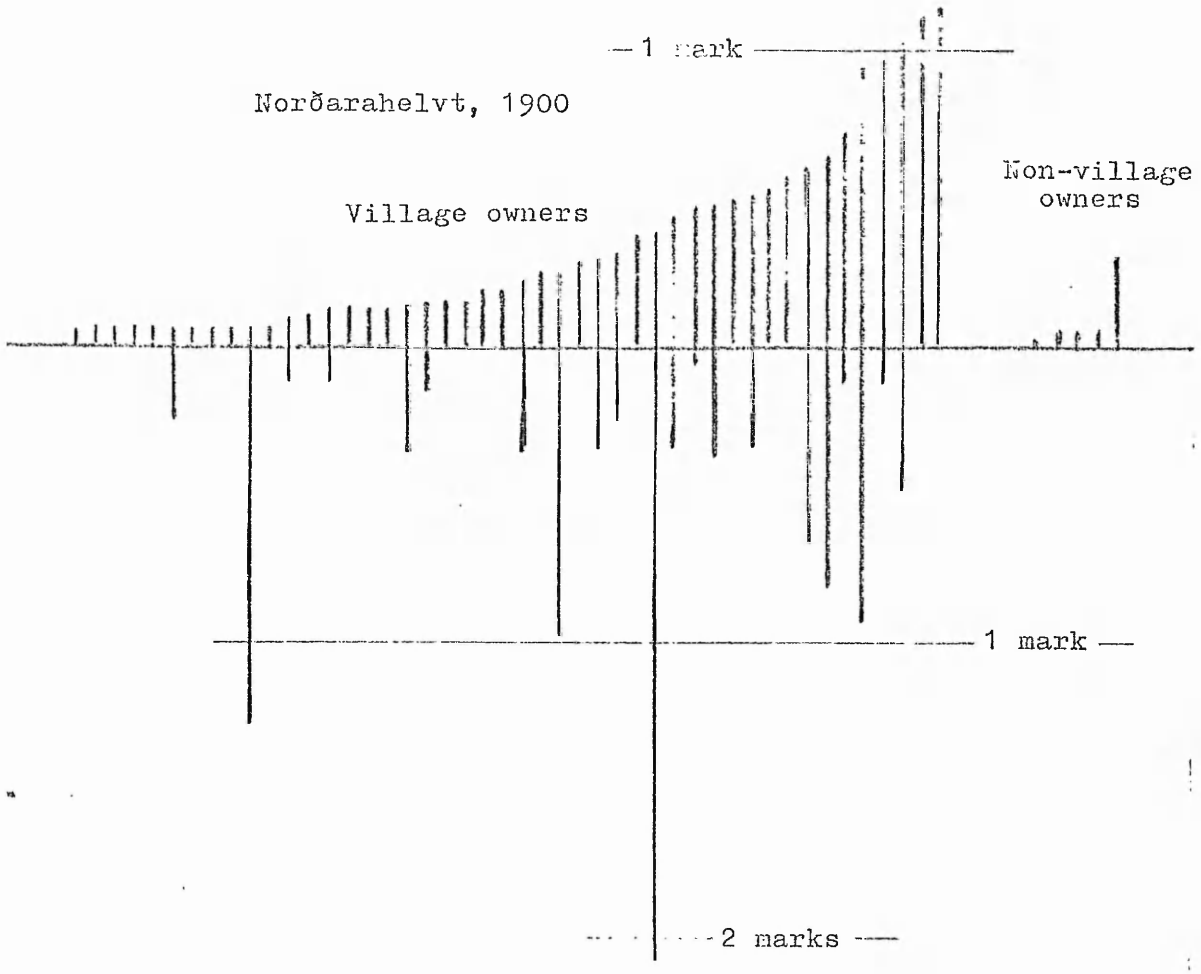
This figure shows the Norðarahelvt owners who possess holdings in Sunnarahelvt. The lines above the x axis show the individual holdings in Norðarahelvt. The lines below the x axis show holdings by these owners in Sunnarahelvt. (Scale: One tenth of an inch = one gylden).

By the end of the century, through sale and inheritance, far more of the Nólsoy holdings straddled both commons than in 1843. (See following pages.)

Source: Skjöde- og Pante-Register for Strömö Syssel, 1843-1900.

Fig. 3 (b)

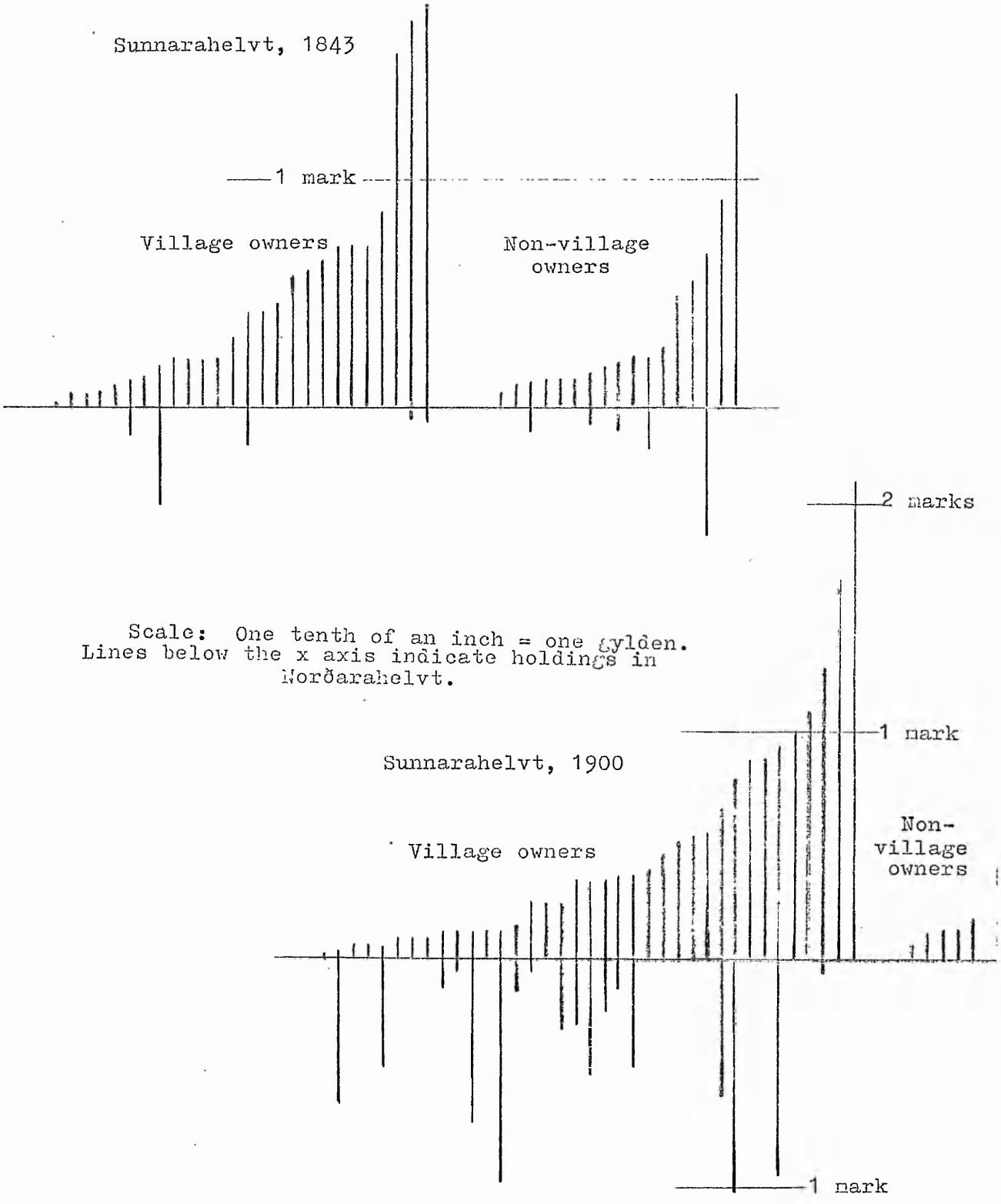
THE TREND TOWARDS COMPLEX OWNERSHIP - NÓLSOY 1843-1900



Lines above the x axis show the individual holdings in Norðarahelvt. The lines below the x axis show holdings by these owners in Sunnarahelvt. (Scale: One tenth of an inch = one gylden).

THE TREND TOWARDS COMPLEX OWNERSHIP - NÓLSOY 1843-1900

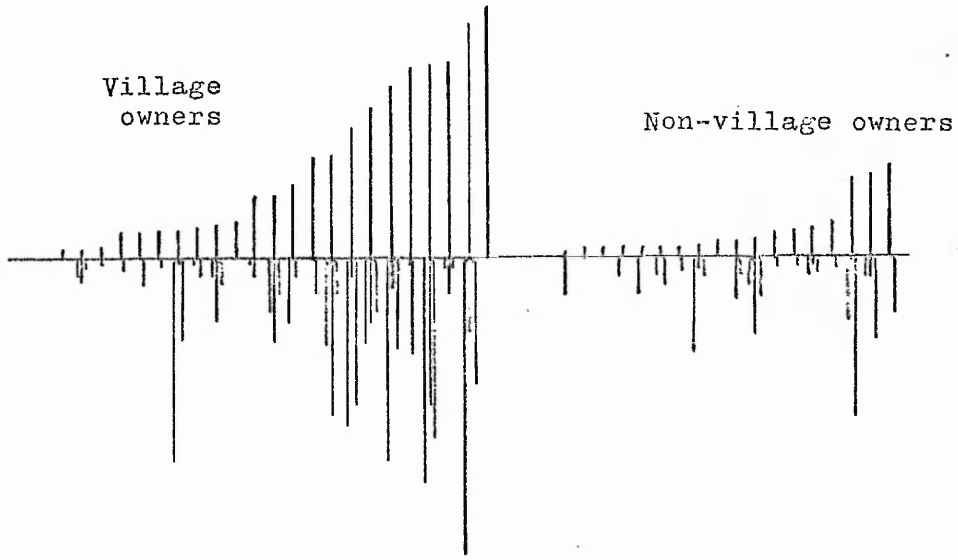
Fig. 3 (c)



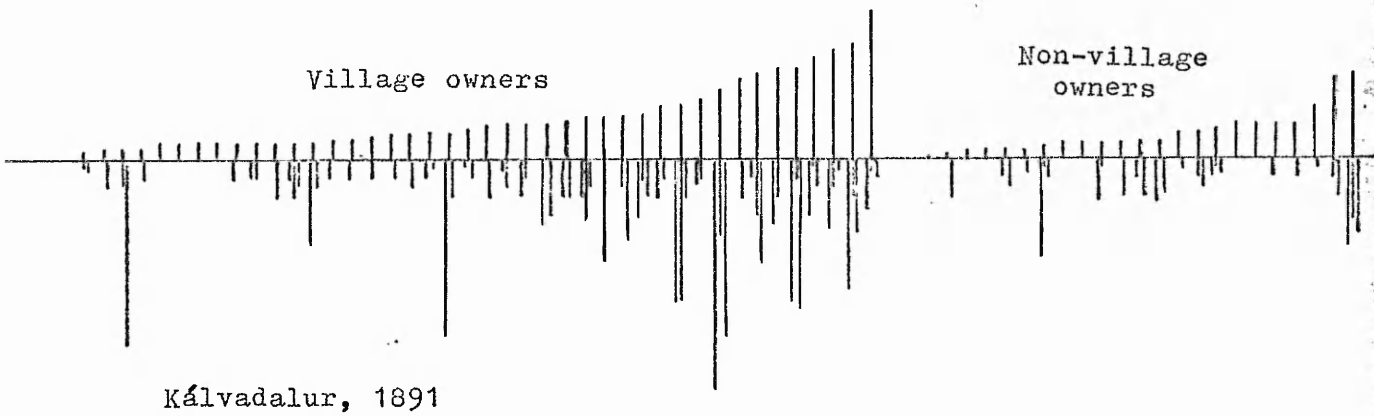
Scale: One tenth of an inch = one gylden.
Lines below the x axis indicate holdings in Norðarahelvt.

Fig. 3 (d)

THE TREND TOWARDS COMPLEX OWNERSHIP - MYKINES 1843-1891



Kálvadalur, 1843



Kálvadalur, 1891

Scale: One tenth of an inch = 1 gylden

Lines above the x axis indicate holdings in Kálvadalur. Lines below the x axis indicate the owners' holdings in the other Mykines outfields (from right to left in each case: Líðarhagi, Heimangjógv, Borgardalur).

Source: Skjöde- og Pante-Register for Vaagöe Syssel, 1843 & 1891.

REFERENCES

1. Arnbjörn Mortensen, "Fólkatalið og ognarbýtingin í Föroyum um 1600", Fróðskaparrit, Vol. 3 (Tórshavn, 1954), pp. 7-59.

2. Andersen, op. cit., pp. 35-7. The author gives population figures of 4,185 for the year 1614, and 4,149 for the year 1715. The former seems on the high side, though the latter is probably about right.

3. Because the 1584 figure contains a large number of names of persons with two or more accounts. Not all of these would be represented by a resident tenant.

4. Debes, op. cit., pp. 86, 111.

5. LBK Tillæg, pp. 45-8.

6. Svabo, op. cit., pp. 351-2.

7. Færö Amts Skrivelse of 22 May 1832, in LBK Tillæg, pp. 318-19.

8. FL: Skifte-Protocol 1701-6, pp. 1-83; Ibid. 1810-12, pp. 44-66; Anton Degn, "Um Lögmannnin Johan Heinrich Weyhe", Varðin, Vol. 19 (Tórshavn, 1939), pp. 219-30.

9. Arnbjörn Mortensen, op. cit., pp. 7-59.

10. LBK Tillæg, pp. 23-8; Anton Degn, "Kongs-, ognar- og prestajörð í Föroyum", Varðin, Vol. 13 (Tórshavn, 1933), p. 83.

11. Poul Petersen, op. cit., p. 158; Degn (1933), p. 83.

12. Degn (1933), pp. 70-83.

13. E.A. Björk, "Heimrustir", Fróðskaparrit, Vol. 9 (Tórshavn, 1960), p. 56. For traditional evidence that a crown leaseholder paid tax for a twelve-gylden owner, see Jakobsen (1961-4), p. 197.

14. LBK Tillæg, pp. 87-91.

15. The 1813 figure is from FL: Löhner's Economic Survey; the 1838 figure is from a communication from amtmand Plöyen to the Danish exchequer dated 18 September 1838, printed in LBK Tillæg pages 345-8; the 1869 figure is from FL: Land Assessment Commission documents, 1867-71; and the 1843 and 1900 figures are from FL: Skjöde- og Pante-Register for Strömöe Syssel.

16. I showed my Nólsoy findings to the Nólsoy antiquarian, Páll Nolsöe á Mýrini, who remarked, "Oh, yes - all the land came home." He was aware of the effect, but could not attribute a cause to it with any certainty. He regarded my hypothesis here advanced as probably correct, and to test it, I gathered the further material from the Mykines and Trongisvágur land registers.

17. FL: Skjöde- og Pante-Register for Strömöe Syssel.

18. Björk (1956-9), Vol. I, pp. 226-7.

19. Rasmus Rasmussen, op. cit., pp. 85-6.

20. Robert Joensen, Royvið (Klaksvík, 1958), pp. 69-75; Býta seyð og fletta (Klaksvík, 1968), pp. 27-37.

21. Robert Joensen (1968), pp. 13-26, gives a number of such methods. See also Johansen, op. cit., p. 54.

22. The process of sub-division and fragmentation is plainly visible throughout the Skifte-Protocoller. See also Tillisch's 1832 report in LBK Tillæg, pp. 318-21, and his 1835 report on p. 329.

23. Björk (1956-9), Vol. II, pp. 118-26; LBK Tillæg, pp. 318, 321, 325, 387, 369.

24. LBK Tillæg, pp. 328-9.

25. Forordning af 21. Mai 1777, paragraph 8, LBK Tillæg, pp. 87-91.

CHAPTER FIVE CO-OPERATION AND FRICTION IN THE NINETEENTH-CENTURY VILLAGE

TYPES OF CO-OPERATIVE OWNERSHIP

Two principal types of co-operative ownership are possible in land. In the first form, plots of land are individually owned and worked, but are in such juxtaposition that owners must cross one another's land to reach their own, and cannot be individually protected from the intrusion of animals. In the second, the land is jointly held and worked. In the Faroe Islands, throughout the nineteenth century, both patterns were found, the former in the infield, the latter in the outfield.

Both forms make considerable demands on the forbearance of participants, and difficulties multiply as increased numbers of owners make consultation on common policy, a fair contribution of labour and resources to the common tasks, and a fair division of the product, more and more difficult. The present chapter endeavours to describe the type of co-operation the nineteenth-century village required, and the sources of friction that arose. Chapter 6 will describe the legal enactments that came to formalise relationships within Faroese communal land tenure, and the machinery that evolved for settling the increasing volume of disputes.

VILLAGE CO-OPERATION

Faroese villages were well adapted to the difficulties of co-operative management of land, since villagers had to co-operate in manning their fishing-boats, and in addition, there were a number of instances of unpaid reciprocal help, sometimes overlapping with charity, which took the following principal forms:

Distribution of surpluses, especially of perishable fresh foods. When a cow calved, joints of veal and dishes of beesting-cheese would be sent round to neighbours. A good catch of fish would be shared round the whole village. After the autumn slaughter, farmers' wives would send their poorer neighbours the blood and pluck of sheep for making blóðmörur, a kind of black-pudding. These were considered "good old customs".[1] Sometimes they were institutionalised. Any great whale found by a

Kirkjuböur parishioner[x] had once to be shared amongst all the households in the parish.[2] Begging for food, in case of necessity, was not considered shameful. When the fishery was unproductive, landless people had few resources other than the generosity of their neighbours, who would readily give them meat, milk, soup-bones or barley, and often wool too, so that they would not have to sit with idle hands during the winter. Even the better-off would beg pilot-whale meat. Several schools were often killed in one district and none in another, and boats arriving from meatless regions were seldom refused. Proverbially, rich and poor alike could beg three things without blushing: gimmers (for restocking pastures), wives and whale-meat.[3]

Emergency help was regularly given to those who needed it. If a boat had to go to Tórshavn for the doctor, it would be manned by a volunteer crew. In Sandur, and in many other places, such a crew would be given a banquet the following Christmas, and the moral obligation to give this might press hard on the poor man, but certainly no payment for this very arduous task would be expected.[4] A sick man's land would be looked after by his fellow-villagers. In one instance on Mykines in the mid-nineteenth century a landless man lay sick and unlikely soon to recover. A crown leaseholder provided land, manure, seed-corn and seed potatoes, and eight other villagers provided the labour for digging, manuring and sowing. At harvest-time some of the women treated the barley in the kiln-house, and a winter supply of corn and potatoes was carried in for the sick man and his family.[5]

Wedding help was given in greater or lesser degree by everyone in the village, if the celebration was a big one, and open house was being kept. Sheep would be sold for the feast at a low price, and butter and eggs would be given freely. Cooks, helpers and servers would give their assistance freely at a celebration that could last three days, their recompense being a banquet of their own the Sunday after the wedding.[6]

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[x]The parish then included Velbastaður and the islands of Hestur and Koltur as well as Kirkjuböur itself.

House-building help was regularly given to anyone building a new house or undertaking major repairs to an old one. On Mykines it was the custom for every villager to give a house-builder three days' unpaid help. From Hestur it is recorded that refusal to help a house-builder would be long remembered, the culprit being denied reciprocal help when he needed it. The custom of carrying stone and laying foundations, unpaid, for housebuilders persisted well into the present century in Haldórsvík.[7] Mutual help with other heavy work was also often found. Two Mikladalur farms regularly undertook all heavy tasks jointly from 1819 until late in the 1890s.[x8]

FRICTION IN FAROESE COMMUNAL LAND TENURE

It is convenient to classify the principal occasions of possible dispute by location. Shore, infield and outfield were all places of economic activity of joint interest at one time or another, difficulties being greatest in the outfield, where the range of activity was largest, and where a villager might easily be out of sight, and hence out of the control of his neighbours.

Where the economic activity was jointly undertaken, co-owners had to see that labour was contributed in proportion to ownership rights, and that the product was shared according to ownership rights. When the activity was individually undertaken, co-owners had to ensure that no-one was getting an unfair share, and that the productivity of the land was not suffering through the sum of the individual efforts. Certain products, such as peat or lichen, existed in such abundance that the small owner could be allowed as much as the large owner. At the other extreme, grazing had for centuries been used as far as possible to the limit, and ownership was strictly proportioned to land-holding. Other products, such as seaweed and sea-fowl, passed from one

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[x]Though the money economy has today almost completely replaced the traditional subsistence economy, something of the old spirit of lending a hand remains firmly ingrained in the moral attitudes of Faroese villagers. A man launching his boat does not need to ask bystanders to help - they will do so as a matter of course. Spontaneous help is forthcoming on the quay when a difficult load, a cow or a tractor, is being put on or off the post-boat. It is rarer these days for relatives or neighbours to be asked to help with such tasks as gutting a large catch of fish, but not unknown when the occupation is a subsistence, not a commercial undertaking.

category to the other, as the tally of owners increased, and surplus gave way to shortage.

Beach disputes

The principal occasion of beach disputes was the sharing of drift seaweed. There was never enough to meet the requirements of barley cultivation, and cutting more was troublesome and time-consuming. On Nólsoy, the problem was eased by an arrangement giving the two hagapartar exclusive rights to the seaweed on the best beach in alternate years. It was a common village rule to require co-owners to go to the beach at the same time. One of the earliest recorded Skúvoy grannastevna resolutions, in 1844, imposed a fine on anyone removing seaweed without first having sent word round the village so that all could come. The following year, a villager was appointed to call out everyone when worthwhile quantities appeared. In Skálavík, it was made illegal to remove seaweed from the beach in the dark, and in 1854 a villager was fined for doing so.[9]

The other main beach products were driftwood and wreck. Some villages legislated against cut-throat competition in beachcombing, by appointing beach wardens and sharing out the salvage payments. Drifting logs were often used as boat-skids, or for other communal village purposes. But with increasingly intensive forestry in Siberia and America, large timbers became progressively scarcer, and by 1870 had become rare.[10]

As the century wore on, and fishing became more important, such occasions of dispute arose as rights over shellfish used as bait. These matters are dealt with in Chapter 11. In general, beach problems did not become too serious for village negotiation to settle, and they pass unnoticed in the 1866 legislation.[11]

Infield disputes

The infield was normally individually worked, instances of joint cultivation being highly exceptional.[12] The occasions of dispute here were principally winter grazing rights, and the protection of growing crops from animals.

The principal protection for infield crops against animals grazing the outfield was a stout dry-stone wall surrounding the cultivated area. A sheep-proof wall by law came up under a tall

man's arm, i.e. was about five feet high, although many Faroese sheep could clear even this.[13] The responsibility for maintaining walls was shared amongst the markatal, particular stretches being the responsibility of particular marks of land.

In the late eighteenth century, however, sheep-proof walling was almost unknown in Faroe, and even by the mid-nineteenth was still the exception rather than the rule.[14] Intruding sheep had thus to be driven out of the infield for the whole period when the gates were shut. The problem became acute when in early spring the infield grass was beginning to shoot up, and at harvest-time when hay and corn were standing in the fields.[15] The task of expelling intruding sheep, known as akting, was a constant source of village wrangling.

Opinion differed who should do the akting, the owners of the intruding sheep or the vulnerable infield. Though infield and outfield tenure were linked, the two groups did not need to be identical. On Nólsoy, a simple case, sheep intruded from Norðarahelvt, but the infield they invaded belonged indifferently to Norðarahelvt and Sunnarahelvt owners. In Miðvágur, four of the nine hagapartar bordered on the infield to various extents, and the progressive intake of traðir[x] was constantly changing the position. The dilemma was that if the task was entrusted to the outfield owners, it might be neglected, with more serious consequences to the small owner, who relied more on his crops, than to the large owner, whose wealth lay in his sheep. If, however, the infield owners undertook the akting, their efforts might be so energetic that the sheep would be badly bitten. The drafters of the 1866 Outfield Law were unable to provide a general rule, but merely demanded that a decision should be taken on the subject, and in case of disagreement, that the matter should be carried to the Udskiftningskommission.[+16]

Where the infield had the task, a further difficulty arose as the century wore on. More and more traðarmenn owned or worked plots recently enclosed from the outfield. They benefited from

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[x]Stretches of cultivated land enclosed from the outfield and added to the infield, sometimes for the owners, sometimes for landless traðarmenn.

[+]The functions of this tribunal are described in Chapter 7.

akting, but they had no ownership in the markatal and no vote at the grannastevna[x] which drew up the rules by which akting was organised. This anomaly was solved by a law about traðir in 1894 which ordained that they should be enclosed by their cultivators with sheep-proof walls.[17]

Akting with dogs (varðhundar) was the most efficient method, but if there were too many dogs in a village, some might take to sheep-chasing in the outfield. Thus the 1698 law demanded that varðhundar should be as small as possible, and the Faroese preferred dogs that constantly barked, so that sheep were expelled rather by noise than by chasing or biting.[18]

Payment for akting was sometimes made in wool or meat, occasionally in cash, but most commonly in grazing rights. In return, the aktingarmenn had to meet the compensation claims of the infield owners.[19] A typical system was that devised by the 1844 Húsavík grannastevna. Each of the three outfields bordering on the cultivated land had to protect the immediately underlying infield. The actual aktingarmenn received three sheep from each outfield annually, and had to compensate infield owners for any damage occasioned by their neglect.[20] In Þorkeri, where akting fell on the infield, the aktingarmaður was allocated a small island, capable of grazing two sheep.[21]

Akting rules could be quite complicated. On Hestur, two infields needed protection, the village fields, and Hælböur, a high, south-facing cirque two kilometres from the houses, near the southern tip of the island. The three hagapartar protected the village fields a year each in rotation, in return for the two best ram-lambs in the fold at the autumn slaughter. Hælböur, on the other hand, was protected for 18 weeks by each of the 18 Hestur marks in turn, unpaid.[22]

Akting was discontinued when sheep-proof walls became universal. As populations increased, many more small owners demanded protection for their hay, corn and potatoes. The Sandavágur walls were made sheep-proof as early as 1870, but most villages built high walls during the last fifteen years of the century. In Hestur, they were built in 1886, and in Miðvágur in

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[x] An annual spring meeting of village landowners. See Chapter 6.

the early 1890s. The growth of the deep-sea fishery produced a summer labour shortage and a winter labour surplus, and the sheep-proof fences round the *traðir* lightened the task. *Akting* persisted well into the present century in Haldórsvík,[23] but by then it was everywhere becoming obsolete, and the 1937 outfield laws do not mention the practice, almost certainly by that time extinct.[24]

Maintenance of the infield wall was usually a charge on the infield, each mark being allotted a particular stretch to maintain. But where *akting* had been an outfield charge, the cost of converting a cattle-proof to a sheep-proof wall was often thought to be an outfield responsibility. In the event, conversion was usually undertaken by infield owners prepared to waive their rights in the face of obvious advantage.[25]

The infield needed further protection. Unless all the beasts were tethered, a cattle-proof wall was needed between *heimabeiti* and infield. The *geil* or drift-way had to be enclosed with cattle-proof walls, to prevent cattle driven to or from the outfield in spring and autumn from eating the growing crops. The 1844 Dalur *grannastevna*, to maintain their *geil* in good condition, went so far as to institute a system of inspection and fines.[26]

Protection of the infield from household creatures was, by comparison, a minor matter. Hens and ducks had to be prevented by their owners from entering the infield, and ducks from polluting water supplies. Some villages prohibited ducks altogether, and it was not uncommon for limits to be agreed to numbers of either hens or ducks.[27]

Sheep had the right to graze over the infield from 25 October to 14 May. This was founded partly on ancient prescriptive right, itself based on the surprisingly good growth of grass in the infield during the mild Faroese winters, partly on a curious misinterpretation of Christian V's Norwegian Law, 3-12-17. This provided that fences were to be in good order from "Crossmass in spring, which is 3 May, until St. Callixtus' Day, 14 October". These dates were given according to the Julian Calendar, superseded by the Gregorian in the Danish kingdom in 1700, making the dates 14 May and 25 October. The law does not enjoin the converse, that the land is to be thrown open during the winter months, but

the Faroese so interpreted it.[28]

The problems centred chiefly on which sheep had this right. The common Faroese expression was that "the overlying outfield has grazing rights over the underlying infield", but what that meant in practice differed from village to village. Opinion also differed whether in harsh seasons, the sheep might be admitted to the infield earlier than 25 October, or kept there after 14 May. Finally, there was a difference of opinion whether a man might graze his cattle on his own infield in autumn, or whether the grazing was exclusive to the sheep.[29]

Causes of dispute in the outfield

The major outfield uses were the year-round pasturage of sheep and the summer pasturage of cattle. Horses and geese might also be permitted to graze, and fowling and peat-cutting could also be important. Village policy had to enable the outfield to be used as efficiently as possible for all these and certain minor purposes, and also to deal justly between man and man.

The first problem was stocking. Since there were seldom fences between outfields or between villages, stock levels were of more than purely domestic concern. If an outfield is understocked, not only is grass wasted, but also sheep from an adjacent correctly stocked outfield will move in and take up permanent residence. In an overstocked outfield the grass sustains long-term damage, and the sheep tend to invade neighbouring outfields. Long experience has, of course, given the villagers a clear idea of the proper winter stock (skipan), and thus how many to take off in autumn. The final decision on how many to slaughter is not takem before the flocks are actually folded, but room for disagreement on winter stocks is not in any case large, and I know of no occasion when winter stock levels have been the subject of grannastevna resolution or legal action during the nineteenth century. Before the 1866 legislation standardised tupping practice, however, there was a temptation for less scrupulous hagapartar to put in too few rams, relying on free service from the rams of their neighbours.[30]

When sheep were held in kenning there were often difficulties in keeping every co-owner to his rightful stint, and in compensating owners whose rams were taken for tupping. This matter is dealt with at greater length elsewhere.[31]

It was not so easy for the village to fix on a cow stock, or to decide on the length of the outfield cattle-grazing season. Cows, being individually owned, presented the same problem as sheep in kenning - the keener owners all competed to graze the maximum on the common land. Indeed, the problem could be worse, since the húshagi on which the cattle grazed often lay within only one of the village's many hagapartar. For instance, on Nólsoy, the húshagi lies in Norðarahelvt, but half the cow-owners are Sunmarahelvt men. The 1659 Lagting resolution and the 1698 law had limited each man's winter cow holding to the number he could fodder from his own hay crop, so that in summer he would not keep an unfair number of cows in the outfield to the damage of his co-owners. Most villages had arrived at a stock figure based on the hay potential of the gamal bøur. When portions of outfield were enclosed for further hay crops, the cows thereby winter-foddered were not allowed free summer outfield pasturage, and might not be allowed it at all. Even when a stock figure had been fixed, however, it was sometimes difficult to apportion it between owners - infield marks differed greatly in productivity. The question aroese whether an owner's grazing rights ought to be based on his infield's hay capacity, or his holding on the markatal.[32]

The village bull or bulls would normally be kept by the largest farmers in the village, who would have a sufficient supply of hay for its winter fodder. In return, they would receive a payment from the owner of every cow served. In some villages, for instance Kollafjørður, each cow-owner had to supply a share of the bull's winter hay. The chief source of argument over keeping the village bulls was whether their trouble and expense should be apportioned by cow tally or by markatal. The 1866 law put the decision into the hands of the majority of the markatal.[33]

Surprisingly few instances of illegal grazing resulted in prosecution. Between 1838 and 1890 there were only four in Sandoy syssel, two relating to single sheep illicitly held in kenning, and the other two relating to illegal grazing of cows in húshagar. At the grannastevnur, the chief pasturage problems discussed were those relating to autumn cow grazing on the infield, and the employment of the heimabeiti.[34]

There were good reasons for keeping horse stocks as low as possible. Horses were used only during spring for taking manure to the fields, in summer for fetching home the peat, and on odd occasions when required for skyds duty. At other times they ranged freely through the whole village outfield, often entering the territory of neighbouring villages. Some smaller islands, such as Skúvoy, Nólsoy and nearly all the Northern Islands, kept no horses at all. Where they were kept, the larger owners tried to keep the stock down, while the smaller owners would want it to stand high enough for them to keep one of their own, or at least a share in one.[35] Excess horse stocks had already become a nuisance on Eysturoy in the late eighteenth century, and led to the 1775 Rescript limiting holdings to an agreed and published figure for each village, and setting a payment for the return of strays.[36] The size of horse stocks was inquired into annually when the sysselmand went on his rounds. The 1866 Outfield Law did not forbid, but it strongly discouraged, the stocking of horses above one per mark.[37] Horses were otherwise a nuisance through their tendency to intrude into the infield, and many villages had to fix penalties for this.[38]

The problem of whether to allow geese to be kept was one of the most intractable for the Faroese village community. Svabo mentions how in 1781-2, many believed geese to be harmful to both infield and outfield, and that Sumba, Vágur, Hvalböur, Fuglafjörður and other villages had agreed not to keep them; that elsewhere a stock figure was agreed, as 1 pair to 4 marks in Skúvoy, 1 pair to 1 1/2 marks on Hestur, 1 pair to 1 mark in Sörvágur and several places on Suðuroy, and in most places 1 pair to 2 marks.[39] Lunddahl, in 1843, remarks on the frequent disputes in villages between those who wanted to keep geese and those who did not, and how difficult it was to keep them from the infield, as for instance in Sandur, where they could enter by swimming across the lake.[40] As with sheep in kenning, it is difficult for co-owners to keep control on the size of one another's stocks. In Hvalböur, between 1844 and 1899, goose-keeping was discussed at 22 out of 56 granmastevnur; and in Sandur between 1843 and 1890, there were also 22 occasions when goose-keeping was discussed, besides a prosecution for illegal goose-keeping in 1882.[41] Goose-keeping

problems were ignored in the earliest drafts of the 1866 legislation, but the omission was remedied in 1861, and in the 1866 law the extraordinarily stringent condition appears allowing goose-keeping only after a written contract passed by a two-thirds markatal majority.[42]

Sea-fowling very early came under regulation in certain villages. As early as 1615, it was ruled that in Tjörnuvík, co-owners must go to the cliffs together.[43] There is a danger when hunting rights are owned by too large a company of partners, that the very greedy or the very skilful will desolate the grounds. During the nineteenth century arose the added danger of increasing and indiscriminate use of firearms. At the beginning of the nineteenth century, the only sea-fowling legislation was for the protection of eider-ducks,[44] and a general hunting law was not to come until 1854. But villagers had already become aware of the need to protect their resources. In Sandoy syssel alone, by that year, Sandur and Skálavík had fixed limits to the number of puffins to be netted annually, Dalur had forbidden the taking of puffins by dráttur,[x] and Skúvoy had worked out an elaborate plan to give co-owners fair shares in guillemot- and puffin-netting.[45] Conventions adopted in 1852 in Hvalböur and Porkeri severely limited the use of firearms.[46] The difficulty with village agreements was the need, until 1854, to secure unanimity amongst co-owners. At the 1847 Nólsoy grannastevna, Poul Johannesen proposed that puffins should not be taken by dráttur. Most present agreed, but unanimity could not be achieved, so no convention could be adopted. Fortunately, it proved possible to secure unanimity for the prohibition in respect of the principal puffin-ground, Urðin.[47]

The Hunting Law of 9 February 1854 contained some important provisions alleviating the problems of Faroese sea-fowling. All Danish subjects were given the right to shoot birds at sea, but not within two nautical miles of any cliff or scree where sea-fowl bred. Shooting on land could be prohibited or limited by half the owners of an outfield provided they controlled half the markatal. Guillemots might be taken at the foot of cliffs by

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[x] Pulling puffins from their breeding-holes by hand or hook.

netting from boats only by the residents of the village owning the cliffs, not by others. For the cliffs themselves, half the owners controlling half the markatal had the right to make rules which all must follow. The same law covered the less contentious subject of seal-hunting. All had the right to shoot seals at sea, but not within one nautical mile of a breeding-cave, or, of course, within two miles of fowling-cliffs. Half the owners controlling half the markatal could make rules for hunting in or near the breeding-caves (látur).[48]

Outfield difficulty could also arise over peat-cutting. It is possible to dig peat with practically no damage to the grass around. It is also possible to wreak havoc. Village action over peat-cutting was possible, but difficult, before the 1866 legislation. Sandur had adopted a convention, and on 3 February 1852, the sysselmand and his two assistants, the kaldsmænd, inspected the turbary and imposed fines on eleven delinquents.[49] But the right to cut peat was frequently extended to non-owners, which in default of legal sanction, made the discipline of the careless no easy matter. On Nólsoy, for instance, the turbary was in Sunnarahelvt, but the peat-cutters were from both Norðarahelvt and Sunnarahelvt (peat-cutting rights being set against húshagi rights exercised by both hagapartar in Norðarahelvt). In many villages, for instance Miðvágur, all villagers, whether they owned land or not, had the right to cut peat; and sometimes, inhabitants of other villages had turbary rights. Thus the inhabitants of Hestur and Koltur cut their peat in the Skopun outfield belonging to Sandur. The rights were often granted to non-owners for an agreed number of days' work digging drainage ditches in the outfield, or sometimes for a cash payment.[50]

The turbaries might be mishandled by: (i) not replacing the greensward to cover the place from which the peat had been removed, or delaying replacement until the grass-roots had suffered damage; (ii) failing to drain off water from the cuttings, so that the greensward, even when properly replaced, would be gradually destroyed; (iii) in extreme cases, cutting peat so carelessly as to risk extensive flooding of the outfield and widespread destruction of grazing; (iv) leaving earth or

pieces of peat spread about, instead of throwing them back into the digging before replacing the greensward, tending to destroy the grass underneath; (v) leaving peat in more stacks than necessary, needlessly destroying the grass underneath; (vi) removing too much greensward to deck the peat stacks, a fault often associated with the previous one. The 1866 law provided for inspections of the turbaries by the sysselmand and the two kaldsmænd, and offenders could be fined and had also to repair their neglect promptly under pain of further fines.[51]

One of the most difficult problems in joint ownership is to make sure that all contribute their due share of labour to the common tasks. It was not difficult to raise the required number to drive the sheep to fold for the wool take or at slaughter time, when everyone wanted to be sure of his share. It was not usually difficult, either, for the folds and other outfield walling to be properly maintained, since like the infield walling it could be apportioned. The difficulties came when progressive owners wanted to institute improvement schemes, such as digging drainage ditches to improve swampy pasture or erecting roofed sheep-shelters to replace the rough wind-breaks (boul) traditionally used. The first drafting commission for the 1866 legislation wanted to give a markatal majority power to compel the rest to pay their share of the cost of roofed sheep-shelters or extra hay for the common flocks in hard winters, and when the Lagting considered the draft in 1854 they accepted this paragraph; but it fell out of the 1861 draft, perhaps because it was thought too much of an encroachment on the property rights of the small men. The 1866 law gave legal sanction to the traditional right of the shepherd, elected in the fold at the autumn round-up, or in a special meeting on Michaelmas Day, to requisition the help of co-owners for the drives, and for the tasks of earmarking, outfield drainage, and other necessary work, and to hire replacement help at the expense of defaulters.[52]

Right of way in the outfield

The right of way question merits special treatment. There was a pressing need to restrict access to Faroese outfields. Faroese sheep are very wild, and even slight disturbance may drive

them from their pasture, often into another outfield or over a village boundary. Thus the 1698 law prohibited entry into others' outfields, and even restricted the entry of co-owners to those occasions when they set out and returned together.[53]

Naturally, there were ancient and unassailable rights of way from village to village, but outfield owners had always tried to define and limit these as far as possible. In 1745, the lawman and the minister of Vágar had even attempted, nearly with success, to suppress an undoubted right of way from Sörvágur to Slættanes, probably because the Vestmanna men had been roistering along it after visits to Sörvágur for smuggled liquor.[54] In Sandoy there were three major rights-of-way disputes between 1838 and 1890. In 1875, the owners of Traðahagi (Sandur) summoned a Skálavík man for outfield trespass. His defence was to plead an ancient right of way between Skálavík and Skopun, over Traðahagi. He lost his case, partly because he could not point out a precise line for his alleged right of way, and partly because the village of Skopun had been founded only in 1832.[x] Later the same year, the Skopun men were summoned by the same outfield owners for driving sheep other than by their right of way. After eight hours of evidence and argument, the two sides came to a reconciliation. Finally, in 1877, the Skarvanes men summoned the Dalur men for outfield trespass. The latter pleaded an ancient right of way direct from Dalur to Sandur, through the Skarvanes outfield. It took six sessions, held at intervals over nine months, for the sysselmand to hear all the evidence, and in the end the claim was upheld.[55]

There were a number of perfectly honest motives, however, which could impel a non-owner or co-owner to leave the right of way and enter the outfield. The principal motive for a man entering an outfield in which he had no ownership rights was to recover sheep that had strayed over the boundary. The 1698 law was very strict about this - one had to send word to the owners of the adjacent outfield and go in their company.[56] It could be very galling, however, for a shepherd to observe his sheep grazing ten yards the wrong side of the boundary, and be unable to step across to chase them back. The 1866 legislation made a slight but important modification to this rule, based on the practice that had developed. If the neighbouring shepherd had been

[x]The first family actually settled in 1834. An ancient right of way could not thus be asserted to a mere point on the coast.

notified and did not turn up, the one who had sent word might cross the boundary, though his dog must be tethered.[57]

The 1698 law had also made no provision for access to the outfield for minor economic purposes. Villagers had to be allowed into the húshagi to milk their cows, and had to be allowed over the boundary if their cows had strayed. The 1866 legislation permitted such access, sensibly adding that stray cows must be brought back into their own outfield for milking. Villagers had also to be allowed to fetch their horses. Here, the 1866 law, building on practice that had grown up, laid down that the shepherd must be notified if a man wished to use his horse at other times than the regular ones (for manure-spreading, peat-carrying, or skyds).[58]

Access to the outfield for cinquefoil root used in tanning, and the lichens and mosses used in dyeing, had in most places been traditionally accorded to any villager who needed them for his household use. Lest this right should lead to abuse, the 1866 legislation required those concerned to go by daylight and inform the shepherd beforehand. Peat had likewise to be fetched from the stack to the home by day, and along the customary routes. Outfield owners had to be careful about persons allegedly going into the outfield to fetch peat, since it could well serve as a cover for dishonest purposes. On two occasions, in 1873 and 1879, the Sandur shepherds summoned Skopun men for breach of access agreements, and on both occasions fines were paid.[59]

The control of sea-fowlers was a much easier matter, since the season was limited, and in many villages, fowlers went out together. But outfield access for them, too, could come under regulation, as in Dalur in 1846, when the grannastevna required fowlers to inform the shepherds before setting out for Skorin.[60]

The unscrupulous were often tempted into the outfield for three more or less dishonest purposes. One was trivial, the collection of the eggs of moorland birds, still widely eaten well into the nineteenth century, though more and more villages protected them as time went on.[61] The second was the removal of peat from others' stacks, which might be no more than an informal borrowing, but occasionally broke out into a troublesome epidemic, as in Skopun in 1853. Grannastevna regulations often laid down

where peat should be stacked. For instance, in Húsavík in 1853, the rule was laid down that peat for winter use must be stacked near the houses.[62] Far more troublesome than either of these was, however, the gathering of loose wool.

The wool hangs very loosely on Faroese sheep in spring, and large pieces, sometimes whole fleeces, will fall off before the spring round-up. It is often very good wool, as sheep shed first from neck and shoulders. All agreed that this wool belonged to the owners of the outfield in which it was shed. On the other hand, it was the practice in many villages, such as Miðvágur, to leave it for the landless and the smaller owners to collect. Obviously, wool-gatherers could not be allowed into the outfield before the round-up, as dishonest ones would pull wool from sheep as well as pick up what had been shed. During June and early July, however, many would be im the outfield.[63]

The 1866 legislation provided that moorland birds' eggs and loose wool should, in default of other agreement, be gathered by the owners in company. There is reason to believe, however, that the rule was widely disregarded. Between 1866 and 1890, five cases of illicit wool-gathering were brought before the Sandoy sysselmand, and there must have been many more which the villagers chose to overlook.[64]

Related to the question of right of way was the vexed question of dogs. The first regulations for dogs appeared in Seyðabrævið and Hundabrævið, and the 1698 law permitted "the best men" in each village to determine their number. This was a fruitful source of village disagreement. All owners would agree on the need to restrict numbers of dogs, but many men, especially young men, would desire their own dog as outward and visible sign of being entrusted with the flocks. The danger of having unauthorised dogs in a village, however, was plainly visible in a sheep-biting case in Sandur in 1840, when six lambs were killed in two days. Enquiry showed three suspect dogs in the village, including the minister's unauthorised house-dog, and the sysselmand ordered all these to be put down.[65]

The 1866 legislation contained no fewer than eight paragraphs relating to dogs. The grannastevna was by markatal majority to fix the number of authorised dogs for sheep work and other

purposes. Dogs must be leashed when taken through others' outfields, except when actually driving flocks. There was procedure for challenging unauthorised dogs and obtaining compensation for damage done by dogs. Outfield trespass with a dog incurred a double penalty. Most severe of all, an owner was responsible for damage caused by a loaned dog, though not for the borrower's trespass with that dog.[66]

Thus there was, in the nineteenth-century village, a multiplicity of possible sources of friction arising directly from the communal tenure of land, and aggravated by the increased number of hands into which the land was split. The consequent necessity for co-owners to work together, either when engaged in the common tasks, or sharing the joint product, led, as long as the rules were working well, to a warmth of fellow-feeling which is constantly remarked upon by those who have left descriptions of the old order. At the same time, the ownership fragmentation described in Chapter 4 made it necessary for the villagers, during the course of the nineteenth century, to submit to a minuteness of regulation, both by village convention and by statute law, almost incredible to the outsider. This was the cost of Faroese inability to undertake a general enclosure.

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30. LBK Tillæg, pp. 178-81.

31. Chapters 3 & 6.

32. LBK Tillæg, pp. 183-91. FL: Sandoy Politiprotokol 1855-73, p. 60, gives details of a Skálavík dispute about the length of the cow-grazing season. The 1866 legislation fixed no period for grazing, which thus seems dependent only on the weather.

33. LBK Tillæg, p. 191; Björk's Index, Tyrehold, passim; 1866 Haugelov, paragraph 18 in Bang & Bærentsen, op. cit, p. 173.

34. Between 1843 and 1850, Sandur, Dalur and Skúvoy all took more or less action to restrict cattle grazing on the infield during autumn. See FL: Sandoy Politiprotokol 1838-55, pp. 33, 45, 55, 85.

35. Björk (1956-9), Vol. I, pp. 308-9; Rasmus Rasmussen, op. cit., pp. 6-7, 18-20; Landt, op. cit., pp. 197-8; Svabo, op. cit., pp. 54-5; LBK Tillæg, pp. 446, 602, 608-9; Björk's Index, Rossehold, passim.

36. LBK Tillæg, pp. 78-82.

37. FL: Sandoy Politiprotokol 1838-55, pp. 28-35; 1866 Haugelov, paragraphs 24-35, Bang & Bærentsen, op. cit., pp. 173-6.

38. Björk's Index, Rossehold, passim.

39. Svabo, op. cit., pp. 13-14.

40. LBK Tillæg, pp. 445-6.

41. Björk's Index, Gaasehold, passim; FL: Sandoy Politiprotokoller 1838-55, 1855-73, 1873-90, passim.

42. 1866 Haugelov, paragraphs 36-8, Bang & Bærentsen, op. cit., p. 176.

43. Einar Joensen (1953), p. 20.

44. Rescript of 23 June 1784; Poul Petersen, op. cit., p. 37.

45. FL: Sandoy Politiprotokol 1838-55, pp. 59, 93-4, 149, 181.

46. Björk's Index, Fugl XIV-XV.

47. Björk's Index, Fugl V.

48. Jagtlov of 9 February 1854; Poul Petersen, op. cit., pp. 34-41.

49. FL: Sandoy Politiprotokol 1838-55, pp. 100-01.

50. FL: Syd-Strömöe Forligelses-Commissions Protokoller, 27 May 1816; á Ryggi (1965), p. 162. For peat-digging by Hestur and Koltur men in Skopun see Jóan C. Poulsen, op. cit., pp. 36-9; and the fines imposed in FL: Sandoy Politiprotokol 1873-90, pp. 129-31, 212-14.

51. 1866 Haugelov, paragraphs 41-2, Bang & Bærentsen, op. cit., p. 177. The faults listed are those for which fines were actually imposed in inspections in Sandoy syssel between 17 September 1874 and 9 October 1889, as given in FL: Sandoy Politiprotokol 1873-90. Amongst the offenders reproved were the minister, the sysselmand's widowed mother, and the sysselmand himself, though the latter two were not fined.

52. LBK Tillæg, pp. 197-9, 211-12; 1866 Haugelov, paragraphs 39-40, 43-4, Bang & Bærentsen, op. cit., pp. 176-8.

53. Law of 2 April 1698, paragraph 7, LBK Tillæg, p. 60.

54. Á Ryggi (1965), p. 164.

55. FL: Sandoy Politiprotokol 1873-90, pp. 16-21, 31-43, 59-67, 72-80.

56. Law of 2 April 1698, paragraph 7, LBK Tillæg, p. 60.

57. 1866 Haugelov, paragraphs 47-8, Bang & Bærentsen, op. cit., pp. 178-9.

58. 1866 Haugelov, paragraphs 23, 56, Bang & Bærentsen, op. cit., pp. 173, 179-80.

59. FL: Sandoy Politiprotokol 1855-73, p. 177; Ibid. 1873-90, p. 89; 1866 Haugelov, paragraphs 56-7, Bang & Bærentsen, op. cit., pp. 179-80. In FL: Sandoy Politiprotokol 1855-73, a decision is recorded on p. 18 by the Húsavík granmastevna forbidding the sale of cinquefoil root outside the village. For cinquefoil matters at length, see E.A. Björk, "Börkuvísa (Potentilla erecta)", Fróðskaparrit Vol. 20 (Tórshavn, 1972), pp. 99-128.

60. FL: Sandoy Politiprotokol 1838-55, p. 59.

61. Á Ryggi (1965), pp. 115-16; LBK Tillæg, p. 206; Björk's Index, Fugl, passim.

62. FL: Sandoy Politiprotokol 1838-55, pp. 148-9, 154-62.

63. Rasmus Rasmussen, op. cit., pp. 24-5; LBK Tillæg, p. 206; FL: Sandoy Politiprotokol 1838-55, pp. 72-4.

64. FL: Sandoy Politiprotokol 1838-55, p. 162; Ibid. 1855-73, pp. 111-12, 136-7, 156, 198; 1866 Haugelov, paragraph 57, Bang & Bærentsen, op. cit., p. 180.

65. Law of 2 April 1698, LBK Tillæg, pp. 60-61; FL: Sandoy Politiprotokol 1838-55, pp. 15-17. A further question could of course arise over who counted as the "best men". In a case that came before the amtmand in 1833, moreover, there was a deadlock between the best men, however defined. See FL: Færö Amts Overpolitirets Protokol 1833-76, pp. 2-4.

66. 1866 Haugelov, paragraphs 59-66, Bang & Bærentsen, op. cit., pp. 180-81.

CHAPTER SIX REVISION OF THE LAND LAW

Factors external and internal contributed to make the nineteenth century the great age of Faroese land reform. The principal external impulses were: (i) general enclosure and land law reform in Denmark; (ii) constitutional reform; (iii) the arrival of intelligent and enlightened Danish officials from 1825 onwards. The principal internal impulse was Faroese population growth and the consequent allodial fragmentation, opening up a range of questions to which only legislation could provide an answer. In particular, it reopened the old question of whether sheep might be held in kenning, and if so under what conditions.

Reform was already under discussion in 1832, and was far from complete by the end of the century. One of its important early fruits was the development of the grannastevna from about 1836 as an instrument for decentralising authority in land tenure matters. The major pieces of legislation were the Hunting Law of 9 February 1854; the Law of 4 March 1857 to limit allodial fragmentation; the Law, also of 4 March 1857, for partial enclosure of common outfields; and the Outfield Law of 23 February 1866. The Lagting, revived in 1852 as a consultative assembly, took part in the latter stages of the drafting of these laws, and in consolidating legislation in 1891.

The 1857 legislation is dealt with in Chapters 7 and 8. The present chapter seeks to document the stages by which day-to-day practice under the traditional communal tenure was regulated by legislative action, and in particular by the development of institutions at village, district, and provincial level, designed to handle the specialist problems described in Chapter 5.

LAND LAW REFORM IN DENMARK

During the period 1757-1810 the revolutionary changes took place in the Danish countryside of a general enclosure, and the emancipation of the peasant from a feudal and often humiliating subjection to the landlords of the great estates. Land reform was thus of topical interest and concern to the Danish civil servants coming to administer Faroe during the first half of the nineteenth century. Faroese problems were very different from

Danish ones, but the success of the Danish reforms was a stimulus to endeavour, and to Faroese infield problems, at least, Danish experience was applicable.

The first Danish reforms were directed towards general enclosure. Ordinances from 28 December 1758 to 18 July 1769 gave the individual the right to withdraw his share from a communal holding and enclose it, though at his own expense. An Ordinance of 13 May 1776 went further, laying the surveying and fencing costs on the whole joint holding, instead of upon those who wished to withdraw their shares. Finally came the general enclosure act, the Ordinance of 23 April 1781, enabling any single owner in a joint holding to initiate enclosure of the whole. Enclosure now proceeded rapidly, and by 1837 only 1% of the land in Denmark was still held in communal tenure.

A Danish enclosure had the following stages: (i) a survey established the boundaries of the estate and the extent of each individual holding; (ii) a provisional enclosure plan was drawn up; (iii) the different parts of the estate were given a relative valuation, depending on the quality of the soil and its capacity for improvement; (iv) a final enclosure plan was agreed, including decisions about: (a) roads, paths and other rights of way; (b) fencing, including costs of fencing maintenance; (c) access to such necessities as water, sand, marl and peat. The whole work was carried out under the surveillance of government inspectors.

An Ordinance for the enclosure of forest land, occasioned by the need to conserve stands of timber against reckless felling by joint owners, followed on 27 September 1805.

Other rural grievances also received government attention during this period. An Ordinance of 8 June 1787 ended the much-abused power of landlords to inflict corporal punishment on their leaseholders, and introduced important reforms in leasehold law. The settlement law, known as Stavnsbaand, introduced originally for military reasons, but of great economic benefit to the bad landlord, was abolished by an Ordinance of 20 June 1788, converting the Danish peasant from serf to freeman. Hoveri, the corvée right of landowners, was subjected to a series of regulations from 1769 to 1799, defining the extent of corvée rights, where necessary by the decision of commissioners, finally encouraging their

commutation to cash payments. Commutation of tithes to fixed annual payment was made possible in 1810. Such was the progress of land reform in metropolitan Denmark, which can hardly have failed to have deeply influenced the legally-trained Danes who came to occupy official positions in the Faroe Islands.[1]

CONSTITUTIONAL REFORM

The process by which Danish absolute monarchy gave way to constitutional monarchy had its greatest impetus during the period 1830-48. As in many other countries, with the growth in influence of the press, a demand arose that the people's representatives should have at least an advisory voice in matters of state. Denmark had an additional difficulty in the ambiguous relationship of the duchies of Slesvig and Holstein to each other and to the Danish state. The July Revolution of 1830 in France threw the Danish realm into a great ferment, particularly the duchies. November 1830 saw the publication of Uwe Jens Lornsen's celebrated pamphlet, Ueber das Verfassungswerk in Schleswigholstein, demanding a free constitution for a united state of Slesvig-Holstein, in no more than a personal union with Denmark. The Danish government, though willing to move with the times, was opposed to any further dismemberment of the state (Norway had been lost in 1814). The royal proclamation of 28 May 1831 thus announced the intention of setting up separate advisory chambers for Slesvig and Holstein, Denmark proper being similarly treated, with separate chambers for Jutland and the Danish islands. When the Roskilde Assembly began its meetings in October 1835, the Faroe Islands were represented by a crown nominee. German and Danish national feeling, however, proved too strong for this system to work for long, and in 1848 Denmark became a bicameral democracy, in which the Faroe Islands, an inconsiderable and anomalous attachment, were represented by one elected member in each house.[2]

Parliamentary democracy had two immediate consequences in the Faroe Islands. One was that on 1 January 1856, free trade took the place of the old crown monopoly. The other was that a local advisory chamber was set up in 1852. It took the time-honoured name of the Lagting, but was a very different body from the appeal court abolished in 1816. The Lagting had a little direct authority over certain essentially local affairs, such as church

estates, poor-law funds and skyds regulations, but its chief power was of proposing legislation to the Rigsdag in Copenhagen.[3]

Representative institutions were thus developing in the Faroe Islands at the very time that land law reform was under discussion; and the drafting of the 1866 Outfield Law was one of the first problems to come before the new chamber. Equally important, the amtmænd and other officials coming to the Faroe Islands from 1825 until well past the middle of the century were all able men, all more or less imbued with the spirit of the times.

THE AMTMÆND OF FAROE, 1816-62

The first resident amtmand of the Faroe Islands, Emilius Marius Georgius Löbner (1766-1849) was a man without legal training, who had originally come as commandant of the Tórshavn fort, and had managed to establish a foothold in the civil administration during the difficult war years of 1807-14. In 1816 he was appointed acting amtmand and in 1821 the position was made permanent, though during these years he suffered much from ill-health and was for long periods in Denmark. There are grounds for believing Löbner to have been weak, but obstinate and self-opinionated. He was certainly unpopular amongst the islanders, and when ill-health forced his retirement to Denmark in 1825, his Faroese wife and his daughter chose to remain in Tórshavn.[4]

His three successors were all energetic and popular men. Christian Ludvig Tillisch (1797-1844), amtmand from 1825 to 1830, is best remembered for his work in education, for his foundation of a provincial free library, and for his reform of the hospital administration. His brother, Frederik Ferdinand Tillisch (1801-89), amtmand from 1830 to 1837, worked hard to improve the economic lot of the islanders, encouraging experiments in vegetable cultivation and the breeding and foddering of stock, and bringing order into the whale-drives by his promulgation of the first hunt law (see Chapter 11). He continued the encouragement of elementary education in the villages. His most important achievement was perhaps the foundation in 1832 of a savings bank in Tórshavn, conceived as a link in a general education policy.[5]

Christian Plöyen (1803-67), who succeeded the Tillisch brothers, had been landfoged for seven years before becoming

amtmand in 1837. Plöyen gained the confidence of the Faroese in a way which endeared him to everyone. Not only was he perfect conversationally in Faroese, but he also knew a number of the traditional ballads which employ an older form of the language. He was tireless in searching for ways of increasing the productivity of soil and sea, and in 1839 made an important journey to Shetland, Orkney and Scotland for that purpose. His book describing the journey possesses great freshness and charm. Like the Tillisch brothers, Plöyen had taken a law degree at Copenhagen University, and there are many signs in his life and writings that he had there imbibed the ideals of liberal democracy, always deep in his consciousness.[6]

Plöyen's successor, Carl Emil Dahlerup (1813-90), amtmand from 1849 to 1861, was by contrast rather stiff, correct and paternal. He never married, and perhaps his lack of domestic life and the restricted scope of Tórshavn society induced him to give to official business an intensity of devotion administratively excellent, but tending to mar his relations with anyone happening to see the public needs differently from himself. Though able and conscientious, and working hard to improve and diversify Faroese economic life, his relationship with the new Lagting was disastrous. In 1860, two-thirds of the members boycotted the chamber, and sent a petition to the Minister of Justice for his removal. Yet Dahlerup was a fine jurist, and his notes on the drafts of the 1866 outfield legislation command great respect.[7]

FELI AND KENNING

The ferment of Danish agricultural and constitutional reform coincided with the developing crisis in Faroese agriculture, one symptom of which was the reopening of the question whether kenning should be readmitted to Faroese outfields, or whether feli should be strictly adhered to.

Feli had been introduced as a cure for a rash of disputes between co-owners over stocking problems, first by Lagting resolution in 1659, later by royal Ordinance of 2 April 1698. When it was found that the latter was imperfectly obeyed, a Rescript of 19 August 1757 had enjoined the suppression of all remaining kenning, laying down rules for throwing sheep into common flocks. The Rescript was probably fairly generally obeyed,

except where whole villages were prepared to enter into collusion to maintain kenning, as they probably did on Suðuroy, where special conditions obtained.

As mentioned on page 54, in 1773, five substantial owners from Göta in Eysturoy made an official application through the Lagting to hold sheep in kenning. The application had to be forwarded to Copenhagen, and was finally rejected in 1775. The report sent by the lawman, the sorenskriver and the landfoged explained in considerable detail first why one man's outfield holding could not be fenced off from another's, and secondly the advantages and disadvantages of both systems. Their reasoning is of interest.[8]

The advantage of kenning is that each knows what is his own and will take a personal interest in his own sheep. The disadvantage is that the skilful, and perhaps the wealthier owner, will go constantly into the outfield, keeping his sheep where the grass is best and the dangers are fewest. His flocks thereby increase out of proportion to those of his less fortunate neighbour. When the latter finds himself unable to maintain his due share of the winter stock, the skilful owner gets permission from his neighbours to hold a few extra animals im the outfield rather than leave it undergrazed, promising to remove them as soon as the other's flock recovers. Yet this very action makes it less likely that the other's flock will recover, and finally the less fortunate owner may find himself compelled to acquiesce in what amounts to a permanent deprivation of his due share of grazing. A secondary disadvantage, this time from the standpoint of officialdom, was that the fair tithe was more difficult to collect from an outfield than from one in feli.

The principal advantage of feli lies in its strict equity; each enjoys his own according to his outfield ownership. Labour is saved, since one man can often do as much for the sheep as ten or twenty co-owners. None of the sheep are given better or worse treatment than is their due; and all of them enjoy more peace. The principal disadvantage of feli is that of all joint ownership. When no-one has anything he can call his own, the whole may be neglected. Joint labour is always hard, decisions being slow and execution half-hearted, though conditions tend to improve with time.

Further disadvantages of *feli* applied particularly to Suðuroy. In many Suðuroy villages, and in a few other places, lambs were often kept indoors for their first winter and fed on hay. A joint owner with a hay shortage will tend to under-feed the common lambs rather than his own cattle. A joint owner with hay in abundance will complain that his colleagues by their neglect are laying the outfield waste. In Suðuroy, also, the sheep were of a wilder disposition than elsewhere. They had to be driven more often than the others, and early in spring some sheep had to be loaded with a *kleppur*, i.e. a log bound round the neck, elsewhere used only on sheep with a habit of jumping walls.[9] These tasks were less efficiently executed when the sheep were in *feli*.

Early in the nineteenth century there are a few *Amt* references unlawful *kenning*. In 1811 there was a case in Oyri on Borðoy; in 1820 in Sörvágur; and in 1823 in Eiði. Löbner appears to have attempted to enforce the law strictly. In 1813 and 1818 he wrote to the Suðuroy *sysselmand* ordering him to liquidate any unlawful *kenning*, including *röktingarseyðir* (sheep in *kenning* granted to a shepherd in payment for his work). In 1822 Löbner sent a similar order to the Eysturoy *sysselmand*.[10]

As soon as Löbner had gone, a flood of applications came in to the *Amt* for temporary waivers of the law against *kenning*, usually when the sheep had suffered from a greater than usual mortality, and temporary *kenning* would obviate undergrazing of the outfield. The Tillisch brothers permitted *kenning* in the following instances:

Table 10 AMT PERMISSION TO HOLD SHEEP IN KENNING, 1825-37

Year	Outfield	Village	Duration of permission	Conditions
1825	Suðurhelvt	Funningur	6 years	60 sheep
1827	Gjógvará	Fuglafjörður	6 years	4 sheep per mark
1828	Húshagi	Syðragöta	4 years	-
1833	Frammi í haga	Elduvík	6 years	-
1834	Húshagi	Syðragöta	3 years	renewal
1834	Húshagi	Fuglafjörður	5 years	-
1834	Húshagi	Lorvík	5 years	-
1834	Mýrarnar	Toftir	2 years	-

Year	Outfield	Village	Duration of permission	Conditions
1834	Heimara Líð	Norðragöta	2 years	-
1834	Yvir á Dal	Norðragöta	2 years	-
1836	Heimara Líð	Norðragöta	3 years	renewal
1836	Yvir á Dal	Norðragöta	3 years	renewal
1836	Fyri oman Rætt	Gjógv	4 years	-
1836	Dalurin	Gjógv	4 years	-
1837	Innandals hagi	Fuglafjørður	2 years	-

These outfields are all on Eysturoy, and applications were related to an epidemic amongst the sheep. The Tillisch brothers refused any general relaxation of the law on kenning. In 1829 the Suðuroy sysselmand was ordered to enforce the 1757 Rescript, and in 1833 the Sandoy sysselmand got similar instructions. Early in 1833, the Lambi owners were ordered to liquidate kenning, and so were the Nólsoy owners in the spring of 1837. The following kenning applications were refused during the period 1825-37: 1834: Fyri innan Eið, Norðragöta; 1835: Gjógvará in Fuglafjørður. The flow of applications led F.F. Tillisch, on 12 November 1834, to write to all ministers and sysselmænd, requesting their opinions whether the prohibition on kenning ought to be lifted. Various opinions were advanced, but nothing further was done during his period of office.[11]

On 3 October 1837, the new amtmand, Plöyen, was sent his first application to hold sheep in kenning. Because of a mortality in their stock, the Eiði owners requested kenning for a limited period in the southern part of Norðanmanshagi. On 9 October 1837, Plöyen rejected the application, since the proposal conflicted with the law in a way to which he did not see himself empowered to make an exception. When the Eiði men renewed their application, Plöyen, in a letter dated 10 July 1838, informed the Danish Exchequer and asked whether in such cases he might grant temporary exemptions from the 1698 Law and the 1757 Rescript. The Exchequer, on 25 August 1838, replied that (in expectation of royal approval) they had no objection to such exemptions being granted for three years at a time for as many sheep as he thought fit, provided there was unanimous agreement amongst the co-owners

of the hagapartur concerned.

The Exchequer also requested Plöyen for a further report on whether there were grounds for lifting the general prohibition on kenning. In his reply of 9 February 1839, Plöyen expressed his opposition to a general lifting of the prohibition, but proposed that a law might be drafted to make it possible for the diligent co-owner, who wished to build sheep-shelters or undertake cultivation in the interests of the common flocks, to have some sanction against the indifference or lassitude of his colleagues. He thus suggested a commission, consisting of amtmand, sorenskriver, landfoged, all the sysselmænd, and one or more of the most skilful farmers in each syssel elected by the general public. The Exchequer corresponded with the Chancellory, and the latter, in a communication dated 13 June 1840, instructed the amtmand to give the most reliable men in each syssel the opportunity of expressing their views on kenning, the encouragement of improvements in sheep management, and the amendment of the 1698 Law, at the vårtings; and that thereafter the matter should be discussed by a commission consisting of amtmand, landfoged, sorenskriver, provost, and if necessary two local experts. The further history of the kenning question became indissolubly merged with that of the Outfield Law of 23 February 1866.[12]

THE GRANNASTEVNA

Whilst these first steps were in progress towards a general revision of the land law, the grannastevna (neighbours' moot) was developing as an instrument of consultation in each village. Though the grannastevna was an ancient institution in Norway, and N.L. 3-12-17 required its annual holding each 14 May, this law seems to have been ignored in Faroe, perhaps because of the small size of the villages.[13] The Norwegian grannastevna had the function merely of supervising boundary fences. From about 1840, the Faroese grannastevna developed into a village legislature, exercising authority over a very wide range of matters relating to communal tenure.

The origin of the Faroese grannastevna is probably to be found in the sysselmand's annual round of the villages to investigate how the Rescripts of 1757 and 1775 were being kept, and to carry out

his duty under paragraphs 1 and 11 of the Ordinance of 21 May 1777 of enquiring into the state of barley cultivation and whether any idle persons needed to be placed in service. The term grannastevna first appears in 1836,[x] and decisions taken at grannastevnur were first minuted in 1843, in accordance with an order by Plöyen dated 28 July 1842. References to the grannastevna before the latter date, indeed, seem to betray an uncertainty as to its nature and function, and for several years afterwards, grannastevna business seems to be raised rather at the initiative of the sysselmand than of the villagers. The following is a summary of the business undertaken in the first few recorded meetings in three villages of Sandoy syssel.[14]

Table 11 GRANNASTEVNA BUSINESS, SANDOY SYSSEL, 1843-9

DALUR

21 March 1843 (i) Sysselmand asked whether the horse skipan was being exceeded. Villagers replied that they wished to continue the old figure of 12, but to count foals as full-grown horses.
(ii) Sysselmand asked whether the total of dogs exceeded the agreed figure. Villagers replied that the old verbal agreement was for 4; but with the division of the outfield, they wanted 5 for one hagapartur and 3 for the other.
(iii) Sysselmand asked whether any sheep were held in kenning. The villagers said there were not.
(iv) Villagers agreed that geese should not be allowed to graze the infield winter or summer, but should either be loose in the outfield or penned up.
(v) Villagers agreed that when horses are fetching peat, they must not, by night or during free days, be turned loose in areas of the outfield where according to the outfield division contract, no horses are to graze.

1 April 1844 (i) A piece of pasture within the village (i.e. a rustari - see page 31n) must not in future be enclosed or built upon except with the consent of all.
(ii) Cows must not graze infield before the harvest is finished, except sick cows and those calving after St. John's Day, which may graze the owner's own infield or the rustari, though fair compensation must be paid if they encroach upon another owner's infield.
(iii) Geil walls must be in order by the time the sysselmand arrives to take up the wool tithe, on pain of 8 skilling fine per unsatisfactory fathom paid to the church.

[x] In this sense. See the appendix to this chapter for detailed discussion of the origin of the grannastevna.

26 March 1845 (i) Cow-grazing rule of 1844 confirmed.
(ii) Geil walls found in good condition, 1844 rule confirmed.
(iii) Decision taken over maintenance of a particular section of a geil wall.

30 March 1846 (i) Fowling regulated: (a) No more than 2,000 puffins to be netted annually on Skorin. (b) Each owner to net in proportion to his markatal, and if he exceeds it, has correspondingly reduced allowance the next year. (c) No-one allowed to catch puffins on Skorin by dráttur. (d) Fowlers going to Skorin to notify shepherds of outfields on their route, on pain of fine for outfield trespass.

29 March 1847 (i) Complaint that a crown tenant had so fenced his infield that cows had no access to it during the period they were allowed common infield grazing. The tenant promised to take his share (two cows) within the enclosure.
(ii) Puffin-netter admits going to Skorin without notifying shepherd beforehand - fined 1 Rd.

30 March 1848 (i) Revised system for wall maintenance introduced, and new gate to be built in infield wall.

2 April 1849 (i) Agreed that new bull should be chosen. Crown tenant agrees to keep it on old terms, one pair of long trade stockings for every two cows served; but adds that he does not commit himself always to these terms, and if there are difficulties with managing the bull, the other inhabitants must help. This condition agreed.

For several years after this, there was little or no business.

HÚSAVÍK

22 March 1843 (i) Sysselmand asked whether the stock figure for horses was being exceeded. Villagers replied that by contract 1 horse was allowed for 2 marks of land, but 1 horse might be held for 1 1/2 marks on payment for the shortfall as in the 1775 Rescript, and this figure not exceeded.
(ii) Sysselmand asked whether total of dogs exceeded the agreed figure. Villagers replied that new agreement was needed, since outfield was lately divided into three. Agreed three dogs for each of two hagapartar, and two for the third.
(iii) Sysselmand asked whether any sheep were held in kenning. The villagers said there were not.
(iv) Agreed that every householder in the village to be allowed to keep one pair of geese, and the larger owners one pair per two marks of land.
(v) Largest farmer in village agrees to keep the bull, on payment of one pair of short trade stockings or their value for every two cows served.

2 April 1844 (i) Agreed that any geese in excess of allowance fixed should be sold and money given to the church.
(ii) Each of the three outfields to prevent intrusion of sheep over given stretches of infield wall, against payment of 3 sheep per year from the outfield; and in return, watchmen obliged to compensate for any damage caused by their neglect.
(iii) Walls to be in order by 20 May. Details of height agreed. Fine of 8 skilling per unsatisfactory fathom.

26 March 1845 (i) Goose and walling rules declared satisfactory.
(ii) Wreck to be salved jointly by all ablebodied men in the village, and proceeds to be shared.

30 March 1846 (i) A stretch of pasture within the village (a rustari) to be reserved for cows that calve after St. John's Day, or for cows about to calve.

For several years after this there was little or no business.

SKÚVOY

18 April 1843 (i) Sysselmand reports no horses kept.
(ii) Sysselmand asked whether the total of dogs exceeded the agreed figure. Villagers replied that the old figure was two sheep-dogs and four varðhundar.
(iii) Sysselmand asked whether any sheep were held in kenning. The villagers said there were none.
(iv) Villagers agreed not to let cows graze too near the sheep-shelters, where the grass would be needed in winter.

7 May 1844 (i) Authorised dog-holders named.
(ii) Agreement entered that any person carrying drift seaweed from the shore without having notified the other villagers to pay fine of 1 skilling per creel.
(iii) Geese not to be allowed into infield before end of harvest; and owners to pay for any damage they do, and to remove or kill such geese, otherwise geese to be sold and proceeds paid to church. Geese to be driven to outfield when 4 weeks old.
(iv) Anyone leaving a gate open when crops are vulnerable to intruding animals to pay fine of 1 mark to the church.

12 March 1845 (i) A beach warden appointed to notify villagers when drift seaweed on the beach.
(ii) Height of walls fixed. Walls to be in order by 14 May, and viewed by two crown tenants. Fine of 4 skilling for every unsatisfactory fathom.

19 March 1846 (i) Seaweed and walling regulations reported to be satisfactory.

25 March 1847 (i) All owners of less than 3 marks to have right to keep one pair of geese, others to have one pair per 3 marks up to a maximum of two pairs.
(ii) Six bulls to be held by named villagers.
(iii) Agreed that no-one to go into outfield alone with a dog during spring.

For several years after this there was little or no business.

Before the grannastevna was regulated in any way by statute, every decision had to be unanimous. For the first two years, the records of the Sandoy villages were signed by all present, though most had to sign by another's hand. Thereafter, one or two of the principal owners signed on everyone's behalf, and after a few years even this ceased; but the legal position was clear enough.

There are, indeed, instances of minorities holding out against majority decisions in the earlier grannastevnur. At the 1848 Skálavík grannastevna it was resolved that no geese should be kept in the village; but two inhabitants who already had geese declared they would keep them until a legal judgement ordered them to give the geese up. This dispute continued at the 1849 grannastevna, when four villagers were found to be keeping geese. Two were willing to give them up if all others did; but the original two remained obstinate, and the 1853 grannastevna found it necessary to adopt regulations for geese.[15]

In the 1851 Dalur grannastevna record, a dispute is found whether cattle, as well as sheep, had winter grazing rights over a certain piece of infield. No vote was taken - the record explicitly says that since agreement could not be reached, no decision was taken.[16]

The first breach in the unanimity rule came in the Hunting Law of 9 February 1854, by which a vote of half the markatal comprising a numerical majority of the owners and leaseholders - and hence by implication the majority vote in the grannastevna - was empowered to regulate hunting. The motive for this law was the growth in the number of small owners and the danger that valuable assets would be destroyed by the incautious use of firearms.[17]

The next enactment giving power to a grannastevna majority, and the first to mention explicitly the grannastevna's procedure and powers, was the Law of 4 March 1857, on the partial enclosure

of joint outfields. This required any proposal to enclose part of an outfield to be discussed first at the grannastevna; the occupiers of half the markatal, or three-quarters of the occupiers by number, were entitled to forward an application for the matter to go before the syssel's Udskiftningskommission.[18]

The 1866 Outfield Law placed a range of responsibilities on the grannastevna, specifying various majorities, and firmly integrating the institution into the land tenure system of the Faroe Islands. Further rationalisation took place in 1891.

THE OUTFIELD LAW OF 1866

Getting revised outfield legislation on to the statute book proved a very protracted process. First, in accordance with the Chancellory's instructions of 13 June 1840, the people were invited to choose a man from each village to take part in discussions in each syssel. This deliberation took place at the 1842 vårtings. On the basis of these discussions, the drafting commission, consisting of amtmand Plöyen, landfoged Lunddahl, provost Garde and sorenskriver G.F. Tillisch (brother of the two amtmænd) began work. By the spring of 1843, their draft was well advanced, but shepherding custom and practice were so diverse in Faroe that two experienced farmers from each syssel were summoned to go through what had already been done. In the summer of 1843, the provost moved to another position in Denmark, and the remaining commissioners were engaged in constant journeys on other business (it chanced to be a record year for pilot-whale hunting), and deliberations continued into another winter. The final draft was sent to Copenhagen on 22 August 1844.[19]

The proposed law contained no fewer than 101 paragraphs. At the drafting commission's suggestion, its text and motivations were printed and circulated to every village, where the proposals were diligently discussed. Some 40 letters were sent to Plöyen with the comments of the inhabitants.

Work on the law was slow. The printed draft was despatched from Copenhagen only in the summer of 1845, and Plöyen had not had time to consider the inhabitants' comments when he got caught up in the politics of Denmark proper.[20] On 4 April 1846 he was nominated by the king as Faroe Islands representative in the Roskilde

Assembly, and on 12 October 1848 as a member of the Constituent Assembly. On 8 December 1848 he was appointed amtmand of Holbæk in north Sjælland, and he never returned to the Faroe Islands.[21]

Plöyen's successor, Dahlerup, forwarded the material, together with his own comments, on 16 March 1853, to the Ministry of the Interior, now the Copenhagen authority responsible for Faroese affairs. Dahlerup had received the material only in the autumn of 1850. It was now very considerable in bulk, and the further delay was due to Dahlerup's unfamiliarity with the local conditions, and to his thoroughness and caution as a jurist. Dahlerup's contribution was in part editorial, im part coloured by his view that to a certain degree the draft law was adapted to a way of life that was now passing with the abolition of the Monopoly and other reforms them in progress.

The newly-revived Lagting expressed a wish to discuss the draft law, and considered it during the summer of 1854. The Lagting recommendations involved considerable amendment of the 1844 draft, partly on technical grounds, partly to reduce the power of the amtmand in the administration of the law (since many members heartily disliked Dahlerup).[23]

The draft now had the misfortune to hit a busy period for the Rigsdag, which was unable to consider it for two sessions. The Ministry of Justice (which had now taken over Faroese affairs) gave preference to two other laws relative to Faroese land tenure: a law limiting fragmentation of estates; and a law for the partial enclosure of jointly-owned outfields, both of which were passed on 4 March 1857. These had a bearing on certain paragraphs in the 1854 Lagting draft. The Ministry therefore sent it back to the amtmand for further Lagting consideration.[24]

The Lagting now had the task of harmonising the draft law with the two laws of 4 March 1857, and incorporating their draft law on horse stocks. This subject had been introduced into the 1855 session of the Lagting by Dahlerup, who wanted to replace the outdated Rescript of 1775, which was linked with the fixed-price philosophy of the Monopoly period. The Lagting did not complete their work on the lengthy draft until 1861. It came before the 1864-5 session of the Rigsdag, and was subjected to a final delay

through a well-meant attempt of the Danish legislature to facilitate speedy amendments of the enactment. Thus it came back to the Lagting for final editorial amendments in the summer of 1865, passed unamended through the Rigsdag, and received the royal assent on 23 February 1866, over a quarter of a century after the first initiative had been taken towards the reform.[25]

A complete translation of the 1866 Outfield Law is given as Appendix "C".[26] Its scheme is as follows:

Table 12 OUTFIELD LAW OF 23 FEBRUARY 1866

Chaptens	Subject	Paragraphs	Topic
1.	Terrain	1-2	Division & union of hagapartar
		3-4	Boundaries
2.	Sheep	8-9	Sheep stocks & tupping
		10-15	Sheep marks
		16	Import of sheep
3-5.	Other livestock	17-23	Cattle
		24-35	Horses
		36-38	Geese
6.	Maintenance	39-40	Maintenance of walls
		41-42	Peat-cutting regulations
7.	Shepherds	43-46	Appointment & powers
		47-48	Shepherds & neighbouring outfields
		49-53	Return of stray sheep
8.	Right of way	54-58	Right of way in outfields
		59-66	Dog regulations
9.	Infield protection	67-68	Akting
10-11.	Sheep ownership systems	69-72	Flocks in feli
		73-79	Flocks in kenning
12.	Law enforcement	80-94	Procedure in civil & criminal cases

The Law had taken a long time to get on to the statute book, but it was fairly exhaustive once it was there. Many points of detail have been mentioned in Chapter 5. The following are its provisions on certain main heads:

The kenning issue. The 1866 legislation affirmed feli to be the system of sheep-holding for all outfields except where a special procedure was undertaken to introduce kenning. In feli outfields, the sheep followed the land in all conveyances, and decisions on slaughter or winter stocking policy were taken jointly, on the already familiar system.

Kenning was allowed for whole outfields or for certain flocks within them, when two-thirds of the shareholders occupying at least half the markatal were agreed, and when the conditions laid down in paragraphs 73-79 were precisely followed. Kenning had to be introduced by written contract, giving the stock figure for the whole outfield and for each flock within it, mentioning how much was to be in kenning, and how much to remain in feli. The flocks had to be in the charge of duly-elected shepherds, and must have the outfield mark in one ear and the owner's mark in the other, to a pattern approved by the sysselmand. The tupping-rams were to be selected in the fold each autumn and their owners compensated in kind at joint expense. The tithes were to be paid on the entire outfield stock, on the sysselmand's second annual round, in the same way as if the outfields were still in feli. Kenning contracts or their termination must be legally proclaimed at the first vårting held in the syssel concerned. When kenning reverted to feli, those with less than the full stock corresponding to their markatal holding had to buy themselves in from those who had a surplus, at the full value of the sheep, or in case of a disagreement over price, at an impartial valuation.

The grannastevna. The most important effect of the 1866 legislation was to devolve administrative and judicial power with respect to communal land tenure at village level on the grannastevna, which now received extensive powers to regulate by majority vote.

The village markatal was given power to regulate matters concerning the whole village. A simple markatal majority of votes cast decided the number of sheep-dogs and other dogs (59 & 66); the stock figures for horses (24 & 29); and questions concerning bull maintenance (18). On the latter two issues, tenants of non-resident owners had the right to cast votes for

the land they occupied. A two-thirds majority vote by markatal was needed for permission for geese to be kept in the village (36-37). The grannastevna decision on the number of cattle to be allowed free summer grazing in the húshagi had to be unanimous, but if unanimity could not be reached, the matter was to be referred to the local Udskiftningskommission (19).

The markatal of each hagapartur was given certain powers concerning its own territory. A simple markatal majority of votes cast determined the grazing fee for cows in excess of the free húshagi stock (21), and had the power to restrict co-owners' access to the outfield (55). On two other questions, more than half the markatal had to vote in favour: entry into reciprocal agreements with neighbouring outfields concerning stray horses (30); and the alteration of existing outfield walling, including folds and sheep-shelters (39).

Paragraph 67 required a decision to be taken on akting, presumably at the grannastevna, though this is not explicit, nor is any binding majority laid down. Neither is any majority laid down in paragraph 3, where the grannastevna is required every tenth year to name men to view the outfield boundaries.

The Outfield Law provided for a Michaelmas meeting, to appoint shepherds for the coming year, if there was to be any change, and to determine their conditions of employment (44-45). Decisions on autumn slaughter and winter stocking in feli outfields were also taken at this meeting (70). In each case, a simple markatal majority of votes cast was needed, tenants having the voting right for the land they occupied. If no Michaelmas meeting was held, then the shepherds decided slaughter and winter stocking policy.

Criminal and civil cases. Paragraph 80 of the Outfield Law laid down that criminal cases went before the sysselmand, with the right of appeal to the amtmand, a summary procedure first established in 1813 to determine the right to operate fishing-boats (see pages 57 & 59).[27] Civil cases were to go first to the syssel's Udskiftningskommission. As will be described in Chapter 7, each syssel had an Udskiftningskommission (enclosures tribunal), established by a law of 4 March 1857, consisting of knowledgeable local men, to arbitrate when owners disagreed over a proposed

intake of outfield for cultivation.[28] This body now became the court of first instance in all disputes over rights and duties within the scope of the 1866 legislation, and the cheapest possible procedure was laid down for such cases to be heard within the village in question.[29]

Curiously enough, the appeal procedure was not the same as in the 1857 legislation. On an enclosure issue, a co-owner appealed from the tribunal to an enclosures appeal tribunal consisting of the amtmand and two men chosen by the Lagting. An appeal over a decision covered by the 1866 Law went to the sorenskriver, who then requested the amtmand to nominate four men to judge the case with him. But both types of appeal tribunal had to conduct their business as swiftly as possible in the village in question, and from their decision there was no further appeal.[30]

THE LAWS OF 1891

Consolidating legislation followed in 1891. There were two unsatisfactory features of the state of the law as it was left in 1866. One was the diversity of appeal procedure just mentioned. The other was that though the grannastevna now had powers granted to it by laws of 1854, 1857 and 1866, nothing in the statute book laid down its composition, authority, or the manner in which it was to conduct its business. Indeed, the only other legislative provision was a ruling from the Chancellory to Færö Amt dated 22 November 1836, authorising fines for non-attendance at grannastevnur without reasonable cause.[31]

The need to define the authority of the grannastevna became apparent when in 1872 a system of local government was set up for Faroese villages, with the prime task of organising elementary education, poor relief, roads and harbour works. In the spring of 1875, certain inhabitants of Hvalböur in Suðuroy requested that a better method of conducting grannastevna business might be found. The Lagting asked for reports from the sysselmænd and the new kommuner on the deficiencies of the grannastevna as then constituted, and suggestions for improvement. Their reports were considered in 1877, and a draft law sent back to the sysselmand for comment. But a final Lagting draft prepared in 1878 was rejected as deficient both by the amtmand and the Ministry of Justice.[32]

The Ministry revised the draft, and amtmand Finsen submitted it to the 1883 Lagting. Its main provisions were: (i) a definition of the cases that could be handled by the grannastevna; (ii) regulations for lawful summoning of the grannastevna; (iii) rules for the passing of lawful resolutions; and (iv) penalty powers for breach of those resolutions. Many technical amendments were proposed in committee and during the second and third readings, and although a draft law emerged at the end, the Lagting thought it prudent to postpone final acceptance to the 1884 session.[33]

In the 1884 Lagting, the Grannastevna Law was passed with only a few minor amendments, but the question now arose how a person feeling himself wronged by a grannastevna resolution should proceed. The Lagting now saw the need to consolidate procedure for settling all land questions, and a suitable bill was drafted in the 1885 Lagting based on analogous Danish legislation of 1858. Like their Danish counterparts, the new appeal tribunals were given the names Landvæsenskommission and Overlandvæsenskommission (agricultural tribunal and higher agricultural tribunal).

The 1885 Lagting made contingent amendments to the Grannastevna Law, and at the same time the amtmand tried to give the small owners increased voting power there, but the elected members rejected this, pointing out that small owners sometimes had a vested interest in blocking equitable regulations.[34]

The two bills came to Copenhagen when three other agricultural bills from the Faroe Islands were pending. An agricultural commission was now suggested. The 1887 Lagting rejected this proposal, and requested the earliest possible attention to these two bills.[35] The bills came before the 1888-9 and 1889-90 sessions of the Rigsdag, but perished with a dissolution in January 1890. Work on them was resumed the following year in the new Rigsdag, and they became law on 1 April 1891.[36]

The Grannastevna Law. The first three paragraphs defined the competence of the grannastevna. Variations in grannastevna districts could be made by the amtmand on the recommendation of the sysselmand on the petition of a majority of the householders concerned. The authority of the grannastevna covered: (i) all

aspects of joint ownership and ownership rights; (ii) other matters of common concern within the village, insofar as these were not under the authority of the kommune. Resolutions of the latter type, however, needed Amt approval.

Proposals for the grannastevna had to be notified to the sysselmand by 1 November of the previous year. Before 1 January they had to be published in the village concerned, and where the crown was concerned as a landowner, the landfoged had also to be notified. The date on which the sysselmand would hold the grannastevna had to be notified to those concerned at least the night before (paragraphs 4-6).

Voting rights over joint ownership matters rested with the markatal; over matters of common village concern with the householders. The general voting rule was that a valid decision on a joint ownership matter required half the land-holders and half the markatal to vote in favour; for matters of common village concern, a simple majority was sufficient, provided a third of the householders had voted in favour. If the amtmand approved the by-law, and no objections were received within four weeks, he would name a day on which it should come into force (7-8).

The grannastevna was to be chaired by the sysselmand according to standing orders approved by a simple majority of householders. The sysselmand must enter the proceedings in his Politiprotokol, and at the end of the meeting his record had to be read out, and signed by the sysselmand and witnesses. Resolutions were to be entered in the village grannastevnaprotokol, provided at the expense of the kommune (9).

Paragraph 10 provided that if the sysselmand regarded any grannastevna resolution as contrary to law, he must adjourn the matter, and consult the amtmand. Anyone else challenging the validity of a resolution must bring the matter before the Landvæsenskommission for the syssel, the resolution meanwhile standing inactive. Paragraph 11 provided for a system of overseers to ensure that valid resolutions were carried out, and paragraph 12 laid down fines of up to 25 kroner for breach of resolutions, or for neglect by the overseers to prosecute. By paragraph 13 it was ordered that such cases were to come before

the sysselmand as petty criminal cases, with appeal to the Amt.[37]

The Landvæsenskommissioner Law. By this law the Udskiftnings-kommissioner and the appeal tribunals of the 1857 and 1866 laws were abolished, and in their place was set up a Landvæsenskommission for each syssel, and an Overlandvæsenskommission for the whole of Faroe. Each of the former was to consist of the sysselmand as chairman and two syssel residents selected by the Lagting. The Overlandvæsenskommission was to consist of the sorenskriver as chairman and four members selected by the Lagting. Four deputies were selected for each tribunal, to cover the possibility of regular members being interested parties or related to such, as well as the usual causes of absence. Elections were for a term of six years (1-2).

A case brought to the Landvæsenskommission had to be submitted in writing to the sysselmand, and if it was an appeal against a grannastevna decision, had to be made within eight weeks. The sysselmand had now to fix a day for the hearing in the village most concerned and notify the other tribunal members. The plaintiff had to give fourteen days' notice to the village concerned. If the crown's interests were involved, the sysselmand had to notify the landfoged (3-4).

When the tribunal sat, it had to dispatch the business with all due speed, first attempting reconciliation, and if that failed, hearing evidence and pronouncing judgement. Any appeal had to be made within three months of the decision. The procedure of both tribunals was to be cheap and informal. The Overlandvæsens-kommission's decision was final, unless one of the parties challenged its competence in the Höjesteret in Copenhagen; but the Höjesteret was restricted to a mere affirmation or denial of the competence of the tribunal, and was not permitted to involve itself in the case as such (5-9). The remaining clauses (10-12) laid down the various rules for the small running costs of these tribunals.[38]

The new tribunals seemed to work well from the start, and neither of the two laws merited much amendment in the opinion of the 1911 Report of the Faroese Agricultural Commission. A further good sign was that the new Overlandvæsenskommission did not find itself with a great deal of business to transact.[39]

Appendix to Chapter 6

THE ORIGIN OF THE FAROESE GRANNASTEVNA

Writers on Faroese land tenure have commonly assumed that the grannastevna is an ancient institution in Faroe. Thus amtmand Finsen, in 1883, wrote that from ancient times, various matters concerning joint ownership had been decided by the grannastevna, under the leadership of the sysselmand. Daniel Bruun, writing in 1904 and 1929, was also of the opinion of the high antiquity of the grannastevna, and we find the same opinion in the work of sorenskriver Bonnevie in 1940 and Poul Petersen in 1968. Björk, more cautiously, said in 1956 that the silence of earlier writers on the grannastevna was not conclusive evidence that in their days it did not exist.[40]

The basis for this opinion is the undoubted existence of the grannastevna from early times in mainland Norway. In VII-30 of the Landslov of Magnus Lagaböte (1274) stands a provision that the grannastevna should be held on St. Halvard's Day (14 May), so that neighbours could see that their fences were in proper condition. This measure passed into Chapter XXVIII of Christian IV's Norwegian Law of 1604, and thence into 3-12-17 of Christian V's Norwegian Law of 1687, which last was doubtless why the word appears in Sandöens Vedtægt (see pages 54-5), signed in 1692.[41] My view is, however, that the Faroese grannastevna as we know it in recent times either originated in the early nineteenth century, or at least first became of significance then. My reasons are: (i) the silence of early writers and legislators; (ii) the use, before about 1840, of other machinery for taking decisions which were later natural to the grannastevna; (iii) the nature of the written references to the grannastevna from 1836 until the regular records begin in the spring of 1843.

The grannastevna is not mentioned by Tarnovius (1669), Debes (1673) or Landt (1800). In Svabo's Indberetninger the word appears only in his transcription of Sandöens Vedtægt. The word is not used in the text of any printed law known to me from before 1857, nor in any printed draft of a law from before 1844. The earliest written use of the word known to me, with certain exceptions I shall refer to later, dates from August 1836.[42]

The two most telling silences of all, in my opinion, are those of Svabo, who does not mention the word in his dictionary, and that of landfoged Lunddahl in Nogle bemærkninger om de færöske landboforhold. The latter work was written in 1843, but only printed (in an unrevised form) in 1851. Lunddahl often mentions the joint decisions that have to be taken in a Faroese village, but never once does the word grannastevna appear, and neither is there any apparent reference to the meeting itself.[43]

Of the manuscript sources which fail to mention the grannastevna may be instanced amtmand Löbner's Instrux for Sysselmændene paa Færöerne, dated 1 April 1816, which refers to such land tenure legislation as the Forordning af 2. April 1698 om Faar og Qvæg, the Reskript af 19. August 1757 om Kendings-Söjd and the Reskript af 11. Maj 1775 angaaende Rosse-Brug paa Færöerne, but makes no reference whatever to the grannastevna.[44]

The word is, indeed, excessively rare in Faroese contexts before 1836. The first reference known to me is that of Sandöens Vedtægt already referred to, where it must assuredly have been copied from the recently-published Law of Christian V. I know of no evidence, indeed, that meetings were held on Sandoy or elsewhere in the Faroe Islands on St. Halvard's Day for the inspection of walling. Even if they were, such meetings were not grannastevnur in the later sense of the term.

There are four references in the earliest preserved Faroese Panteprotokol, that of 1706-22. Here we have references to grannastevnur held in Sumba on 14 February 1708 and 22 January 1709, and two references to a grannastevna in Vágur on 25 January 1709. The business mentioned, however, has nothing to do with joint village resources, and the meetings seem to have been no more than groups of neighbours assembled to witness the signing of land conveyance documents, in advance of their publication at the next Öravík vårting. The use of the word may here be due to the sorenskriver writing the records, Frederich Severinsen Skougaard, who must often have attended grannastevnur in Danish villages during his service as ridefoged on Gabel's estates, before he came to the Faroe Islands.[45]

In legislation before 1843, we find it laid down that local decisions for the village are to be taken by "de bedste Mænd",

i.e. the principal resident landholders. Thus in paragraph 8 of the Forordning af 2. April 1698 we read: "ingen flere Hunde skal holdis end som af Sysselmanden udi det Syssel og de bedste Mænd i Böigde-Lavet blive samtykte". In the first two paragraphs of the Reskript af 11. Maj 1775 we see that alterations to the horse skipan are to be made by the majority of the inhabitants with the concurrence of the sysselmand, and a contract must be signed by "nogle af de bedste Mænd i Böjgdelaget".[46]

The machinery for settling the disputes that inevitably arose through joint land ownership was, until the first three or four decades of the nineteenth century had passed, either an appeal to the law, or action by the sysselmand and amtmand (until 1816 the lawman and landfoged). As an example of the latter may be mentioned a dispute in Gjógv, Eysturoy, over the maintenance of the village bull. In a decision dated 23 April 1825, amtmand Löbner ruled that a written contract must be entered into by the villagers for the maintenance of the bull; that it must be expressly stated what compensation the bull-holder should have; and that the contract must be signed by all the cow-owners and sent to the Amt for approbation. But nowhere in either Löbner's letter or the foregoing documentation is the word grannastevna employed.[47]

A conspicuous example of a joint tenure decision being taken through legal action is the 1816 reorganisation of the Nólsoy hagapartar. The Forordning af 20. Januar 1797 om Forligelses-Indretninger provided that before going to law, parties should bring lawsuits before their local conciliation tribunal (forligelses-commission). On 4 March and 27 May 1816, the South Streymoy conciliation tribunal drew up an agreed award defining the boundary between the hagapartar, and settling turbary rights for both outfields in Sunnarahelvt, and summer cow pasture rights for both outfields in Norðarahelvt. Nowhere in the documentation of this case, either, is there any mention of the grannastevna.[48]

The earliest documents which refer to the grannastevna, apart from the isolated instances referred to above, date from 1836 to 1842. They read very much like the beginning of an institution, not the continuation of one long established.

The first of these occurs in a letter dated 31 January 1836 from Plöyen, then *landfoged*, to the Eysturoy *sysselmand* about the settlement of Funningsbotnur. The man wishing to build his home there had complained that he was uncertain whether the joint landowners were prepared to give him permission or not. Plöyen told Weihe to ascertain this at the *grannastevna*. There is, however, no evidence in the context whether Plöyen was thinking of the *grannastevna* as an annual event or not.[49]

The next reference arises from a letter written to the *Amt* by *sysselmand* J. Zachariasen of Vágar, dated 2 May 1836, asking what action he could take to compel farmers and smallholders to attend what he calls the "sædvanlig passerede Politi-Möde", at which in particular he investigates whether the 1757 and 1775 Rescripts are being followed. The *amtmand*'s reply on 16 August employs the term "grandestevne" of this meeting, and provisionally authorises the fine of defaulters. The same day the *amtmand* wrote to the Chancellory asking for approval of this ruling, and its use in future cases. The Chancellory upheld the decision in a letter dated 22 November 1836, and received in Tórshavn on 11 April 1837. The following day the *amtmand* informed the *sorenskriver*, *landfoged* and *sysselmænd* of the Chancellory decision, and the regulation was *tinglæst* in every *syssel* before November 1837.[50]

A further reference is to be found in the report in March 1841 by the Eysturoy *sysselmand*, S.J. Weihe, that at the *grannastevna* held on 2 and 3 March 1841, he was informed that certain householders had held dances on holy days, and had offered to compound for a fine of 2 Rbdl. each if proceedings against them were terminated.[51] This is of course *politiret* business and has nothing to do with the *grannastevna* in its commonly accepted sense.

On 28 February 1842, *sysselmand* S.J. Weihe reported the absence of certain householders from the Toftir *grannastevna*. Weihe refers to the meeting as "den sædvanlige grannastevne", but the obligation on householders to attend seems far from generally understood, and the absence of the defaulters, it later appeared, was due to a misunderstanding. There was an *Amt* reply dated 7 March 1842, a further report by Weihe dated 23 March 1842, and finally a rap over the knuckles for the *sysselmand* by *amtmand*

Plöyen dated 31 March 1842, in which Weihe is reprimanded for having brought the matter up before making a full investigation, and commenting that the villagers concerned, and perhaps those in other places, were possibly unaware of their legal obligation to appear at the grannastevna. The following year, the first time the grannastevna is minuted in the Eysturoy Politiprotokol, Weihe records having lectured the inhabitants on what this meeting meant, and what business might be there transacted.[52]

Minuting of grannastevna business began in response to a letter from sorenskriver Tillisch dated 16 July 1842, in which he complains that disputes too commonly arise over what has been resolved at the grannastevna, and suggests that they should be minuted in a special book. Amtmand Plöyen, in his reply dated 18 July 1842, suggests that the sysselmænd should use their politiprotokoller for this purpose, and on 28 July 1842 he issues the necessary orders to the sysselmænd. In consequence, from February 1843, archive references to the grannastevna become regular and frequent.[53]

My conclusion, in default of contrary evidence, is thus that the Faroese grannastevna was not an ancient institution; but even if it was, either under that or another name, it did not become an important institution until about 1840-43.

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3. Knud Fabricius (ed.), Den danske Rigsdag 1849-1949 Vol. VI (Copenhagen, 1953), pp. 105-201.

4. Degn (1945), pp. 20-23; Páll J. Nolsöe, Föroya Siglingarsöga 1000-1856 (Tórshavn, 1963), pp. 61-82, 100-190; Páll J. Nolsöe, Föroya Siglingarsöga 1856-1940 (Tórshavn, 1962-70), Vol. I, pp. 1-4; Færöerne I, p. 197; Martin Joensen, "Táið Skúvoyingar skuldu binda amtmannin", Varðin Vol. 5 (Tórshavn, 1925), pp. 49-51. Also archive material from Löbner's pen, at large.

5. Degn (1945), pp. 24-5; Páll J. Nolsöe (1962-70), Vol. I, p. 4; Carl Adolf Muhle (ed.), Carl Mogensens Færöeske Krönike (Tórshavn, 1970), pp. 22-3; Færöerne I, pp. 198-9; Færöerne II, pp. 50, 57. Also archive material, at large.

6. Article, "Christian Plöyen", in T.H. Erslew, Almindeligt Forfatter-Lexicon (Copenhagen, 1843-68); Degn (1945), p. 25; Christian Plöyen, Erindringer fra en Reise til Shetlandsöerne, Örkenöerne og Skotland i Sommeren 1839 (Tórshavn, 1966), passim; Páll J. Nolsöe (1962-70), Vol. I, pp. 4-5; Muhle, op. cit., p. 15; Færöerne I, pp. 199-202; Færöerne II, p. 166. Also archive material, at large.

7. Degn (1945), pp. 25-6; Færöerne I, pp. 208, 215-18, 222-7; Færöerne II, p. 193; H.D. Matras, "Dahlerupsakin", Varðin Vol. 29 (Tórshavn, 1951), pp. 213-22; obituary in Föringatíðindi, August 1890.

8. LBK Tillæg, pp. 75-7; Björk (1956-9), Vol. I, pp. 71-2.

9. LBK Tillæg, pp. 75-7; Robert Joensen (1958), p. 38; also information gathered orally on Suðuroy.

10. Björk's Index, citing Færö Amts Skrivelser of 2 Nov. 1811, 13 March 1813, 14 Jan. 1818, 4 Dec. 1820, 30 Jan. 1822, 30 April 1823. (The 1818 record confirmed from Suðuroy syssel records.)

11. Björk's Index, citing Færö Amts Skrivelser of 13-15 Oct. 1825, 14 Dec. 1827, 16 Dec. 1828, 9 March 1829, 10 Jan. 1833, 8 March 1833, 11 October 1833, 1 Sept. 1834, 29 Sept. 1834, 12 Nov. 1834, 27 Nov. 1834, 12 Jan. 1835, 24 March 1835, 13 Oct. 1836, 19 Dec. 1836, 11 June 1837, 26 May 1837. (Several entries checked in Eysturoy syssel incoming letters and in Færö Amt Journal over indkomne Sager.)

12. Björk (1956-9), Vol. I, pp. 75-6; LBK Tillæg, p. 157; Björk's Index, citing Færö Amts Skrivelser of 9 Oct. 1837, 10 July 1838, 24 Sept. 1838 and 17 Oct. 1838.

13. The grannastevna (grandestævne) occupied an even more prominent position in Danish village life. For reasons for the belief that the grannastevna was unimportant or non-existent in early times in the Faroe Islands, see the appendix to this chapter.

14. FL: Sandoy Politiprotokol 1838-55, pp. 29-31, 35, 44-6, 49-50, 54-6, 58-9, 60, 65-6, 67, 75-6, 78.

15. FL: Sandoy Politiprotokol 1838-55, pp. 75, 79, 149-50.

16. FL: Sandoy Politiprotokol 1838-55, p. 92.

17. Jagtlov of 9 February 1854; Björk (1956-9), p. 20; Poul Petersen, op. cit., p. 35.

18. Bang & Bærentsen, op. cit., pp. 139-40.

19. Björk (1956-9), Vol. I, p. 76; LBK Tillæg, pp. 157-67.

20. LBK Tillæg, pp. 157-67, 166-7.

21. Article, "Christian Plöyen", in Erslew, op. cit; Degn (1945), p. 25.

22. LBK Tillæg, pp. 158, 237-8.

23. LBK Tillæg, pp. 258-77.

24. LBK Tillæg, pp. 158, 278-9.

25. LBK Tillæg, pp. 158-9.

26. Bang & Bærentsen, op. cit., pp. 169-84; LBK Tillæg, p. 155.

27. Kancelli Plakat dated 23 March 1813, Bang & Bærentsen, op. cit., page 23.

28. Bang & Bærentsen, op. cit., pp. 139-42.

29. LBK Tillæg, pp. 155-6.

30. LBK Tillæg, pp. 155-6; Bang & Bærentsen, op. cit., pp. 139-42.

31. Beretning om Lagtingssamlingen (hereafter Lagtingstidende) 1883 (Copenhagen, 1884), p. 7.

32. Lagtingstidende 1883, pp. 1-24.

33. Björk (1956-9), pp. 21-2; Lagtingstidende 1883, pp. 1-24.

34. Lagtingstidende 1884 (Copenhagen, 1885), pp. 1-12; Ibid., 1885 (Copenhagen, 1886), pp. 9-24.

35. Lagtingstidende 1887 (Copenhagen, 1888), pp. 9-21.

36. Björk (1956-9), Vol. I, pp. 21.

37. Bang & Bærentsen, op. cit., pp. 282-5.

38. Bang & Bærentsen, op. cit., pp. 178-82.

39. Forslag og Betænkninger afgivne af den færöske Landbokommission i Henhold til Lov af 13. Marts 1908 (Copenhagen, 1911) (henceforth LBK Forslag), pp. 125-53. In the first ten years of its existence, the Overlandvæsenskommission dealt with only a single series of five cases from Vestmanna (FL: Færö Amt Overlandvæsenskommissions Protokoller).

40. Lagtingstidende 1883, p. 4; LBK Tillæg, p. 595; Daniel Bruun, Fra de færöske bygder (Copenhagen, 1929), p. 178; Erik Bonnevie, "Oversigt over nogle hovedtræk af ejendomsrettens udvikling paa Færöerne", Juristen (Copenhagen, 1940), pp. 433-44; Poul Petersen, op. cit., p. 256; Björk (1956-9), Vol. I, p. 20.

41. Fr. Hallager & Fr. Brandt (eds.), Kong Christian den Fjerdes Norske Lovbog af 1604 (Christiania, 1855), p. 130 & footnote; Svabo, op. cit., p. 142.

42. T. Tarnovius, Feröers Beskrifvelser (Copenhagen, 1950); Debes, op. cit.; Landt, op. cit. Svabo, op. cit.; for the use of the term in the 1844 draft of the Haugelov, see LBK Tillæg, pp. 169-70.

43. Jens Christian Svabo, Dictionarium Færöense (Copenhagen, 1966); LBK Tillæg, pp. 421-62.

44. According to the copy tinglæst at the Suðuroy vårting on 17 May 1816, now in FL.

45. FL: Færö Amt Panteprotokol 1706-22, ff. 69, 76, 129. These entries are signed by F.S. Skougaard, about whom see N. Andersen, Færöerne 1600-1709 (Copenhagen, 1895), p. 215.

46. LBK Tillæg, pp. 60, 78.

47. FL: Österöe Syssel Indkomne Breve, 1817-30.

48. Bang & Bærentsen, op. cit., pp. 11-17; FL: Syd-Strömöe Forligelses-Kommissions Protokoller, 1797-1817.

49. FL: Österö Syssel Indkomne Breve 1836, No. 5.

50. FL: Færö Amt Indkomne Breve 1836, f. 582; Færö Amt Copibog over Afgaaede Breve Litr. O, 79a; Færö Amt Journal over Indkomne Sager Litr. K No. 582; Færö Amt Copibog over Afgaaede Breve Litr. P, 295.

51. FL: Politiprotokol for Österö Syssel.

52. FL: Færö Amt Indkomne Breve, 28 Feb., 23 March 1842; Österö Syssel Indkomne Breve, 7 & 31 March 1842.

53. FL: Færö Amt Indkomne Breve dated 16 July 1842; Færö Amt Copibog over Afgaaede Breve, 28 July 1842.

CHAPTER SEVEN INTAKE AND ALIENATION OF LAND

ENLARGEMENT OF THE INFIELD

Portions of the hagi of Faroese villages have been enclosed and brought into cultivation in all ages, though there is every reason to believe that before 1800 the pace of enclosure was slow. Svabo gives several instances of eighteenth-century enclosure, and one example of a Miðvágur intake from before 1700. But he points out many more instances where cultivation could easily and profitably be undertaken, and some where land had actually fallen out of cultivation.[1] The authorities had already expressed concern at the poor land utilisation in the Ordinance of 21 May 1777, one clause of which provided that on their journeys to gather up the wool tithe, sysselmænd should encourage the extension of the corn acreage of crown leaseholders, by reporting the neglectful to the landfoged for punishment, and the enterprising and resourceful for possible reward.[2]

Bringing stretches of hagi into cultivation is even today a most arduous undertaking, and was more so with only the traditional tools. A drainage system had to be devised, stones and boulders cleared, and a protecting wall built. When the land had been cleared, there was the problem of manure supply. It is hardly surprising that the major extension of cultivation had to wait for the population boom of the nineteenth century.

The degree to which cultivation was extended cannot be calculated precisely, for lack of reliable statistics. Landt says that at the end of the eighteenth century, one-sixtieth of the area of the Faroe Islands was cultivated, giving 2,343 hectares from the total of 140,600 computed by the 1899 survey. The mean of the two informed estimates of the cultivated land in 1899 is 3,685 hectares, making an infield enlargement during the nineteenth century of some 57% by area.[3] From the land assessment of 1868-71, it is possible to deduce that from 1851 to 1868, the infield was increasing in productive capacity by 2% per decade, though this last is probably an underestimate.[4] The increased cultivated area either augmented existing village infields, or formed new villages.

NEW VILLAGES

The most striking manifestation of the increased pace of intake of hagi was the foundation of new villages. During the nineteenth century, the following came into being:[5]

Table 13 NEW VILLAGES FOUNDED DURING THE NINETEENTH CENTURY
(all dates approximate)

1811	Sandvík, Suðuroy[x]	1837	Víkar, Vágar[+]
1812	Syðradalur, Kalsoy	1838	Langasandur, Streymoy[x]
1815	Við Gjónna, Streymoy[+]	1840	Ánir, Borðoy[x]
1817	Akrar, Suðuroy	1840	Ljósá, Eysturoy
1830	Morskranes, Eysturoy	1840	Stykkið, Streymoy
1830	Víkarbyrgi, Suðuroy[x]	1840	Svínáir, Eysturoy
1832	Funningsbotnur, Eysturoy	1850	Skipanes, Eysturoy
1834	Skopun, Sandoy	1860	Hellur, Eysturoy
1835	Slættanes, Vágar[+]	1867	Fossá, Borðoy[+]
1836	Tvöroyri, Suðuroy	1873	Rituvík, Eysturoy
1836	Hvítanes, Streymoy	1897	Æðuvík, Eysturoy

[x]On the site of an earlier, but deserted settlement.

[+]Today uninhabited.

The availability of cultivable land was a factor in the siting of all these new villages. Generally, good access to fishing grounds was also a necessity, since the settlements usually lacked the outfield resources of the ancient villages. In many cases a special factor was at work, as in the following:

Sandvík, according to the saga, had been the homestead of Thorgrímur the Evil, murderer of the hero Sigmundur Brestisson in 1002. The site, after being abandoned for 800 years, was resettled on the initiative of the Suðuroy minister, Johan Hendrik Schröter, an enthusiast for new cultivation, and no mean businessman. The first settlers were his tenants.[6]

Syðradalur was founded because of avalanche damage to the ancient village of Blankaskáli in the spring of 1809. The principal farmer moved his home to the superior site of Syðradalur in 1812, and the three other families followed in 1816. The Blankaskáli böur remained under cultivation, but the infield round the Syðradalur settlement was soon far larger.[7]

Skopun was founded with official encouragement, to facilitate communications between Tórshavn and the southern islands. Until 1834, the site contained only a boathouse belonging to the men of

Sandur. Before this time, southbound letters had to be carried across Sandoy by the Kirkjuböur crew.[8] The population of Skopun today rivals that of Sandur.

Slættanes was first settled by a small Sandavágur owner who was shepherd responsible for the most northerly Sandavágur flocks. He liked the area so well that he applied for official permission to settle there. To the great annoyance of his co-owners, he not only got permission, but even a small removal grant. He was later joined by a few other families, but the village never became large.[9]

Tvöroyri was until 1836 a part of the Froðböur hagi. In that year an outstation of the Royal Monopoly was established there, centrally for the island of Suðuroy. During the 1880s, Tvöroyri expanded rapidly as a fishing port, and today has nearly 1,500 inhabitants, and has merged with the neighbouring village of Trongisvágur.[10]

Norðdepil grew up round an outstation of a Klaksvík merchant house, established in 1866 at a strategic point on a good beach. As the importance of fishing grew, the new village increased at the expense of its ancient neighbours, and today has about 120 inhabitants.[11]

Some new villages, e.g. Hvítanes, Stykkið, Tvöroyri and Norðdepil, were established close to the parent village, but more commonly an outlying valley was selected. The owners in the parent village sometimes opposed the establishment of the new village, fearing that its poor inhabitants might be tempted into sheep-stealing. Legally, the new village was usually no more than traðir established in the outfield of the parent village, even though, as with Skopun, it held its own grannastevna. Occasionally, a portion of the markatal was considered as having migrated from the infield of the parent village to the infield of the new village, the hagi being simultaneously divided. In such cases one of the kongsbönder was generally persuaded to move and form the kernel of the new settlement.[12]

THE LEGAL FACILITATION OF INTAKE

The impressive tally of new villages founded 1811-50 might suggest that enclosure and cultivation were proceeding smoothly and easily. This, however, was far from the case. The larger owners and the crown leaseholders had far less motivation than the smaller owners for extending their cultivation. As with the apportionment or regulation of fowling rights, unanimity of owners and leaseholders was needed before intakes could be legally made. This often hindered enclosure, and sometimes led to intakes reverting to hagi, as with a disputed plot on Hestur in 1813.[13] In 1829, the Nólsoy owners agreed to make no further enclosures, and after that year's harvest, to abandon all existing intakes, with the exception of one with prescriptive rights. The large Tjörnunes intake, on the western headland of Nólsoy, was in 1835-6 agreed only after long and hard bargaining.[14]

During the discussion on allodial fragmentation between the Copenhagen authorities and the local officials, from 1832 onwards, this hindrance to cultivation came to notice. On Danish analogy, general enclosure was considered the proper remedy, and in 1846, the Rentekammer sent a skilful surveyor to the Faroe Islands to undertake preparatory work, but he died after completing only half his task. Copenhagen was thereafter busy with domestic affairs for some years, and the project was shelved.[15]

The enclosure question was revived by a petition from pastor J.H. Schröter, the resident manager of the Monopoly Jacob Nolsöe, and others, forwarded to the new Rigsdag in the autumn of 1850. Its principal requests were that land that could be enclosed for cultivation without hindrance to sheep or cattle raising might be designated and made over to those willing to cultivate it; and that the existing tenanted intakes (træðir), especially those round Tórshavn, might pass into the full ownership of their tenants on payment of the value of the plots in their unimproved state. The Rigsdag considered the petition on 14 March 1851, and referred it to the Ministry of the Interior, who in turn asked amtmand Dahlerup for his opinion.[16]

Dahlerup's lengthy reply included a historical survey of the cultivation problem over the previous century, and advanced proposals for the promotion of Faroese agriculture. He rejected

the petitioners' proposals as impossible where allodial land was concerned, except at the cost of an arbitrary attack upon property - there was no unoccupied land in Faroe, as there was in Iceland. The crown estates were in a somewhat different category. Dahlerup saw the principal hindrances to cultivation as: (i) the isolation from new ideas caused by monopoly trading, (ii) allodial fragmentation, and (iii) communal ownership. His principal recommendation was that surveying for general enclosure should be resumed, and that over the cultivable areas, at least, communal ownership should be abolished.[17]

A government land inspector duly arrived in the Faroe Islands in June 1852. After a summer's work, however, he came to the conclusion that general enclosure would be, if not impossible, at least bound up with such disproportionate expense as th be out of the question.[18] Other means had to be found to solve the problem.

On 28 July 1855, therefore, Dahlerup submitted a draft law to the Lagting, to facilitate the piecemeal enclosure of jointly owned hagi. The bill passed the Lagting with minor amendments, and came before the Rigsdag the following year. With slight editorial amendment, it emerged as the Lov om Udskiftning af Fælleshauger paa Færöerne of 4 March 1857 (see Appendix "D").[19]

The Udskiftningslov[20] set up an Udskiftningskommission (enclosures tribunal) in each syssel, consisting of three men residing in the syssel, two chosen by the Lagting and one by the amtmand, together with the sysselmand, who was also to act as secretary. The tribunal elected its own chairman. Any owner or occupier could bring an enclosure proposal for discussion at the grannastevna. If all were here agreed, the villagers could themselves carry out the enclosure, though the consent of the crown estates administration (i.e. the amtmand and the landfoged) was needed in respect of any crown land, as was that of any person other than owners and occupiers who might have rights in the land in question. In case of disagreement, half the markatal or three-quarters of the owners and occupiers by tally could carry the matter to the Udskiftningskommission, which would visit the locality, hear what all sides had to say, and give its decision with reasons. Appeal was possible within three months to a tribunal consisting of the amtmand and two members chosen by the

Lagting. Their decision was final. The enclosed land was to be staked out in the presence of the sysselmand. The tribunal members were to be paid a suitable remuneration for their work.

The motivations accompanying the bill in its passage all stressed the need to provide machinery for piecemeal enclosure of outfield both for cultivation and to enable merchants, after the abolition of the monopoly, to obtain building sites; and for this machinery to be as cheap as possible.[21] The means adopted were admirable for this purpose. As related in the previous chapter, the enclosures tribunals were soon given further tasks, and consolidating legislation finally gave them the more appropriate name of Landvæsenskommissioner.

THE TRIBUNALS AT WORK

The effect of the 1857 Udskiftningslov, and the 1866 Haugelov which substantially enlarged the tribunals' duties, may be seen from the following table of cases coming before the Suðuroy tribunal between 1857 and 1891:[22]

Table 14 SUÐUROY UDSKIFTNINGSKOMMISSION CASES, 1857-91

Date of first hearing	Date of final hearing	Sessions	Nature of case	Outcome
26 March 1860	14 July 1860	2	Enclosure of part of Líðarhagi, Froðbøur, desired[x]	Conditionally approved
16 July 1861	16 July 1861	1	Enclosure of part of Houlin, Porkeri, desired[+]	Conditionally approved
12 May 1868	12 May 1868	1	Boundary definition in Hvalbøur	Case reconciled
do.	do.	1	do.	do.
13 May 1868	13 May 1868	1	do.	do.
18 May 1868	18 May 1868	1	Enclosure of part of Dals- and Líðarhagi, Øravík, desired	Conditionally approved
16 July 1869	17 July 1869	2	Fámjin owners assert right of way over Øravík hagi	Fámjin owners upheld

[x]An appeal was made in this case, and the tribunal heard further evidence on 11 November 1862 and 17 March 1863.

[+]An appeal was also made from this decision.

Date of first hearing	Date of final hearing	Sessions	Nature of case	Outcome
17 July 1869	5 Oct 1869	3	Two boundary definitions between Fámjin and Öravík	Cases reconciled
18 July 1870	2 Oct 1870	8	Boundary definition between Hamrahagi, Hvalböur and Riddalshagi, Froðböur	Case reconciled
8 Sept 1870	9 Sept 1870	2	Boundary definition between Líðarhagi and Tvöroyrahagi, Froðböur	Case reconciled
9 Sept 1870	9 Sept 1870	1	Boundary definition between Líðarhagi and Kambhagi, Froðböur	Case reconciled
9 Sept 1870	9 Sept 1870	1	Boundary definition between Líðarhagi and Botnsskarðhagi, Froðböur	Case reconciled
10 March 1874	10 March 1874	1	Enclosure of part of Hamrahagi, Sumba, desired	Case reconciled conditionally
20 May 1875	5 July 1875	2	Enclosure of portions of Hvamhagi and Ranghagi, Trongisvágur, desired	Request dropped
17 Dec 1875	17 Dec 1875	1	Enclosure of portion of Vestur í haga, Sandvík, desired	Case reconciled conditionally
24 April 1878	24 April 1878	1	Enclosure of portion of Uttanskarð, Sandvík, desired	Tribunal gave approval
18 Nov 1878	18 Nov 1878	1	Enclosure of portion of Hvamhagi, Trongisvágur, desired	Case reconciled conditionally
15 Sept 1886	25 Sept 1886	4	Separation of Dalshagi and Líðarhagi, Öravík, requested	Tribunal fixes boundary
15 April 1889	16 April 1889	2	Request for a division of coal-mining rights Suður í haga, Hvalböur	Partial division approved
30 May 1890	30 May 1890	1	Division of outfield in Porkeri requested	Case reconciled

The objections raised to the proposed intakes were usually based on their possible effect on sheep and cattle raising. A common objection was that the proposed intake would deprive the flocks of shelter necessary in bad weather. A condition frequently imposed was the retention of a tongue of húshagi up to

the old infield wall, so that the distance from the village to the summer cow pasture was not increased. Approval for enclosure and cultivation in the first of the cases listed above was subjected to no fewer than nine such conditions.

The total effect of the 1857 Udskiftningslov in promoting enclosure and cultivation in the Faroe Islands certainly extended far beyond the cases actually coming before the tribunals, though it is difficult to assess how far. Before 1857, the obstinate owner of even a single gylden could block all cultivation in his hagapartur without as much as giving a reason. After 1857, a grannastevna majority would be likely to persuade a frivolous objector not to carry his opposition outside the meeting, since the tribunal would be certain to override his stand.

THE LINK BETWEEN BÖUR AND HAGI

The alienation of allodial land after enclosure, either for smallholdings or building sites, was much hampered by a rule making böur and hagi inseparable. The origin of this rule is uncertain.[23] Debes, writing in 1673, assumes that the two always go together.[24] Plöyen, in 1838, remarks that the few instances of böur without hagi, and hagi without böur, were anomalies, which could not arise in the future, care being taken to prevent independent transfer. He argued strongly for strengthening practice with legislation, his motive being to limit the occasions of friction, particularly over lunnindir (appurtenances).[25] The 1857 Law limiting fragmentation of allodial land assumed, though it did not enjoin, the inseparability of böur and hagi.[26]

The link was beneficial for traditional farming practice, since böur had many rights in hagi and hagi in böur - the complexities of winter grazing if the two were separately conveyed may be imagined. It was, however, a hindrance to the economic development that took place later in the century. The alienation of smallholdings, and even of building sites, seemed barred except when hagi was simultaneously conveyed.

As early as 1866, the Lagting anticipated separability of böur and hagi at some time in the future. The proposal came up seriously in the Lagting in 1880, but opinion was so divided that the issue was dropped. It was again discussed in 1893, 1894 and

1896, but each time postponed because the new land assessment was not yet in force. Then in 1897, opinion was divided in the Lagting over the extent to which the restriction should be relaxed. In 1898, a draft law authorising separation passed the Lagting, but the Ministry of Justice found it poorly drafted, and it never became law. The 1908 Agricultural Commission included provision for the separation of bður and hagi amongst its fourteen draft laws, but it was 1940 before the restriction was in some measure lifted.[27] Practice, if not theory, was, however, fairly liberal with the allodial share of the new intakes, which, as the villages outgrew their ancient sites, were much in demand for new dwellings, shops, warehouses and industrial sites, e.g. for the drying of klipfish. The legal position of many building sites in the Faroe Islands is thus at the present day somewhat unsatisfactory, because of the 1857 legislation, designed with a very different order of society in view.

TÓRSHAVN'S TRAÐIR

Intakes made from village outfields were normally for the benefit of owners in the markatal. The situation was different near Tórshavn. The legal position of Tórshavn was anomalous. It was not a village, and had neither infield nor outfield, but was bounded by the crown farm of Húsagarður. It had its own territory (little more than the rocky peninsula of Tinganes), but until 1866 the town had no corporate existence. Lunddahl, in 1843, described Tórshavn as "a fishing village situated on the harbour area of the Royal Trading Company".[28]

The poverty (and the morals) of its inhabitants had always been something of a problem. Landless persons drifted to Tórshavn, where a certain amount of work was available with the Royal Monopoly, and where a precarious living might be pieced out also with knitting and boat fishing.[29] The reforming priest Lucas Debes in 1672 advocated the considerable expansion of Tórshavn by the settlement there of all persons of small or no estate, and the intake of all the cultivable land of Húsagarður for their maintenance, the allocation of grazing and turbary sufficient for their needs, and the licensing of the inhabitants to engage in retail trade. The poverty of the town would thus be alleviated,

he maintained, and a sufficient body of men would be provided to garrison the fort.[30]

The first of the Tórshavn *traðir* was not enclosed, however, until 1797, when two intakes were made. A third, in 1799, was designed to supply the garrison with potatoes. Others followed, benefitimg the Húsagarður leaseholders in two ways. They received a rent for the use of their land; and the winter pasture for their sheep, on the *traðir*, was much improved. Experience led them to favour, instead of opposing, the cultivation of their *hagi*. The pace of intake quickened during the 1820s, and by 1857, the imcome the farmers derived from *traðir* was over 60% above the rents their farms cost them.[31]

Peat supply had been an even longer-standing problem for the Tórshavn men. In 1617 they were granted turbary in the Húsagarður *hagi* for a labour payment to the farmer and a small tax to the crown.[32] The location of the turbaries was regulated by an Order in Council of 21 December 1827, and the labour payment reduced to two days' work for three days' peat-cutting. A further Order of 12 August 1833 restored the labour payment to three days' work, but the third day was to be devoted to the construction of roads to the more distant turbaries.[33]

The first steps towards alienation of the Tórshavn *traðir* were taken in the Order in Council of 30 March 1831, authorising an equitable revision of the crown rent roll. This provided for the separation of the Tórshavn *traðir* from the crown farms at their next vacancy, the rents becoming payable to the *landfoged* on ordinary leasehold terms, the Húsagarður rents being suitably lowered in recognition of this loss.[34] (The two leases became vacant in 1858.)

On 12 July 1844, the *Rentekammer* issued an Order consequent on the action of two crown leaseholders refusing consent for two *traðarmenn* to be granted leases. This provided that in all future lease documents it should be expressly stated that it rested with the crown estates administration to terminate any established homesteads, or authorise new ones. The phrase duly appeared.[35] It is uncertain whether these two threatened evictions were in Tórshavn or not, but the condition here written into leases was later of legal service in loosening the grip of *kongsbönder* on

crown outfield, first in the Tórshavn area, later throughout the Faroe Islands.

The petition from Schröter, Nolsöe and others, sent to the Rigsdag in the autumn of 1850, was designed primarily with the Tórshavn *traðarmenn* in mind. These were now becoming numerous. Lunddahl in 1843 noted about 40 *traðir*, 17 occupied by single tenants, the remainder shared by two to seven persons. He estimated that about 80 households cultivated *traðir*, some more than one.[36] In his comments on the 1850 position, Dahlerup gave his opinion that there was a case for transferring cultivable outfield plots from crown leaseholdings, provided there was a suitable lowering of the leaseholder's rent, either to outright ownership, or to hereditary or lifetime leasehold.[37] For the Tórshavn men, it was fortunate that the whole of south Streymoy was crown land.

When the state assumed control of the Tórshavn *traðir* in 1858, opinion generally had swung round to the view that the best course of action was outright sale of the land. The outcome was the Law of 19 January 1863.[38] This gave existing tenants of Húsagarður *traðir* the right to buy at 25 years' purchase. Those unable or unwilling to pay cash could have a mortgage on the land at 4% interest, which the state could not call in as long as the first purchaser or his widow occupied the plot and paid the interest. There were also provisions against the subdivision of *traðir*, and to encourage the reuniting of those already divided. The Húsagarður sheep retained winter grazing rights on the *traðir*, but in summer they were to be excluded by a common outer wall. This wall, Stórigarður, was the pride of the town, and its maintenance was abandoned only in 1937.[39]

COMPULSORY ALIENATION OF CROWN LAND

In the villages, as in Tórshavn, stretches of cultivable *hagi* were often made over to worthy but landless inhabitants, on verbal tenancy agreements, or occasionally by written contract.[40] The *Rentekammer* Order of 12 July 1844 had given crown leaseholders' tenants a certain security, but the cultivators could not buy their plots, and their initial grant depended, of course, on the goodwill of the crown leaseholders. But the undeniable success of the

Tórshavn *traðarmenn* led to a widespread desire elsewhere for the purchase of existing *traðir* and the acquisition of *traðir* by those who did not have them. The development of the smack fishery from 1872 onwards, and the consequent growth of landless families with good summer employment, but the probability of four or five months' idleness every winter, turned desire into need.

The *Trösag*, as the issue was called, was first discussed in the *Lagtings* of 1876 and 1877. In 1879 a draft law was approved for the sale of existing *traðir* to tenants and the enclosure of further *traðir* from suitable stretches of crown outfield even against the will of the leaseholders concerned. Much delay now followed before the matter could go to the *Rigsdag*. A parallel proposal was under discussion for the sale of crown farms to their lessees, and the two issues had an obvious bearing on one another. Next, both were delayed through the difficulty of putting into force the much-needed land assessment which had been undertaken 1868-71 (see Chapter 10). The 1887 *Lagting*, indeed, resolved to defer consideration of the *Trösag* until the new valuation was in force. The nearest thing the Faroe Islands saw to a class war during the nineteenth century followed. The principal advocate of the compulsory acquisition of *traðir* from crown outfield was the merchant and radical politician J.H. Schröter of Tvöroyri, a grandson of the founder of Sandvík. His principal opponents were the crown leaseholders themselves, who saw in his ideas a danger to both their farming and their established place in the community.

The *Trösag* was raised once again in the *Lagting* as a result of a petition, dated 31 July 1889, from four Argir *traðarmenn*, who wanted the same security of tenure as the Tórshavn *traðarmenn* had. The *Lagting* now felt that the security of tenure question ought not to be tied up with the other problems, and drafted a bill to transfer *traðir* to hereditary lease, on roughly the same terms as those on which crown farms were held. The radicals inserted into the draft the compulsory acquisition paragraph from 1879, but the *amtmand* proposed its exclusion, and the paragraph fell. The Ministry of Justice was, however, asked for an opinion on how far *traðir* might be enclosed from crown outfield without the consent of the leaseholders concerned. The government of Denmark was then of a very conservative cast, nor was it a propitious time for

bringing such proposals before the Rigsdag, and in its reply, on 4 July 1891, any expropriation proposals were rejected. However, the Ministry of Justice expressed a preference for ownership, not lease, of traðir already enclosed.

The 1891 Lagting was now called to action by an impassioned memorandum from one of its youngest members, Oliver Effersöe (see Appendix "E"). Effersöe saw a long-term danger to the community in the growth of a landless proletariat. He was by temperament a conservative, and an unlikely ally for Schröter, but the two of them brought the Lagting to reaffirm the proposal of 1879 and 1889. The outcome was the acceptance by the Ministry of a fresh bill, somewhat modified in detail, but in essentials reaffirming the radical proposals of 1879.[41] This became the so-called Trölov of 13 April 1894, and represented a considerable inroad into the privileges that crown leaseholders had enjoyed since 1673.[42]

The Trölov (see Appendix "F") maintained the leaseholder's control over infield he had himself enclosed and then rented out, but gave the cultivator the right to purchase a tröð he had enclosed and tilled. As with the Tórshavn traðir, the price was to be 25 years' purchase, though a maximum and minimum price per kofoder were set. (The kofoder is a measure of productive capacity; one kofoder is sufficient to maintain a cow.) The same mortgage terms were allowed. Rules were laid down for a continuance of the leaseholder's winter grazing, for the proper fencing of plots, and for dwellings on traðir always to be conveyed with the land. Traðir were not to be subdivided, and those already divided might be united on favourable terms to bring each holding up to one kofoder.

The revolutionary provision was that the Ministry of Justice was empowered, on the recommendation of the crown estates administration, to alienate both building sites and cultivable land from crown leases, where need existed and where the farm's management would not be significantly hindered, even against the leaseholder's will. After the initial application for a tröð to the crown estates administration, the question came first before the grannastevna, and next before the Landvæsenskommission, in order to take the outfield out of joint ownership with the allodial

land, according to the 1857 procedure. For the foundation of new villages, the recommendation of the kommune was also required. Traðir were not, however, granted indiscriminately - the Landvæsenskommission usually had at least one crown leaseholder amongst its members.

THE LANDVÆSENSKOMMISSION AT WORK

The Landvæsenskommission now had a considerable range of land cases to consider. The 1857 Law gave them the responsibility of adjudicating enclosures; the 1866 Outfield Law added the function of appeal tribunal for grannastevna decisions, supervision over division and union of hagapartar, and the conduct of civil cases arising from joint ownership. Now the task of adjudicating tröð applications was added - in sum, a considerable devolution of work which, early in the century, when it could be done at all, could be done only by the Amt.

The following cases came before the Suðuroy Landvæsenskommission from 1891 to 1900:[43]

Table 15 SUÐUROY LANDVÆSENSKOMMISSION CASES, 1891-1900

Date of first hearing	Date of final hearing	Sessions	Nature of case	Outcome
24 July 1893	24 Feb 1894	4	Division of Toftahagi, Vágur, into two parts	Case reconciled
16 Oct 1893	4 Oct 1894	21	Appeal against grannastevna decision on sea-fowling on Grímsfjall screes, Hvalböur	Appeal upheld
16 Oct 1893	26 Sept 1894	19	ditto, for sea-fowling on Makhálsur screes, Hvalböur.	Appeal upheld
25 Oct 1894	30 Oct 1894	3	Seven tröð applications, Porkeri	5 supported, 2 withdrawn
31 Oct 1894	25 Nov 1894	2	Tröð application, Hvalböur	Application supported
26 Nov 1894	26 Nov 1894	1	Two tröð applications, Froðböur	Not supported
30 March 1896	20 April 1896	3	Tröð application, Porkeri	Divided recommendation
9 July 1896	9 July 1896	1	Tröð application, Víkarbyrgi	Divided recommendation

Date of first hearing	Date of final hearing	Sessions	Nature of case	Outcome
12 Aug 1896	12 Aug 1896	1	Three tröð applications, and discussion of rent of land to French coal-mining company, Öravík	Doubts expressed about applications
15 March 1897	16 March 1897	2	Tröð application, Víkarbyrgi	Case reconciled
14 Sept 1897	14 Sept 1897	1	Application for enclosures for erecting boathouses, Sandvík	Enclosures to be made
3 August 1900	3 August 1900	1	Division of Sandvík outfield into 2 parts, between crown leaseholder and allodial owners	Case reconciled

For the crown leaseholder, the pill was sugared a little by the passing of a Law on 12 April 1892 enabling crown leaseholders to get state support for approved modernisation plans for their farms.[44] Hitherto the disadvantage of their position had been that they could not mortgage their farms for this purpose. Now they had some resources after their farm servants had left them to try their luck at sea, and their poor neighbours had requisitioned traðir from their outfields. The needs of the old-style farming community and the new distant-water fishing economy were thus to a certain degree reconciled.

REFERENCES

1. Svabo (1959), pp. 332, 345, 364-8 gives instances of enclosure; for instances of abandoned cultivation see pp. 306-8, 364-81; on pp. 307 and 348 lack of manure is cited as a hindrance to extension of cultivation.

2. LBK Tillæg, pp. 83-142. The early politiprotokoller contain yearly entries on cultivation made in accordance with this law, as do the twice-yearly reports by sysselmænd to the Amt on the state of their districts.

3. Landt, op. cit., p. 168, gives the following table:

Proportion of Infield to Outfield in:

Suðuroy pastorate	1 to 36
Sandoy	1 to 40
Vágar	1 to 58
Streymoy north	1 to 80
Streymoy south	1 to 50
Eysturoy	1 to 60
Northern Islands	1 to 96
Thus over the whole country	7 to 420
or	1 to 60

The final deduction is strictly true only if the pastorates are of equal size. This is far from being the case, but a precise calculation gives an infield area of 2,360 hectares, which is so near that I have continued with Landt's overall one-sixtieth approximation of 2,343 hectares.

M. Winther-Lützen, Landbruget paa Færöerne (Tórshavn, 1924), p. 43, gives the area under cultivation in 1899 as 3,715 hectares. Bruun, op. cit., p. 177, gives the figure of 3,656 hectares. See also Björk (1956-9), Vol. II, pp. 1-4, Lunddahl in LBK Tillæg, p. 431, and Rasmus C: Effersöe, Landbruget og Husdyrbruget paa Færöerne (Copenhagen, 1886), p. 7. Reliable official statistics are available only from 1924.

4. Taxationsprotokol gives the year of enclosure of intakes made within twenty years of the survey, whence it is possible to derive the following figures:

	Skattmarker
Total assessed value of infield enclosed as at 1 January 1869	= 1,707.18
Total value of enclosures made 1851-68 incl.	= 62.71
Average enclosure per year 1851-68 inclusive	= 3.48

The assessment was made on the basis of the capacity of the infield to fodder cows. One would suppose a larger area of new enclosure would be needed to fodder a cow than of gamal böur, but this rate of enclosure still seems slow if the estimated increase of 57% in the acreage of cultivated land during the nineteenth century is anywhere near the truth. Perhaps the commissioners failed to note some of the recently-made intakes.

5. Robert Joensen, "Hvussu gomul er bygdin", Varðin Vol. 38 (Tórshavn, 1968), pp. 26-31, corrected from other information arising from consultation with John Davidsen, Tórshavn. The Skopun settlement appears in the 1834 census. Oral tradition gives the date of 1873 for Rituvík. Páll J. Nolsöe (1962-70) gives the date of 1897 for Æðuvík.

6. Rikard Jensen, "Fimm nýggjar niðursetubygdir", Varðin Vol. 30 (Tórshavn, 1952), pp. 46-9. For the ancient settlement see C.C. Rafn (ed.), Færeyínga Saga (Copenhagen, 1832), Chapter 38, pages 173-6. The Sandvík teacher and author Jacob Olsen tells me that traces of ancient dwelling have been found in the village, presumably of a Viking period settlement. From 1811 until 1913 the settlement was officially known as Hvalvík, but throughout this thesis the name Sandvík has been used, to avoid confusion with the Hvalvík on Streymoy.

7. Degn (1945), pp. 118-19. Svabo (1959), p. 306, points out the Syðradalur site as far superior to Blankaskáli.

8. Hjalt, op. cit., pp. 95-6. Svabo (1959), p. 306, says that Skopun also was formerly inhabited, but was abandoned because of the inconvenience of forwarding travellers on their way between Tórshavn and the southern islands. For the inconvenience of Skopun being uninhabited see P.C. Johannesen, "Brævafluttningur áður í tíðini", Varðin Vol. 2 (Tórshavn, 1922), pp. 178-80.

9. Ludvig Petersen, op. cit., pp. 336-9. For the poverty of this village and of Hvítanes, see Dahlerup's remarks in LBK Tillæg, p. 357.

10. Rikard Jensen, op. cit., pp. 56-9.

11. J. Símun Hansen, Norðdepil 28. august 1866 - 28. august 1966 (Hvannasund, 1966), pp. 1-12.

12. Björk (1956-9) Vol. I, pp. 428-39, Vol. II, p. 47.

13. FL: Syd-Strömöe Forligelseskommissions Protokol 1818-97, p. 4.

14. FL: Syd-Strömöe Forligelseskommissions Protokol 1818-97, pp. 11-13, 16-20.

15. LBK Tillæg, p. 315, 329-53.

16. Rigsdagstidende 1850-51, Folketings Forhandlinger, Sp. 7014-27, 7072, Anhang B. Sp. 791-5.

17. LBK Tillæg, pp. 355-64.

18. LBK Tillæg, pp. 366, 386.

19. LBK Tillæg, pp. 401-19.

20. Bang & Bærentsen, op. cit., pp. 139-42.

21. LBK Tillæg, pp. 401-19.

22. FL: Forhandlingsprotokol for Suderö Syssels Udskiftningskommission, passim.

23. Björk (1956-9) Vol. II, pp. 143-70 deals with the topic at length.

24. Debes, op. cit., p. 110.

25. LBK Tillæg, pp. 337, 348.

26. Lov om Udstykning af privat Jordegods, paragraph 17, in Bang & Bærentsen, op. cit., p. 138.

27. See in particular Udkast til Lov angaaende en ny Skyldsætning af Jorderne paa Færöerne (Copenhagen, c.1866); Rigsdagstidende A 1866, sp. 1250; Lagtingstidende 1880, pp. 103-5; 1893, page 74; 1894, p. 80; 1896, p. 64; 1897, p. 403; 1898, pp. 24-36; LBK Forslag, pp. 147-53; Björk (1956-9) Vol. II, pp. 129-33.

28. Lunddahl in LBK Tillæg, p. 425.

29. During the years 1768-88, many Tórshavn men also worked for Rybergs Handel, the transit establishment in Friederichs Vaag (today called Vágsbotnur). For a detailed list of the unemployed and semi-employed in Tórshavn in 1775, see LBK Tillæg, pp. 137-40, where 38 persons are listed. The total population of Tórshavn probably did not then exceed 500.

30. LBK Tillæg, pp. 45-8.

31. Degn (1945), pp. 3-5; J.F. West, "The English Letters of Pastor Schröter", Fróðskaparrit Vol. 18 (Tórshavn, 1970), p. 21.

32. Andersen, op. cit., p. 295; Einar Joensen (1953), pp. 56, 146. Crown leaseholders were not in general permitted to allow outsiders to cut peat on their outfields. Thus in 1621, Joen Guttormsson forfeited his Kirkjuböur lease for allowing the Tórshavn men to cut peat on his farm in large quantities.

33. Bang & Bærentsen, op. cit., pp. 31-2, 39-40.

34. LBK Tillæg, p. 145; Poul Petersen, op. cit., p. 177; Degn (1945), pp. 1-5.

35. Bang & Bærentsen, op. cit., p. 72; Poul Petersen, op. cit., p. 177; LBK Tillæg, pp. 756-7.

36. LBK Tillæg, p. 441.

37. LBK Tillæg, p. 362.

38. Bang & Bærentsen, op. cit., pp. 148-50.

39. Poul Petersen, op. cit., pp. 187-8; Mitens, op. cit., p. 609.

40. Taxationsprotokol Vol. B, p. 5 gives an example of a tröð enclosed from crown land and allotted to a certain Daniel Matras for his lifetime, according to a written contract dated 24 March 1840. M. Winther Lützen, "Um atgongd til dyrkijörð í Förpyum", Varðin Vol. 2 (Tórshavn, 1922), pp. 3-12, says that such traðir often came to be known by the name of their encloser and tenant.

41. Poul Petersen, op. cit., pp. 183-7; H.J. Jacobsen, "Landbruget", Færöerne II, pp. 192-6; Lagtingstidende 1887, pp. 9-21; 1889, pp. 65-75; 1891, pp. 119-39; 1893, pp. 1-24.

42. Bang & Bærentsen, op. cit., pp. 333-7.

43. FL: Forhandlingsprotokol for Suderö Syssels Landvæsenskommission, 1892-97 and 1897-1916, passim.

44. Bang & Bærentsen, op. cit., pp. 197-8.

CHAPTER EIGHT THE FIGHT AGAINST FRAGMENTATION

EARLY LEGISLATION

As mentioned before (pages 22-3), Christian V's council twice had to deal with administrative abuses in the Faroe Islands, and the two resulting Ordinances, dated 16 April 1673 and 30 May 1691, both contained a provision against the subdivision or leasing-out of land in smaller quantities than six marks.[1] The prohibition has not been precisely kept with respect to crown land, but has been so consistently ignored for allodial land that doubts have been expressed whether the Ordinances were ever intended to apply to it.[2]

The old inheritance laws of Norway enjoined equal shares for all legitimate sons, and half-shares for daughters.[x] The eldest son, or the eldest daughter if there were no sons, had, however, a privilege called åsædesretten. He took the principal homestead (known technically as hovedbölle or åsæde) with its pertaining lands, while his brothers and sisters took equally good land elsewhere. If this was not possible, the senior heir paid an equitable rent to the others and kept the hovedbölle. This rule passed from Magnus Lagaböte's code of 1274 through IV-7 of Christian IV's Norwegian Law of 1604 into 5-2-63 of Christian V's Norwegian Law of 1687.[3] The last-named code permitted the senior heir to buy out the others, or pay them rent, if there was insufficient land apart from the hovedbölle to give them their due. In the Faroe Islands, as in western Norway, the laws had however been ignored, and estates had become fragmented in the manner described in Chapter 4.[4]

In one respect only had åsædesrettem left some trace upon the consciousness of the nineteenth-century Faroese. They felt that the eldest son should retain his parents' house and the adjacent land, provided its value did not exceed that of the other shares. The provision was otherwise a dead letter.[5]

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[x] The Faroe Islands were brought under the modern Danish system of equal shares for sons and daughters by a Law of 4 January 1854 (see E. Mitens (ed.), Föroyskt Lógsavn 1687-1953 (Tórshavn, 1953), p. 26).

F.F. TILLISCH'S PROPOSALS

In his communication to the Danish Chancellory dated 22 May 1832 (previously referred to on page 62), amtmand F.F. Tillisch pointed out that the 1673 and 1691 Ordinances, and N.L. 5-2-63 had in the past been so systematically ignored, that they now provided no cure for the prevailing land fragmentation. Even the larger estates were split into small parcels in different hagapartar, and, indeed, different villages. Many were trying to live from holdings of a few gylden instead of taking service with larger owners - all wanted to be masters, none servants. The result was that, combined with the communal tenure prevailing, fragmentation was leading to cultivation being hindered, idleness nourished, poverty increased, and countless quarrels and complications arising. The situation was aggravavated by the redemption right for allodial land, and with the increasing population, nothing better could be looked for in the future without radical legislative action.[6]

Tillisch's draft law to alleviate the difficulty provided that no parcel of land in a single hagapartur belonging to a single owner, might be conveyed by inheritance or any other manner in less quantity than half a mark, except where a smaller quantity was subject to the allodial redemption laws. Owners of larger estates were to be permitted to set up a hovedbölle of up to six marks in the one village, of which at least four marks must remain indivisibly entailed. The hovedbölle thus set up would always pass to the eldest son unless the owner also held a crown lease, whereupon one of the two would pass to each of the two eldest sons. In order to accelerate the flow of small parcels of land into the market, giving them the chance of being united by purchase, he proposed that in general, quantities under four gylden inherited by minors should be sold and the money invested for their benefit.

In the Chancellory, the proposals came before the celebrated jurist A.S. Örsted. In a memorandum dated 14 August 1833, he admitted the evils of land fragmentation, but doubted the wisdom of placing limitations on an owner's disposition over his property. Union of lands would be forwarded rather by freedom than by restriction. The real trouble was the lack of opportunity for capital investment by Faroemen other than in land. He opposed the entailing of any estate which, though large, was internally

fragmented. Örsted requested further information, both from the amtmand and the other officials. Though his comments were shrewd, Örsted plainly had insufficient orientation on the Faroese situation. Indeed, at one point he assumed that a hagapartur was an infield, not an outfield division.[7]

The Chancellory reply to Tillisch, though despatched on 19 October 1833, reached Tórshavn only on 5 May 1834. As requested, Tillisch secured declarations from the landfoged, sorenskriver, all the sysselmænd, and two farmers of outstanding ability. In a lengthy statement dated 28 April 1835, accompanying these, he explained the precise difference between böur and hagi, and the joint management of the latter, which rendered a holding in one hagapartur united, even though it had been assembled in fragments. He agreed that the lack of investment opportunity was a root cause of trouble, and had founded the Faroe Islands Savings Bank for that reason. He hoped that the development of the fishery and free trade would further modify the Faroese attitude to land. Yet many owners of small parcels were still hanging on in the hope of exchanging them for land in the village in which they were building up their main holding - since exchange offered brighter prospects than cash purchase.

Tillisch still wanted restrictions on land fragmentation, even though this applied to outfield only. Larger estates, he said, would lead not to fewer, but to more families being provided for from agriculture. As things were, the lack of farm servants was leading to the present blending of incompatible occupations and the lack of the specialisation needed for economic advance.

Landfoged Plöyem added a plea for an explicit prohibition on the sale of land with reservation of lunnindir (e.g. pilot-whale rights - see Chapter 11), or the splitting of böur and hagi, practices which further complicated communal tenure, and led to village squabbling. He felt that the verbal tenancy agreements over land owned by non-residents were unsatisfactory, and suggested a rent regulation.[8]

Örsted and his colleagues, having considered the matter during the winter of 1836-7, were still unconvinced. Örsted remarked that Tillisch's proposals left the infield as fragmented as ever. A lower limit for infield conveyance was even more necessary than

for outfield. He questioned Plöyem's plea to make infield and outfield indivisible, and for lunnindir to be inseparable from land. At the very least, he wanted no hindrance to the transfer of infield plots from an owner who got little value from them to one to whom they would be useful.

Moreover, Örsted did not care for the idea of a voluntary høvedbölle. He saw no advantage in entalling four marks of land unless its infield was coherent. And he doubted, in view of the current climate of opinion in the Faroe Islands, whether anyone would ever take advantage of the right.[9]

Tillisch's proposals were thus shelved for a time, while the project of a general enclosure was launched. The matter was passed over to the Rentekammer, which on 14 July 1838 sent to the amtmand (now Plöyem) for a sketch of a hagi and its parts, its markatal assessment, and a schedule of occupiers' shares in its hagapartar. The Rentekammer also asked whether subdivision of the former necessitated subdivision of the latter. Plöyen sent back sketch-maps and detailed information on Kunoy and Nólsoy. For the latter he gave a schedule of owners, showing how a third of the island was owned by non-residents, despite the eagerness of Nólsoyings to buy every plot that came on to the market. Plöyen once again urged the half-mark limit for conveyances, pointing out that this would indirectly combat fragmentation in the infield, since it was customarily the small owners who made reform difficult, clinging to every fragment of land and every right; and exchange even of single gylden was difficult since the infield portions were unequal.[10]

The Rentekammer, armed with this report and the recommendations of a Commission set up in 1840 to consider the freeing of the trade, determined on the ending of communal land tenure as far as possible. They saw the way forward as: (i) to rationalise infield holdings by the exchange of plots; (ii) to share out all the cultivable outfield amongst its owners; and when legislation had been passed against renewed fragmentation of holdings, (iii) to sell the crown farms. The project was to be financed by the Royal Monopoly.[11] In May 1846, the able young surveyor A.V. Nyholm arrived in the Faroe Islands, but with half his task uncompleted,

he died on 18 September. As previously mentioned, the project of a general enclosure was revived in 1852, but on the report of a land inspector sent to work out practical details, it was abandoned.[12]

VOLUNTARY ACTION AGAINST FRAGMENTATION

It was, of course, always open to Faroese villagers to combat fragmentation by agreement. But with so many non-resident owners who were seldom or never seen in the village, it was not easy for the necessary unanimity to be achieved.

A rare opportunity arose for owners to combat fragmentation when the first land registers were compiled. The sorenskriver was then authorised to call all the owners together with their title deeds. The villagers of Eiði and Fuglafjörður, and perhaps also of Fugloy, took the opportunity of agreeing a böur rationalisation.

The Eiði owners recognised the harmfulness to cultivation of the böur fragmentation, and the uncertainty of conveyance documents in default of an accurate register. So in 1844, when sorenskriver Tillisch arrived to register title deeds, they so exchanged plots as to improve cultivation and so that the new register accurately stated in which mark each infield holding was situated. Amtmand Plöyen gave official consent with respect to the crown land, with reservation of rights to a fresh division in case of the expected general enclosure.

The Fuglafjörður rationalisation was in respect of only 25 of the 32 marks in that village, but the motives and the opportunity were the same.[13] One suspects that other villages would gladly have done likewise, but were deterred by the complexity of the task or the obstruction of minorities.

ALLODIAL REDEMPTION RIGHT

The Norwegian attitude that land once established in a family's possession ought not to pass out of it, and the consequent legal provisions for the redemption of land sold out of a family, contributed towards fragmentation of ownership in the Faroe Islands. The Gulathing Code, the Landslov of Magnus Lagaböte, and Christian IV's Norwegian Law of 1604 all contained provisions strongly encouraging the redemption of allodial land.[14] Christian

V's code of 1687 defined allodial land as land in the possession of a family for twenty years or longer, or land exchanged for such allodial land. The odelsmand had to offer such land to his kinsmen at a valuation before offering it on the open market; and for twenty years the family with the allodial rights could redeem the land at a valuation. Minors could redeem land sold by their parents up to ten years from their attaining their 25th year.[15]

These provisions were current in Norway until the publication of an Ordinance dated 14 January 1771 (during Struensee's régime). By this the qualification period for establishing allodial right was lowered to ten years, and the redemption period to fifteen. The circle of kindred entitled to redeem was severely limited, and the conditions of redemption were made more difficult, impossible indeed for land sold at public auction. The intention of this Ordinance was undoubtedly to weaken the allodial sentiment, and to reduce the distinction between landed estate and other property. It became law in Faroe in 1789.[16]

An Ordinance of 5 April 1811 restricted the allodial redemption period in Norway to five years, and enabled an owner to renounce the right (thus no doubt securing a higher selling price). This measure was, however, unpopular in Norway, and by reaction the Norwegian constitution of 1814 reasserted allodial right and made it a permanent feature of Norwegian land law. War conditions, and the subsequent separation of the Faroe Islands from Norway prevented the 1811 Ordinance from being promulgated in Faroe. An Ordinance of 14 January 1829, however, for the Faroe Islands alone, contained many similar provisions. The redemption period was limited to five years; the owner could renounce his allodial right, and to assert it he had to comply with certain forms. New provisions included a safeguard for mortgagees, and a minimum size of four gylden for a redeemable estate.[17]

Land continued to be redeemed in Faroe under successive laws, and the notion of the family interest in land ownership persisted, but allodial redemption right never enjoyed the popularity it had in Norway. The officials generally disliked it. Sorenskrivers found themselves judging troublesome lawsuits. Landfoged

Lunddahl regarded the right as one of the prime hindrances to an improved agriculture.[18] When in 1857 the right was abolished, few raised voices in its favour.

THE LAND REGISTERS

The dislike of successive sorenskrivers for the allodial redemption right was well-founded. The church registers from which kinship had to be proved were often defective, and until 1843, land registers were non-existent.

The compilation of the land register (jordfortegning), or register of conveyances and mortgages (Skjöde- og Pante-Register) as it was officially called, was the work of Georg Fleming Tillisch (1807-72), a younger brother of the two amtmænd, who was sorenskriver from 1841 to 1849.[19]

The immediate occasion for the compilation was the discovery by Tillisch soon after his arrival in Tórshavn, that one of his duties was to certify title to landowners wishing to convey or mortgage their properties. In a letter to the Amt dated 16 June 1841, he declared himself unable to do this, since there was no register of documents tinglæst (legally recorded). However, he declared himself willing to travel round to the various villages and bring the matter into order by discussions with the villagers, if free travel were afforded him and he had the authority to summon landowners to meet with their deeds. Amtmand Plöyen, in commending this request to the Rentekammer, said that although the limitless fragmentation of land and the verbal and even secret conveyance of plots would make such a compilation difficult, such a register would nevertheless be of great value. In March 1842, the Rentekammer approved the proposal, and Tillisch managed to complete the work during his term of office.[20]

A few of the Tillisch registers, for instance the Suðuroy volume, are neatly laid out and still a pleasure to consult. Most were at first usable but allowed too little space for ownership changes. Some, particularly in the Sandoy volume, are no more than rough drafts, and it is staggering that it was possible to employ them for fifty years.

The information in the registers is the location of the infield and outfield components of each parcel of land, together

with its ownership and a reference list of relevant documents. Reference numbers indicate the entries for previous and subsequent ownership of the land. A typical entry (from the Trongisvágur register) indicates that Gullak Abrahamsen of Fámjin, by virtue of a lodseddel (inheritance document) dated 7 May 1844, tinglæst 23 May 1844, owned 2 gylden 6 2/3 skind of böur situated in Uttastamörk í Gamlabö, and the corresponding hagi in the 6 marks of Líðarhagi; and that after his death, the land passed to two other owners.[21] The register thus completely defines the hagi, but does not give more than a rough location for the böur. One might suppose that in this instance, with the böur holding constituting over a seventh of Uttastamörk, whose location was publicly known, that the land could scarcely get lost; but as previous owners might have undertaken an informal infield exchange (löst bytte) with a neighbour, the holding might physically no longer exist in Uttastamörk. Almost certainly at some time a portion of Líðarhagi would be enclosed for cultivation, incrementing the infield by tröð, the location of which the register would not indicate at all. The value of the registers for indicating title in böur was even more limited in a village such as Nólsoy. Here, the various named infield marks had no particular link with the two hagapartar, and the register grouped holdings only by outfield.[22] The infield holding of a non-resident, if for a couple of generations it had been cultivated by a village family owning its own land, could in such circumstances simply get swallowed without trace.[23] Nevertheless, with all its imperfections, Tillisch's register was an important weapon for combating fragmentation.

Proposals for improving the registers were made in 1867 and 1886, during the long process of bringing into effect the new land assessment (see Chapter 10), but came to nothing. In 1890, sysselmand N.C. Winther offered to compile a new Sandoy register, given suitable financial support, but this proposal was deferred for consideration the following year.[24]

In 1891 the new sorenskriver, Niels Andersen, drew the amtmand's attention to the deplorable state of the registers.[25] They were not in properly authorised and sealed books, the entries were cramped, and the continuation pages were either in a confused

order or even on loose sheets. The bottom of many pages was so worn as to be illegible or wholly gone. In short, their state was as bad as could be imagined. The continued use of such books was indefensible, but to refuse to attest title from them would make it impossible for a loan-seeker to obtain a mortgage, and a hindrance would thereby be put to commerce. He proposed a new register which would give far more space to each entry, and would give adequate room for the noting of mortgage or other burdens, and of kenning agreements covering the land. There should be space for land not subject to joint tenure (e.g. building sites and traðir,) and for Tórshavn the register should be supported by a map. He asked for 2,000 kroner to carry out the task properly.

When the proposal came before the Lagting, there was much sympathy for the sorenskriver, but there were also misgivings about the cost, and about how long the new registers themselves would last. The Lagting therefore authorised a mere 300 kroner + 50 kroner for paper, to enable fair copies of the existing registers to be made. To bring the register into as close a correspondence with reality as possible, they also drafted a law annulling all mortgage agreements over 20 years old unless those concerned affirmed them to be still in force. The Ministry of Justice was also requested for financial assistance for the compilation of new registers, and in a law of 11 March 1892, these proposals were embodied in statute.[26]

The problem of registering building sites and traðir (other than the Tórshavn traðir, which had their own register) was only tackled well into the twentieth century, with the enclosure legislation of 1928 and later. Enclosed villages have today a register of real estate precisely locating all types of land. The remainder still suffer the disadvantages of land registration by the primitive method devised by Tillisch. This has limited the effectiveness of the 1857 legislation against fragmentation.

THE 1857 ANTI-FRAGMENTATION LAW

After the abandonment of the general enclosure project in 1852, Dahlerup, as mentioned in Chapter 7, drafted a bill encouraging partial enclosures, which became law on 4 March 1857. Simultaneously, he revived F.F. Tillisch's idea of voluntary hovedbölle as a means of combating fragmentation. This also came

before the 1855 Lagting, was passed with minor amendments, forwarded to Copenhagen, and on 4 March 1857, it became the Lov, hvorved Udstykning af det private Jordegods paa Færöerne söges indskrænket.[27] A translation is given as Appendix "G". Its scheme is as follows:

Table 16 ANTI-FRAGMENTATION LAW OF 4 MARCH 1857

Paragraphs	Subject
1-16	Rules for setting up a hovedbölle and testamentary conditions appertaining.
17	Prohibition against the division of land into smaller parcels than one gylden.
18	Prohibition against the alienation of lunnindir from land.
19	Regulations for documenting land transfer.
20	Abolition of allodial redemption right.

Paragraph 1 gives the owner of 1 to 6 marks of infield and outfield, held in a single village, not less than 4 gylden being in each hagapartur, the right to set up a united estate, and paragraph 2 lays down the procedure for doing so. Paragraphs 3-4 establish the procedure for dealing with possible mortgages. Paragraph 5 permits the addition of land to a united estate up to a maximum of 6 marks, and the division of such an estate, though not into portions smaller than 2 marks. Paragraphs 6-16 give testamentary regulations, and require a wife's consent to the establishment of a united estate when the owner is married.

Paragraph 17 prohibits the division of land into fragments smaller than one gylden, united in böur as well as in hagi. If heirs cannot agree on the disposition of land falling to them, it is to be auctioned and the proceeds divided. Paragraph 18 provides against the separation of such rights as sea-fowling or winter grazing from the land to which they pertain. Paragraph 19 requires that for legal validity all land transfers shall be by written, tinglæst document. Paragraph 20 extinguishes allodial redemption.

The effect of this law has been somewhat limited. Paragraphs

1-16 have never been used, as A.S. Örsted predicted, since such action is in conflict with what the Faroese commonly regard as just.[28] Paragraph 17 has resulted in a neater land register, since the minute fractions have largely gone. The alienation of building land and industrial sites from the gamal böur was, however, made uncertain, and the restriction itself has been evaded on a large scale by informal village arrangments. A group of heirs will, for instance, still make their private division and cultivate their own tiny infield patches, though their single gylden stands under one name in the register. When the precise location of the infield component is unrecorded, they cannot be challenged.[29] The paragraph has been widely interpreted as incorporating a prohibition against separation of böur and hagi, with the results mentioned in the previous chapter (pages 150-151).[30]

The most important of the lunnindir which by paragraph 18 became inseparable from the land was jordehval, the right to a quarter share of pilot-whales beached on the shore appertaining to the land holding. Of somewhat less importance was the right of sea-fowling. I am unaware of any attempts to evade the provision, which became of limited importance when jordehval was abolished in 1937.[31]

The allodial redemption right had been of limited importance, but its abolition led to greater certainty in land sales, and the removal of an opportunity for chicanery.

THE 1911 REPORT

The Land Commission of 1908 spent much time on the fragmentation problem, still largely unresolved at the end of the nineteenth century. They rightly saw that the radical answer to fragmentation was general enclosure, but saw also that in Faroese conditions this could not be easily undertaken, since the hagi, or most of it, would generally have to remain under communal tenure. The Commission recommended the Norwegian enclosure act of 13 March 1882 as a suitable model, and drafted a law accordingly. They recommended that böur should become separable from hagi, but opposed the separability of lunnindir from either. For this reason they defined which lunnindir, in default of contrary

evidence, were to follow infield and outfield respectively.[32] As will appear in Chapter 12, this was part of the Commission's endeavour to reduce the inevitable communal tenure of Faroese land to as limited a scale as possible, as far as possible operating only in the outfield, with the hagapartur as the unit.

The Commission's recommendations passed into law, to a greater or lesser degree, as the century advanced. The first enclosure law applying to infield was passed on 20 April 1926, and though much has been done since, very far from all Faroese villages have had an infield enclosure.

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23. Björk (1956-9) Vol. II gives an instance of this, but I have been unable to re-locate the precise reference.
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26. Björk (1956-9) Vol. II, p. 193; Bang & Bærentsen, op. cit., pp. 187-8; Lagtingstidende 1891, pp. 64-71.

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28. Björk (1956-9) Vol. II, p. 125; LBK Forslag, p. 149; LBK Tillæg, p. 317.

29. FL: Skjöde- og Pante-Register for Syd-Strömöe Syssel: Nolsöe; Björk (1956-9) Vol. II, pp. 135-43.

30. Pages 150-151.

31. See Chapter 10.

32. LBK Forslag, pp. 81-122, 147-53.

CHAPTER NINE REVENUE REFORM

While it is outside my scope to include an exhaustive investigation of the provincial revenue of the Faroe Islands, it is important to illustrate how the taxation system changed from a commodity to a cash base as other reforms were progressing.

At the beginning of the century, the revenue arose principally from (i) crown rents; (ii) land taxes; (iii) tithes; (iv) the Monopoly. In addition, certain official salaries were granted in whole or in part in the form of stipendiary farms, and some services, in particular transport, were provided by the public in kind.

CROWN RENTS

Since the crown owned half the land in Faroe, crown rents formed an important source of revenue, though the rent roll was a preposterous muddle of customary payments.[1]

Jordleje (land rent) was originally calculated from the extent and quality of the infield, but there were 27 different rates. The commonest were between half and one gylden[x] per mark.

Söjdeleje or Faareleje (sheep rent) was payable on the inventory flock which the crown leaseholder notionally took over with his farm, and had to pass to his successor. Originally the rate was one gylden per 20 sheep (24 sunnanfjörðs), i.e. the crown got the skin of each lamb slain, and the farmer got the meat and tallow, but by 1800 the customary payment was half a lambskin and 3/5 lb. of tallow per sheep, though after a murrain, payment was accepted in other goods.

Smörleje (butter rent) was payable at the rate of 1 vog (36 lbs.) of butter per inventory cow.

Inventariileje (inventory rent) was in a few farms payable on certain miscellaneous, often notional items, such as bulls, pigs, and even hand-querns.

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[x] The unit of account for transactions through the Monopoly was until 1790 the gylden = 20 skind. 1 gylden (monopoly account) was equivalent to 5/6 rigsdaler = 80 skilling. The use of these units was abolished by an Ordinance of 13 August 1790 which reformed the trade in various ways.

Aagave or Tredieaarstage (triennial rent) was paid every third year at the rate of half a gylden per mark of land. This was supposed originally to have been in commutation of the obligation on each tenant to entertain his landlord every third year, when the inventory was inspected at the renewal of his lease. It was not payable on kojord (land notionally supporting inventory cows - though when a farm had inventory cows it did not necessarily also have kojord), or pantejord (mortgage-land, originally forfeit to the crown for an unpaid debt and leased to its original owner).

Indfæstningsafgift (entry fine) was payable at the rate of 3 gylden per mark, plus a fee of one silver dollar for the landfoged when a new lease was taken out.

Jordleje, inventariileje, aagave and indfæstningsafgift might be paid in any trade commodity.

Certain farms in north Streymoy, instead of the usual söjdeleje, paid a total of 60 live lambs for the support of the inmates of the Argir hospital.

Tradition has it that in the distant past an official travelled round Faroe fixing rents, and that some tenants managed to hide part of their inventory, thus coming to be assessed more lightly than the others.[2] Something of the chaotic disorder of the crown rents may be seen from the subjoined table, in which the payments in kind are translated into their cash equivalents.

Table 17

SAMPLE RENTS OF CROWN FARMS, 1800

Farm	1873 Assessment, skattmarks		Lejejord			Kojord, cows & other inventory details	Kojord rent, cow rent, inventory rent	Inventory shee			
	Total	Outfield	Mks.	Rent Gl. Skd.	Skd. per mark			No.	per mk.	per skt-mk. hagi	Re Gl.
Giljar, Hvalböur	7.620	5.130	6	3 12	12	-	-	48	8	9.36	2
Dalsgarður, Skálavík	16.510	9.410	-	-	-	10 mks. kojord 1 bull 2 heifers 2 calves 7 cows	1 tönde butter + 1 gl. 15 skd.	135	13½	14.34	5
Á Ryggi, Miðvágur	12.050	7.690	-	-	-	4 mks. kojord 5 cows	1 vog butter + 4 gl. 0 skd.	40	10	5.20	2
Kongsstova, Nólsoy	4.650	2.820	3	2 -	16⅔	-	-	60	20	21.99	3
Stóra Dímun	30.720	14.450	13	13 -	20	25 cows 2 heifers 2 bulls 5 calves 2 pigs 1 horse 1 hand-quern	2 tönder & 10 lbs butter	648	49 11/13	44.24	27

Sourc

From 1800 onwards, crow
complaints of rent inequity,
portion of the Faroese rever
Löbner reported on its inequ
farms had no inventory sheep
had a larger inventory than
years. To ease reform, Löb
inserted into every new lea
such reasonable increase in
of a new assessment. The
Löbner's proposal for a rent

islands, on grounds of expense - for despite the inequity very few leaseholders were in arrears with their payments. They merely authorised a reduction in the smörleje of the Koltur farms, which were assessed at a ridiculous level.[3]

In 1826, amtmand C.L. Tillisch and landfoged Hans Wilhelm Meyer repeated the proposal, offering their own services gratis, asking only for something for the sysselmænd, and this was approved. Their plan for revision of the söjdeleje and smörleje, drawn up from a survey in the summer of 1829, received royal assent on 30 March 1831.[4]

LAND TAXES

The two land taxes in Faroe in 1800 were kongsskat and matrikulskat. Kongsskat (king's tax) was the earliest Faroese tax, first imposed, if we may believe the saga, by St. Olaf himself.[5] It seems originally to have been a graduated hearth tax for the support of the king's household. The tendency developed for the tax to be paid by the wealthiest men in each village, usually the crown tenants, and by 1800, it had become simply a customary tax on certain properties.[6]

There are no records of the beginning of matrikulskat (defence rate), though it is certainly younger than kongsskat, and may date from the earliest fortification of Tórshavn in the late sixteenth century. It was originally levied at the rate of 2 skind per mark for crown land and 4 skind for allodial land. These rates were doubled in 1666, when Denmark was engaged in one of her difficult seventeenth-century wars, but were reduced to 3 and 5 skind respectively in 1691.[7]

During the first half of the century, these two taxes yielded what they had done for the previous two hundred years, kongsskat less than 350 Rdlr. and matrikulskat less than 400 Rdlr. per year. Matrikulskat was employed almost entirely in maintaining the tiny militia garrison in Tórshavn.[8]

The functions of government were however increasing, and from 1819 the Amt was authorised to raise a further land tax for provincial expenditure, and amtsrepartitionsskat came into being, at least by 1829. The funds of the new tax were from 1852

administered by the Lagting.[9] The land taxation paid by the five previously-mentioned crown farms, in 1842, was as follows:

Table 18 LAND TAXATION OF SAMPLE CROWN FARMS, 1842

Farm	Mks.	1873 assessment skattemarks	Kongsskat Rd.	sk.	Matrikulskat Rd.	sk.	Amtsreparitionsskat Rd.	sk.	Total Rd.	sk.	Total per mark Rd.	sk.	Total per skt-mk. Rd.	sk.
Giljar, Hvalbøur	6	7.620	0	80	0	72	0	48	2	08	0	33⅓	0	25.3
Dalsgarður, Skálavík	10	16.510	0	80	1	24	0	80	2	88	0	28	0	16.9
Á Ryggi, Miðvágur	4	12.050	0	80	0	48	0	32	1	64	0	40	0	13.3
Kongsstova, Nólsoy	3	4.650	1	24	0	36	0	24	1	84	0	60	0	38.8
Stóra Dímun	13	30.720	0	80	1	60	1	08	3	52	0	26 2/13	0	11.0

Sources: Degn, Færöske Kongsbönder 1584-1884 & FL: Amtsreparitionsfond Regnskabsbog.

The incidence of this taxation was thus very unequal, but its burden was modest. With the need, later in the century, to raise additional revenue through land taxation, there arose the necessity for a new land assessment, as mentioned in Chapter 10.

POLL-TAXES

There were three poll-taxes of small importance. Næbbetold (beak duty) was a requirement on every man between 15 and 50 to deliver annually either one raven's or two crows' beaks, to be burnt at the annual Lagting sessions in Tórshavn. Anyone failing to deliver a beak paid a mulct of one skind (= 4 skilling). Every man between 15 and 50 was also supposed to pay one skind in lagmandstold annually, originally for the benefit of the lawman, but after the abolition of that office in 1816, to the exchequer. A third poll-tax of 4 skilling annually was imposed in 1832 for the benefit of a widows' and orphans' fund.[10]

TITHES

Tithe had in pre-Reformation times been divided between bishop, church, priest and poor. At the Reformation, the bishop's

tithe became a crown perquisite, and with the introduction of the Norwegian Law of Christian V in 1688, came a change to the Danish rule of a threefold division of the tithe between crown, priest and church.[11] The crown share of the tithe was collected through the sysselmand, some being used for his emolument, some being remitted to the Landskyldbod (the landfoged's tax-warehouse) in Tórshavn.

Table 19 COMMODITIES TITHED IN THE FAROE ISLANDS, 1800[12]

Commodity	Regulations	Disposition of crown share
Arable crops	Barley tithed, but not potatoes or root crops. In some places seed-corn withdrawn before barley tithed.	Retained by sysselmand.
Wool	Tithes paid on sheep and lambs slaughtered. Some variations in the rate, but usually 1 vog for 80 lambs. Sandoy and Suðuroy paid in hose instead of in raw wool.	Sent to Tórshavn and sold to the poor at the rate of 2 Rd per vog.
Butter	2 1/4 lbs of butter, cleaned and refined, from each cow, plus one tithe-cheese per cow for the sysselmand. By recent custom, sysselmand provides salt and casks, and has 3 lbs. of butter and no cheese.	Sent to Tórshavn for export.
Fish	Freshwater fish, ramer sea-fish and saithe not tithed. Commoner sea-fish tithed. Cod and ling to be paid in the form of stockfish.	Dried cod and ling sent to Tórshavn for export. Other fish retained by sysselmand.
Sea-fowl	Birds caught on cliffs tithed, but not those shot at sea.	Retained by sysselmand.
Seals	Seals killed in breeding-caverns tithed, but not those shot at sea.	Retained by sysselmand.
Pilot-whales	Pilot-whale killings tithed, after the removal of the "finding-whale". (For details of the division from 1832 see Table 21.)	Auctioned on the spot.

To collect crown tithes, the sysselmand appointed two opsynsmænd in each village, who took responsibility if there was any proven cheating. By law, their duties lasted three years,

and were taken in rotation by the more substantial farmers. The church's tithe was taken up by the churchwardens, who had also to render account to the sysselmand, and thus acted as a rough audit, since the same men could not hold both offices.[13]

The sysselmand could take up wool and butter tithes personally during his summer rounds, but obviously had to come to some arrangement with the opsynsmænd over the perishable tithes, the minister likewise having to negotiate with the churchwardens. On Hestur, late in the century, the farmer of Ólastova received cod and ling tithes and converted them into klipfish, providing the salt and retaining one-third of the product. The Nýlendi farmer bought the other fish at an agreed price, either in cash, or by spinning the sysselmand's wool. Receiving fish tithes was a troublesome task, since the opsynsmænd had to stay up until the last boat had returned, and the crews would fling the tithe down on the rocks where they had been gutting. Until the abolition of the monopoly, the church tithes were sent to Tórshavn if they were trade goods, and retained by the churchwardens on terms if they were not. After the abolition of the monopoly, the Sandavágur churchwardens used to sell the wool tithe by auction.[14]

In 1833 the tithe laws were tightened somewhat. An old Mykines privilege of paying lamb tithes in feathers was terminated, the withdrawal of seed-corn before barley tithing was declared illegal, and shot as well as clubbed seals were declared liable to tithe. On the other hand, newly-enclosed traðir were exempted from barley tithe for the first six years.[15]

After the abolition of the monopoly in 1856, tithing changed in character. At first, tithes were simply accounted for in cash terms but payable in kind. A Law of 1 May 1868 required payments in cash. By the end of the century, the entire tithe system was being replaced.

SKYDS

A labour payment bearing very unequally on the Faroese population was skyds, the forwarding of travellers or letters. By Christian V's Norwegian Law, the authorities had the duty of ensuring that the means of travel were provided at a fixed charge.[17] In the Faroe Islands, however, the system was well into the

nineteenth century both burdensome and badly organised.

A journey by sea employed a boat with six or eight oarsmen; an overland journey usually needed porter and guide, sometimes also a horse. In the early eighteenth century even private travellers were usually conveyed free. Svabo mentioned how in his time the cost of travel had considerably increased, and Landt speaks of the disorganisation of the service. At the end of the eighteenth century, the prices current were 16 skilling per man overland per Danish mile, and 16 more for a horse. A boat cost 80 skilling per Danish mile.[18]

As until 1816 in mainland Norway, officials and priests enjoyed the right of free skyds for duty journeys. On overland journeys they could require a man to carry a burden of up to 54 lbs., and continue the journey to their home regardless of the fact that the skydsmand himself would be unable to return by daylight.[19]

With the population increase, the frequency of journeys became greater, and happy informality began to show its deficiencies. As early as 1782, Svabo pointed out the heavy burden that free skyds placed on those living near Tórshavn or those strategically placed, and suggested paid staging from a special fund. Landt pointed out the drawbacks of skyds by boat-crew - an overland skyds by two men released the rest of the crew from their turn, and there was no way of requisitioning a substitute for a man with lawful excuse.[20] A Chancellory ruling of 17 February 1798 laid down that in each of the larger villages there should be appointed a skydsskaffer (posting agent), who was to call out skydsmænd in personal rotation, not according to boat's crew. Refusal or neglect to perform a skyds could result in a fine on summary conviction. The skydsskaffer was appointed by the sysselmand, but the wishes of the villagers were usually consulted. In 1815, a regular tariff for private travellers was introduced.[21]

After protests to the Lagting, the system was reformed in 1865.[22] A Law of 17 March 1865 laid down that the amtmand, on the sysselmand's recommendation, should appoint a skydsskaffer for each village, with a deputy where necessary. The skydsskaffer had the right to call out any male person between 15 and 50 whose

daily life accustomed him to the kind of work involved in skyds, on pain of a fine of up to 20 Rd. on summary conviction. The private traveller, as before, paid the skydsskaffer in advance according to a tariff worked out every five years on the basis of day-labourers' wage rates. Duty journeys of officials were paid for from a fund administered by the Lagting, supplied from each village in proportion to population. The journeys of lagtingsmænd and doctors on official business were paid for from the Amtsrepartitionsfond. Priests on official journeys within their pastorates continued to have free skyds. The payment was not princely, but the burden henceforth fell more equitably on all. Further regulations followed in 1879 and 1881.[23]

In 1865 also was abolished the obligation on certain farmers to keep fishing-boats, and for their poorer neighbours to serve in them as crew. This obligation was grounded only on custom, except that an order of 1813 gave the sysselmand power to adjudicate in disputes over boat ownership or crewing, which could be very complicated. The 1865 Skyds Law merely laid down that all private boats were to be made available at need in rotation.[24]

By the end of the century the system was again getting out of step with the times. Complaints reached the Lagting from Suðuroy that craftsmen in the growing trading villages evaded overland skyds merely because they were not liable for boat skyds. Sloop fishermen away for the summer ought in fairness to do their share during the winter. Those liable to skyds ought to be allowed to hire a substitute. The Lagting drafted a new skyds law in its 1900 session, but the 1901 Rigsdag dissolution prevented it from becoming law.[25]

But regular inter-island communication was now putting an end to the need for skyds. The first steamship began work at the end of 1895. General skyds was abolished in 1922, and the priests' skyds in 1936.[26]

THE MONOPOLY

Although the Faroese trade monopply was not, during the period under review, envisaged as a source of revenue, during its final decades it operated at a handsome profit, partly through the increasing productivity of the islands, partly through efficient

management in Tórshavn. But the monopoly surpluses certainly made fresh forms of taxation unnecessary until abolition in 1856.

The Royal Faroese Trading Company came into being in 1709, to replace the private monopolies which had farmed the Faroese trade since 1535. For 65 years, proposals were being advanced for its abolition. While these do not concern the present thesis, it is important that during its final decades, preparation for free trade was much in the minds of both the Copenhagen and the Tórshavn authorities.

A series of bad trading years from 1780 onwards caused the king to summon a commission which first met in the autumn of 1789, and in June 1790 recommended an immediate revision of the century-old and now outdated tariff, and the freeing of the trade within a few years. A 1790 Ordinance proposed the freeing of the trade in 1796, but 1796 proved to be an unfavourable time for a radical change, and the monopoly continued for another sixty years under temporary provisions.[27]

Broad control of the Monopoly came under the Rentekammer, as did other financial and economic matters concerning Faroe; but day-to-day affairs were managed by a directorate of three, also responsible for the Greenland Monopoly. Their Copenhagen staff disposed of the Faroese goods arriving in the Monopoly's vessels, and kept the main accounts. In Faroe, there was a permanent staff of eleven: a manager, book-keeper, assistant book-keeper, hose assessor, shopkeeper and assistant, one warehouseman, two coopers and two portens. There were in addition two sworn assessors, who with the sorenskriver, inspected all goods arriving in the country, to see that they were fit for sale at the tariff prices. Unsatisfactory goods were either sent back to Denmark or sold at auction.

The amtmand, a highest civil servant in the islands, had a certain jurisdiction over the Tórshavn establishment. He could suspend or limit sales of any commodity in short supply, to prevent speculation. A copy of the manager's annual requisition had to go to him, and he had the power of increasing the order for necessities or limiting the order for luxuries. A copy of each bill of lading had to be sent to him so that he could keep track of the actual

supply position. He dealt with complaints by Faroemen, e.g. of overcharging.[28] The sysselmænd kept him informed about population numbers and the likely corn consumption, so that he could exercise effective supervision.[29]

From 1801, the import and export tariffs were annual revised on the basis of the purchase price of goods sent to Faroe, and the auction prices of Faroese goods in Copenhagen over the previous five years.[30] Subsequently, the Monopoly made an average profit during 1801-7 of approximately 5,750 Rd. The war with Britain (1807-14) now occasioned certain direct losses, and the wild inflation of 1812-13 threw the whole trading position into confusion.[31] A severe slump followed, and it was 1828 before regular peacetime conditions were restored. Taking the discount rates for Danish paper money into consideration, the Monopoly subsequently made regular trading profits as follows:

Table 20 MONOPOLY TRADING PROFITS, 1828-55[32]

Year	Trading profit Rigsbankdalers Silver	Paid to State Treasury Rigsbankdalers Silver
1828	2,468	-
1829	28,742	20,184
1830	34,954	21,600
1831	23,863	18,700
1832	16,549	13,800
1833	20,003	15,000
1834	45,260	35,500
1835	40,476	30,698
1836	31,000	11,402
1837	12,307	
1838	9,478	20,470
1839	9,871	
1840	37,574	
1841	28,589	21,785
1842	2,550	1,400
1843	5,023	3,412
1844	13,103	10,220
1845	15,526	7,352
1846	5,300	345
1847	21,887	7,885
1848	6,219	864
1849	9,119	2,639
1850	19,189	18,736
1851	15,295	15,295
1852	33,085	33,085
1853	38,245	38,245
1854	48,578	48,578
1855	40,949	40,949

During the last sixty years of the monopoly, successive governments pursued fluctuating and inconsistent policies, generally, however, aimed at promoting the ultimate freeing of the trade. The principal developments were as follows: (i) From 1801 the tariff was annually revised, to accustom the Faroese to world price fluctuations, from which they had hitherto been protected. (ii) From 1805, woollen jackets, train-oil and salt cod could be exported in the Monopoly's ships at a low freight on private account, to accustom the Faroese to speculative export. (iii) During the war of 1807-14, the stringency of the laws against trade with foreigners was relaxed, and in particular the Suðuroyings traded considerably with a Liverpool firm. (iv) A royal commission of 1817, itself favourable towards emancipation, found Faroese opinion strongly favouring continuance of monopoly. The private export privileges were curtailed, in order to render the company more profitable. (v) A royal commission of 1835-6 led to the establishment of three outstations of the Monopoly. (vi) A royal commission of 1841-2 recommended the freeing of the trade to foreigners as well as Danish subjects, lest private monopoly should succeed public monopoly. (vii) The Law of 21 March 1855 freed trade as from 1 January 1856.[33]

REFORMS CONSEQUENT UPON FREE TRADE

Over the centuries, multifarious aspects of Faroese life had become intertwined with the workings of the Monopoly. Every citizen and organisation had been in account with the Company, and the fixed tariff enabled all sorts of payments to be easily made in kind. Disentanglement was a considerable undertaking. The principal revenue consequences were as follows:

The income the Danish state had formerly derived from the Monopoly was replaced by a duty on every ship loading or unloading in Faroe, of 1 Rd. per ton of its displacement.[34]

Payments in kind were adjusted to cash terms. The question arose whether to commute to cash payments on the basis of recent Monopoly tariffs or according to current prices. It was anticipated that the general level of prices of Faroese products would rise under free trade, so to avoid revenue loss, the latter

alternative was preferred. The amtmand was required to conduct a price inquisition each June on the average prices for the 12 months up to 1 May for unwashed wool, tallow, butter, wet fish, stockfish and train-oil. From these figures he drew up a schedule of cash equivalents. Lambskins and knitted goods were always rated in terms of unwashed-wool equivalent.[35] Church tithes and sysselmand's tithes continued, however, to be generally rendered in kind.

Poor Fund. The provincial poor fund was founded in 1767, its earliest income being from legacies, donations and harbour dues. In 1798, it acquired its most significant source of income, a 1% levy on the purchase price of all imports passing through the Monopoly. After free trade, poor relief was decentralised to local poor boards, later merged with the kommuner, with an income derived principally from a rate on the markatal.[36]

REFORMS ARISING FROM ECONOMIC DEVELOPMENT

The rise of the distant-water fishery from 1872 onwards changed the pattern of Faroese economic life, and the consequent revenue reforms were even more far-reaching than those arising from the abolition of the monopoly. By the first decade of the twentieth century, tithe had gone, and while the old crown rents and land taxes remained, a large portion of the revenue now came from commodity duties. The stages were briefly as follows:

The sale of spirits came under licence with a law of 3 March 1860.[37] Licences were not cheap. For off-sales there was an initial fee of 20 Rd. and a yearly payment of 100 Rd. For on-sales, half these sums were charged. Half the payments went to the exchequer, half to the provincial poor fund. By the end of the decade, over 2,500 Rd. were being annually paid for licences.[38] By a law of 22 December 1876, the division was varied, so that the annual payments went to the poor fund, and only the initial fee to the exchequer.[39] As mentioned below, an import duty on intoxicants was introduced in 1892.

Beak duty was abolished by a law of 18 March 1881.

Fish tithes were abolished by a law of 30 March 1892.[41] Abolition had been discussed by the Lagtings of 1875, 1876 and

1880, and the proposal advanced that a proportion of the fish passing through the hands of merchants in the islands should be set aside as a capital fund for buying out the tithe; but the Lagting could not agree on a draft law. The issue came up again in the 1885-7 sessions. It was agreed that the manner of rendering the tithe was inconvenient, and the tax itself not in the spirit of the age. An impost of 10% of the gross product was inequitable when fishing was undertaken with various kinds of bait and equipment. Evasion of tithe was endemic, and easy when fish need no longer be landed in the home village. The greatest inequity was that since by an old enactment decked vessels were not subject to tithe, the youngest and most active fishermen were tithe-free, and the entire burden fell on the boat-fishermen. The yield was a mere 8,000 kroner per year. The Lagting requested the Ministry to abolish the tithe and compensate the beneficiaries from the general revenue.[42]

The outcome was a law imposing a range of duties on intoxicants, and an abolition of both fish tithe and the loading and unloading duty imposed by the law abolishing the monopoly. The latter was replaced by a fee of 5 öre per ton displacement for the inspection of ship's papers by the landfoged or sysselmand, and a payment to the poor fund of 25 kroner for clearing every vessel trading directly with the inhabitants. Compensation of 2,900 kroner annually was paid to the ministers, a similar sum to the churches, and 1,588 kroner to the sysselmænd, whose loss was smaller.

Corn, wool, butter, sea-fowl and seal tithes were likewise abolished by a law of 1 April 1908.[43] The rate of duty on intoxicants was increased, as were the rates for kongsskat and matrikulskat. As compensation, the ministers and churches each received a further annual sum of 7,800 kroner. (The sysselmænd were by this time regularly salaried.)

The same law abolished presttal, a customary payment by communicants to the minister, against a compensation of 3,000 kroner annually. Lagmandstold was abolished, and the levy for the widows' and orphans' fund was terminated, the exchequer making an annual payment in compensation for the latter of 216 kroner.

Pilot-whale tithes, as will be described in Chapter 11, were appropriated to form a fund for the extinction of the land's rights in killings. This last tithe ceased in 1937.

LOCAL GOVERNMENT TAXATION

Tórshavn's first rate was levied in 1784, in the interests of fire prevention. From 1829 there followed a rate for maintenance of roads and bridges. Tórshavn was first constituted a kommune in 1866, with powers to regulate poor relief, roads, schools, fire prevention, harbour works and so on. Part of its income was derived from a rate on buildings, part from an assessment on the wealth of the inhabitants.[44] In 1872, kommuner were set up in the country districts, with similar duties, and with the power to levy an income by assessments on personal wealth and on the markatal.[45]

In 1800, the revenue system was adapted to the traditional barter economy, and designed to yield merely the necessary expenses of administration and some official salaries. By 1900, the revenue was on a cash basis, and was more or less equitably financing a considerable range of services. This chapter has endeavoured to illustrate the changing impact of taxation on the ordinary Faroese villager as the one system gave way to the other. The final stage in revenue modernisation was the introduction of a new assessment as a basis for land taxation, which will be the subject of the next chapter.

REFERENCES

1. Landt, op. cit., pp. 265-6; Degn (1945), Introduction.

2. LBK Tillæg, p. 146, referring to Færö Amts Skrivelse of 14 June 1820. The tradition seems to refer to the assumption of the church lands by the crown in the sixteenth century. See also Andersen, op. cit., pp. 329-30.

3. LBK Tillæg, pp. 146-7. The Koltur rents had several times before been the subject of complaints by the inhabitants. In the seventeenth century the mørkatal was accidentally raised from 16 to 17 marks, which the lawman, who was responsible, refused to rectify. The total smörleje of the island had originally been 2 tönder, but by reductions in 1635 and 1652 it was reduced to 7 vog. See Degn (1945), Introduction and p. 100.

4. LBK Tillæg, pp. 145-51. The new rent book was proposed on 20 March 1829, and approved 30 March 1831. The actual manuscript, in Föroya Landsskjalasavn, is a most beautiful specimen of calligraphy, and bears the title: Plan om en ny Regulering af de Jordebogs-Afgivte som paahvile Hans Majestæts Leilændinger paa Færöerne.

5. Rafn, op. cit., Chapter 42.

6. Anton Degn (ed.), Kommissionsbetænkning 1709-10 (Tórshavn, 1934), pp. 64-5; E.A. Björk, "Heimrustir", Fróðskaparrit Vol. 9 (Tórshavn, 1960), pp. 47-77.

7. Einar Joensen (ed.), Lögtingsbókin 1666-77 (Tórshavn, 1961), p. 6; Poul Petersen, op. cit., p. 230; Andersen, op. cit., p. 278; LBK Tillæg, p. 55.

8. Degn (1934), p. 65; Landt, op. cit., p. 270; Svabo (1959), pp. 274-6.

9. Plakat af 31. December 1819, paragraph 4; Lunddahl in LBK Tillæg, p. 433; Bang & Bærentsen, op. cit., p. 98. The earliest account book for the Faroe amtsrepartitionsskat details income and expenditure from 1829, though it was authorised on 23 November 1832. It is FL: Regnskabsbog for de Summer, som ifölge Amtets Ordre dels paaligne Byen Thorshavn, dels Færö Lands samtlige Matrikulerede Jordegods.

10. Debes, op. cit., p. 59; Svabo (1959), pp. 27-8; Poul Petersen, op. cit., pp. 230-32; Andersen, op. cit., pp. 181-2. The regulation for næbbetold was precisely defined by an Order in Council dated 21 November 1741, by which the Tórshavn men, who owned no land, were exempt, but the others had to give the sysselmand two crows' beaks, or one beak of a raven, an eagle, or a greater black-backed gull. The Tórshavn men, and also those occupying stipendiary farms, were exempt from paying lagmandstold. For the widows' and orphans' fund, see Bang & Bærentsen, op. cit., p. 36.

11. Andersen, op. cit., pp. 321-3; Degn (1934), p. 151.

12. Svabo (1959), pp. 300-303.

13. Reskript of 6 November 1776, Bang & Bærentsen, op. cit., pp. 3-5.

14. Jóan C. Poulsen, Hestsöga (Tórshavn, 1947), pp. 65-6; Ludvig Petersen, op. cit., pp. 81-2.

15. Bang & Bærentsen, op. cit., pp. 38, 40.

16. Johan K. Joensen & others, Föroyar undir frſum handli f 100 ár (Tórshavn, 1955), pp. 105-6; Bang & Bærentsen, op. cit., pp. 186-7; Poul Petersen, op. cit., pp. 227-9.

17. Poul Petersen, op. cit., pp. 233-4; N.L. 3-11-1.

18. Landt, op. cit., pp. 271-3; Degn (1934), p. 178; Svabo (1959), pp. 277-8. Very little is in print on the skyds system, particularly before the reform of 1865, and I have not from archival material been able to trace orders authorising these charges.

19. Magnus Jensen, Norges Historie: Unionstiden 1814-1905 (Oslo, 1963), p. 57; K.U.M. Skr. of 26 May 1848 in Bang & Bærentsen, op. cit., p. 76.

20. Svabo, op. cit., pp. 277-8; Landt, op. cit., pp. 271-3.

21. I am unaware of any legislation concerning the appointment and powers of the skydsskaffer in the Faroe Islands before Cancellie-Skrivelse of 17 February 1798, though N.L. 3-11-2 required the appointment of posting agents. The earliest skyds tariffs of which I am aware are in Færö Amts Skrivelser 1 June 1815 and 29 August 1817. In FA Skr. 9 March 1829, it is laid down that the skydsskaffer is not himself liable for duty. By FA Skr. 16 January 1829, the rule is given that the skydsskaffer is appointed by the sysselmand. In practice, however, the sysselmand consulted the villagers. Thus on 3 April 1849, the Skálavík grannastevna approved a revised list of persons liable for skyds duty, and the sysselmand handed it over to the skydsskaffer. In the same village, at the grannastevna of 11 April 1855, a skydsskaffer retired and a new one was appointed, with the approval of the villagers. See FL: Sandoy Politiprotokol 1838-55, pp. 78, 185.

22. Law of 17 March 1865, Bang & Bærentsen, op. cit., pp. 154-6; Johan K. Joensen, op. cit., pp. 118-19.

23. Bang & Bærentsen, op. cit., pp. 241-4, 247-8. About 1880 an oarsman got 33 öre for the Kirkjuböur-Skopun crossing, and a porter 40 öre for carrying a load over the mountain to Tórshavn. See Jóannes Patursson, Kirkjuböar söga (Tórshavn, 1966), pp. 99-100.

24. Plakat of 23 March 1813, and Law of 17 March 1865, Bang & Bærentsen, op. cit., pp. 23, 156; Degn (1929), pp. 6-8.

The sysselmænd of Sandoy dealt with the following cases between 1838 and 1865:

7 January 1839: Two part-owners in one Sandur boat complain that two other part-owners are sending their most able servants to another boat in which they have shares. The case was reconciled by a crew reshuffle.

27 May 1839: The Dalsgarður farmer asserts his ancient right to keep one áttamannafar and two fýramannaför, and complains of crew being poached by the owners of a new Skálavík fýramannafar. The case was reconciled by the new boat's owners undertaking not to recruit before the older boats were fully manned, but the Dalsgarður farmer undertakes not to call out the owners of the new boat or their house-servants.

18 February 1842: The owner of a boat with a very ancient right in Sandur complains of undermanning, and requests the sysselmand to recruit a capable crew. The crew blame the aged formand. No new formand is available, but the old one promises to do better.

14 May 1842: Joen Joensen of Skúvoy complains that he has no regular place in either an áttamannafar or a fýramannafar. Evidence shows that he has in the past shirked duty. The case was reconciled by suitable offers, on condition he did not fail to turn out when called upon.

1 June 1842: The attempt to dissolve a partnership in one boat in Dalur necessitates a reshuffle in the ownership of all the other boats before the case is reconciled.

6 October 1851: A partnership encounters difficulty over the utilisation of a boathouse site.

25. Lagtingstidende 1889, pp. 37-8; 1900, pp. 16-25.

26. Johan K. Joensen, op. cit., pp. 124-8; Páll J. Nolsöe (1962-70), Vol. I, pp. 200-206; Mitens, op. cit., pp. 285, 571.

27. Degn (1929), pp. 98-102.

28. Jacob Nolsöe, Beretning om den Kongelige færöiske Handels Organisation (Copenhagen, 1841), pp. 12-14; C.A. Muhle, Carl Mogensens Færöeske Krönike (Tórshavn, 1970), p. 25.

29. FL: Færö Amt Journal over indkomne Sager Litr. H, 1836, passim.

30. Order of 15 May 1801, see Degn (1929), p. 117.

31. Described in detail in Degn (1929), pp. 122-4.

32. The statistics are from Degn (1929), tabel 7, the discount rates for paper money from Marcus Rubin, Frederik den Sjettes Tid (Copenhagen, 1895), p. 35.

33. Plöyem, op. cit., pp. 159-61; C.A. Muhle, Om Emancipation (Tórshavn, 1970), pp. 16-40, 44-5; Degn (1929), pp. 83-7.

34. Law of 21 March 1855, paragraph 5, in Bang & Bærentsen, op. cit., p. 101.

35. Johan K. Joensen, op. cit., pp. 89-90. The rules were slightly revised in 1868, see Bang & Bærentsen, op. cit., pp. 186-7.

36. Degn (1929), pp. 114-15; Johan K. Joensen, op. cit., pp. 87-8.

37. Bang & Bærentsen, op. cit, pp. 145-7.

38. J.A. Lunddahl, Bidrag til Belysning af Færöernes finantsielle Stilling (Copenhagen, 1869), p. 33.

39. Bang & Bærentsen, op. cit., p. 231. The motive for this redistribution was probably the surplus of income over expenditure that had characterised the Faroese contribution to the national revenue since the abolition of the monopoly. See Lunddahl (1869), pp. 29-33.

40. Bang & Bærentsen, op. cit., p. 248.

41. Bang & Bærentsen, op. cit., pp. 290-93.

42. Lagtingstidende 1885, pp. 84-5; 1886, pp. 59-61; 1887, pp. 28-37.

43. Mitens, op. cit., pp. 144-5.

44. G.F. Tillisch, Fortegnelse over de paa Færöerne til 31te Mai 1850 thinglæste Anordninger (Copenhagen, 1851), No. 70; FL: Taxation af 27de September 1784 af Bygningerne i Thorshavn og Frederiksvaag; FL: Regnskabsbog for de Summer, som ifölge Amtets Ordre dels paaligne Byen Thorshavn, dels Færö Lands samtlige Matrikulerede Jordegods. A law of 28 January 1856 led to another assessment, and annual revaluations from 1862 to 1869. For Tórshavn's establishment as a kommune see the Law of 16 February 1866 in Bang & Bærentsen, op. cit., pp. 160-69.

45. Law of 28 February 1872, Bang & Bærentsen, op. cit., pp. 203-16.

CHAPTER TEN THE LAND ASSESSMENT COMMISSION

THE NEED FOR REFORM

In 1860, amtmand Dahlerup proposed to the Ministry of Justice that a new valuation should be made of all real estate in the Faroe Islands, as a basis for an equitable system of land taxation.[1]

The existing assessment into marks, gylden and skind was a very ancient one, made certainly before the Reformation. Some attributed it to king Håkon Håkonsson (1217-63), others, including Dahlerup, to king Erik of Pomerania (1412-39), though in neither case on any firm historical evidence.[2] There was disagreement on the origin of the mark as a unit, and even whether it was originally a unit of infield or outfield.[3] But all agreed there was great variability in the value of marks in different villages, and not infrequently within the same village.

The variability of the infield mark may be illustrated from measurements made by Svabo in 1781-2. The six marks he measured in Miðvágur, Sandur and Porkeri had an average area of 14,043 square alen[x] per mark; but they varied from a half-mark in Sandur (admittedly somewhat eroded by the lake) which measured a mere 726 square alen, to a mark in Porkeri, agreed to be an average mark for the village and consisting exclusively of ancient böur, which measured 23,108 square alen. The latter was, indeed, greater than the largest Miðvágur mark, which measured 22,219 square alen, and was known to have been augmented by intakes from the adjacent outfield. The hay production of these areas, measured by the kofoder (in this instance defined as a sufficiency for one cow's winter feed) was as variable. The three Miðvágur marks were 3, 2 1/2 and 1 kofoder respectively. The average Sandur mark produced 1 1/2 kofoder and the tiny half-mark 1/9 kofoder. The average Porkeri mark produced 3 1/2 kofoder, and Svabo heard of a large mark in the same village that yielded over 5 kofoder.[4]

Outfield values were also highly variable. Lunddahl, writing in 1843, mentioned that an outfield mark might carry a stock of

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[x] The alen was 0.627 of a metre. The hectare was thus about 25,400 square alen.

under 20 sheep or over 50.[5] Still more remarkable extremes ultimately came to light. The 6 marks of Leitið in Miðvágur carried a stock of 430 sheep; the 4 marks of Norðskáli in Eysturoy carried 280; and the 7 1/2 marks of one of the hagapartar in Funningur carried 440 sheep of the best and fattest in Faroe. At the other end of the scale, Koltur's 17 marks carried only 160 sheep, 9 marks on Mykines carried 100, and 25 marks on Skúvoy carried 325 of the small southern breed. Variability within a single village may be instances by Junkarahagi and Ognarhagi in Kvívík, both rated at 12 marks, but the former carrying 240 sheep, the latter 480. Larger variations still might be found between the winter stocks of the different hagapartar in Kollafjörður and Miðvágur.[6] Dahlerup claimed that the annual slaughter from an outfield mark might range from 6-8 lambs up to 40 or 50.[7] It was not surprising that in these circumstances a gylden of land (infield and outfield) might, when Lunddahl was writing, sell for as little as 30 Rbdr. or as much as 120 Rbdr. or more.[8]

Yet this variation in price could not be used as a basis for valuation, said Dahlerup, neither could it in any measure be considered as counteracting the effects of inequitable taxation. Half the land was crown estate, never sold at all. Of the remainder, it was most exceptional for any considerable parcel to be offered for sale. The prices of the small pieces that were sold often depended less on their real value than on the numbers bidding. Bidders would, moreover, often be influenced by such considerations as the desire to round off an existing holding or to settle in a good fishing village more than by the mere productive capacity of the land.

If discontent with the existing assessment had not been greater already, it was because the imposts based on it had hitherto been small. Between 1829 and 1843, just over 2,400 marks were paying a total of about 1,000 Rbdr. in land taxation - about 40 skilling per mark.[9] But the activity of the Lagting, revived in 1852, inevitably tended to increase public expenditure in the islands. The abolition of the monopoly in 1856 cut off one source of income that would have required something like 5 Rbdr. per mark if it had

been replaced by a land tax.[10] In addition, there was the problem of how to pay for universal elementary education in the Faroe Islands.

Compulsory elementary education had been introduced into metropolitan Denmark in 1814, but was not immediately extended to the dependencies. But Danish example naturally stirred emulation in Faroe as Danish priests and officials with enthusiasm for the new system arrived. The first village schools were established in Miðvágur (1829), Nólsoy (1837) and Saltnes on Skálafjörður (1844), while peripatetic teachers were at work in Suðuroy and elsewhere. Some small funds existed to foster such projects, but the villagers had to find the bulk of the money themselves.

A compulsory school law of 28 May 1845 financed education by a school rate of 24 skilling per mark, which the teacher himself had the odium of collecting. The system raised such a storm of protest that it was revoked in 1854 by a law which merely proclaimed the general duty of ensuring that every child over 7 should be sufficiently instructed in reading and religious knowledge.[11] Dahlerup pointed out that to finance a school system from land taxation on the existing assessments would inevitably arouse much resentment.

Since valuation by sale price was impossible, and employment of a trained surveyor too costly, Dahlerup suggested assessment by productive capacity, rating infield at a new mark for each kofoder, and outfield at a new mark for such an area as would produce 16 lambs for slaughter in an average year, assuming in both cases reasonably good management, and taking into account such appurtenances as sea-fowling rights. He thought that assessment might be left to a commission of officials working from the tithe records, their work being afterwards revised by a larger commission on which the officials would be joined by specially-elected members of the general public. The assessment would be finally laid before the Lagting for their approval.

From 1861, the matter was constantly under consideration by the Lagting, under the chairmanship of Dahlerup's successor Per Holten.[12] The Lagting agreed that the new assessment must be based on the productive capacity of the land, but doubted whether

any reliable assessment could be achieved by mere office work. They proposed instead a further instance of devolving agricultural technicalities to those with first-hand experience of them. A commission of experienced and knowledgeable men should visit every village, and from an assessment of productive capacity made on the spot, as well as from documentary evidence, they should arrive at a cash valuation for every piece of agricultural land in the country. They suggested a method of selecting commissioners which was in all essentials the one eventually used. Like Dahlerup, they wanted a revisory commission to overlook the finished work and consider appeals; but preferred a small body consisting of the landfoged and two members nominated by the Lagting for this work.

The Lagting further suggested separate assessment of infield and outfield. They regarded the inseparability of bör and hagi as one of the hindrances to infield consolidation by exchange of plots, and anticipated a time when the two would be legally separable.

The Ministry of Justice approved these proposals in principle, and from 1863 to 1865, a bill was drafted by the combined efforts of the Lagting, the amtmand, the landfoged and the Rigsdag. The proposals finally received the royal assent on 29 March 1867.

THE LAW OF 29 MARCH 1867

The text of the law as now passed was as follows:[13]

Law for a new land assessment in the Faroe Islands

1. A new assessment of all the lands in the Faroe Island shall be undertaken as soon as possible.

2. In order to carry out the necessary valuation for the assessment, a Commission shall be established, which will be brought into being in the following manner. For every ecclesiastical pastorate in the islands, the minister and the sysselmand shall submit to the Lagting a list of 10 men resident within the pastorate, whom they regard as best qualified to take part in the valuation. In the choice of these men, they shall proceed first to select one man from every parish belonging to the pastorate, and thereafter choose the remainder by free choice from amongst the inhabitants of the pastorate. In the event of disagreement between the minister and the sysselmand, each will send in his own list. From the men thus proposed, the Lagting will for each pastorate nominate two members of the Commission, to take part in the valuation of the pastorate concerned, and two

deputies. The Lagting shall further nominate, independent of the division into pastorates, two supervising members of the Commission, who shall take part in the work of valuation over all the islands, and of which the first-nominated shall as chairman lead the Commission's discussions, together with a deputy, who in the absence of the former, shall take on his duties. In each sysel, the Commission shall be joined by the respective sysselmand, who shall keep its records, but shall have no vote in the valuation. The Ministry of Justice is empowered to ordain, by means of a Schedule of Instructions issued to the Commission, how they are to conduct themselves in the execution of the task consigned to them.

3. Each individual stretch of land or parcel of land which is identified in the land register maintained by the sorenskriver, or which constitutes an independent holding, infield or outfield, whether the same is owned by one man or several, is to be rated at a specific cash value by an estimate of its productive capacity and other qualities. Böur and hagi as well as each and every appurtenance or appendage shall be made the subject of a separate valuation, and the same applies to traðir cultivated or enclosed for cultivation in every instance where they are by fencing or boundary marks separated from the böur, and without regard to whether they constitute a separate holding or not.

4. When the valuation of all the lands is completed, a Revisory Commission shall be brought into being, consisting of the landfoged as chairman and recorder, and two men chosen by the Lagting, who shall not have been members of the Commission described in paragraph 2.

5. The Revisory Commission shall, after previous announcement, in a suitable place in each parish, exhibit for public inspection for 6 months a printed copy of the valuation proceedings for the pastorate concerned, and with each sysselmand shall deposit a printed copy of the whole valuation proceedings for all the islands. Before the lapse of the forementioned period any person with an interest in the assessment, including not only owners and stipendiaries, but also leaseholders and tenants, may appear before the Revisory Commission with such objections against the valuation as he may find occasion to make, and it stands open to him to demand that a new estimate shall be made of his property. The objection must be made in writing and with it a declaration of the grounds by which it is supported, and in addition the person concerned shall, at the time of the submission of the objection, deposit with the Revisory Commission or furnish a surety for 10 Rd., when the property concerned is assessed to a sum smaller than 800 Rd., otherwise 20 Rd. The sum deposited will be returned only when either the objection raised is sustained, so that a reduction of the assessment is made, or else when the adjudication of the objection has not caused any special expenditure by reason of a fresh visit to and investigation of the place in question.

6. If there should arise any question of a new estimate made on the spot, whether it is carried out by the demand of the interested parties concerned, or because the Revisory Commission finds it necessary in order to adjudicate an objection submitted, it shall be carried out by a new Commission of Assessment, consisting of the deputy for the member of the Commission described in paragraph 2 who acted as chairman, or, if he should have participated in the assessment of the land under adjudication, of the supervising member whose place he took, together with two of the deputy assessors for the pastorate in question. Should any of these latter have lawful excuse, the Commission shall be augmented by the choice of the Lagting if it is in session, or otherwise by the choice of the amtmand on the assembly's behalf from amongst the remaining men listed by the sysselmand and the minister for the pastorate in question. The sysselmand of the district shall be present at the proceedings as recording member.

7. The objections brought forward shall be determined by the Revisory Commission in a decision with reasons stated. As regards the valuation of the lands concerning which no objection has been raised, the Commission shall for them carry out an ordinary audit. Concerning the method of procedure in this as well as the rest of the duties assigned to this Commission, further rulings will be given in a Schedule of Instructions given to the Commission by the Ministry of Justice.

8. When the Revisory Commission's duties have been concluded, the Ministry of Justice shall institute regulations by which to fix an assessment on all the lands, which regulations will be determined after preliminary negotiation with the Lagting.

9. All persons in the forementioned Commissions have the right to require the communication of all information which they may find necessary for their guidance in the task entrusted to them, both from officials or public servants and from private citizens. If such communication is made in writing, the person concerned will be given compensation for clerical expenses at the rate of 24 skillings per sheet.

10. For the use of the three forementioned Commissions, the amtmand shall issue the necessary record-books. In the record, the elected members of all three Commissions shall, the first time they function as such, enter and sign a declaration on oath that they will undertake the task assigned to them to the best of their ability, with diligence and with impartiality.

11. For the days employed in the assessment, there shall be granted to members of the Commission mentioned in paragraph 2 the following daily allowances: the two supervising members elected by the Lagting 2 Rd. each, the sysselmand and the other two members 1 Rd 48 sk. each. Members of the Revisory Commission will, after the completion of their task, be granted a round sum in remuneration, the size of

which will be determined by the Ministry of Justice after recommendations have been made by the Lagting. Reimbursement will be further made to the members of all the Commissions of all expenses for requisitioned transport according to their accounts submitted to the amtmand's office.

10. The allowances &c. mentioned in the foregoing paragraph, as well as all other expenses contingent on the work of land assessment, shall be paid from the provincial Jordebogskasse of the Faroe Islands on the instructions of the amtmand's office. Half of this sum will be recovered by the forementioned kasse by a rate on the owners of all real estate, levied according to the new assessment. The sums shall be payable in the course of 5 years at the rate of one-fifth yearly.

The above law is so straightforward and lucid in its terms that little comment is necessary beyond a few remarks made in the draft published a few months before,[14] which elucidates the motives behind certain of its provisions.

Paragraph 2 puts nomination into the hands of the sysselmand and the minister as these were the most likely to know of men of ability and probity fit for the task of assessment. They were to act within the ecclesiastical boundaries rather than the civil ones for purely practical reasons. This permitted more nominations from Streymoy, the most populous of the sysler, and the only one to contain two pastorates. Parishes were more convenient to work with than villages, because of the number of tiny villages - Eysturoy and the Northern Islands, for instance, each contained 7 parishes, but 20 villages. The final choice of commissioners rightly lay with the elected representatives of the people.

Paragraph 9, paying clerical expenses at the current rate, was primarily so that the sorenskriver should not personally have to pay for the large bulk of documentary evidence needed from him.

The Schedules of Instructions referred to in paragraphs 2 and 7 were published with the Law itself. The most important paragraphs were as follows:

Assessment Commission

3. In the event of a disagreement between the Commission members concerning the assessment of a piece of land, the case in question shall be decided by a majority vote. If 2 votes are cast for one decision and 2 for another, the opinion for which the Chairman votes shall become the

decision of the Commission. If each of the voting members of the Commission declares for his own individual assessment, the different amounts shall be added together and divided by the number of voting members, and the resulting quotient shall be regarded as the assessed value of the land.

4. As starting-point for the valuation it is determined, that a mark whose infield portion yields 1 1/2 kofoder, and whose outfield portion yields 10 mutton carcases of average quality together with an amount of spring wool corresponding with this, shall be assigned in all a value of 800 Rd., or each part severally of 400 Rd.

In addition, at the valuation there shall be paid regard to:

a) not merely the total number of sheep and cows that the outfield can support, but also the quality of these, as well as the condition of the pasture.

b) whether the outfield is subject to avalanche, either through the slip of fresh snow or through the gradual thawing of the snow because of the situation of the outfield relative to the sun.

c) whether any burdem rests on the land, especially specific duties of the outfield with regard to other village occupations, such as giving cow pasturage to a larger or smaller portion of the remaining village markatal.

d) the more or less favourable situation of the infield for the growing of corn, potatoes &c.

e) the greater or lesser opportunity the outfield offers for beimg brought into cultivation.

f) the advantages which access to seafowl or whale-hunting, to driftwood or to seaweed for manure might have.

g) the more or less favourable turbary.

h) the opportunity which situation offers for the sale of products, though only insofar as it may be anticipated that this is of a permanent character.

On the other hand, no regard will be paid to:

a) the existing animal stocks, insofar as these do not correspond with the total that the outfield or infield can with ordinary management support in an average year.

b) the advantages that might be won by great expenditure and the assumption of skills which do not belong to the ordinary management of a Faroese farmer.

Revisory Commission

4. In the adjudication of objections that are brought forward, the Commission shall give its judgement with regard to the knowledge which it may itself possess with regard to the

land in question, as well as to either the information given by the complainant or that brought to light by the Commission about the real value of the land. If the Commission comes to the conclusion that not only is the objection raised over the supposedly too high assessment of the land unfounded, but that the land in question is even assessed too low, they should increase the assessment to the sum they believe to be the true value of the land, at which it shall remain.

5. With regard to the lands against whose assessment no objection has been raised, the Commission is to check the assessment proceedings to discover possible errors of calculation or procedure, or factual inaccuracies, and shall indicate such defects by remarking on them in their record, but without making any correction in the assessment record itself.

One can only comment in terms of some admiration for the drafters of both the Law and the Schedules. The requirements were that the new assessment should be equitable and satisfying to owners and leaseholders, and that it should be as cheap as possible to carry through. The event amply justified the confidence of the legislators that commissioners could be found within the islands equal to the task of evaluating the productive capacity of every infield and outfield plot in the country, though some difficulties were encountered before the assessment could be used for levying revenue.

THE COMMISSIONERS

The Lagting thereupon set about choosing commissioners. However, so many of the commissioners had land or landowning relatives, that the tally of two deputies per pastorate provided for in paragraph 2 of the 1867 Law was found insufficient for the Northern Islands and South Streymoy, which each required three, and Sandoy, which needed no fewer than five.

The chairman of the Assessment Commission was Mads Andreas Winther (1813-79), who had considerable experience qualifying him for his long task. At the time of his election he had held the position of Sandoy sysselmand for thirty years, and had thus a very extensive knowledge of Faroese farming as practised on the most fertile of the Faroe Islands. He had been a member of the Lagting in the years 1852-3 and again in 1861-4. He was a man of broad sympathies and wide interests. He was the master builder,

in 1838-9, of the wooden church which still stands in Sandur village, and which replaced the former stone-and-turf building. In 1846 he helped to found the first village library in Faroe - though it proved only a short-lived venture. He had a great love of the oral tradition of the Faroese ballad, and was instrumental in the recording of many of them in writing. In 1863 he had the good fortune to discover an eleventh-century hoard of silver coins in the earth thrown up at a burial - the only such discovery ever recorded in the Faroe Islands. In the Lagting, he had takem an important part in drafting the 1866 Outfield Law. After his work on the Assessment Commission, he returned to his position as sysselmand, which he relinquished in 1877, two years before his death.[15]

The vice-chairman, Johannes Dahlsgaard (1827-87) held the lease of the ten-mark crown farm of Dalsgarður in Skálavík, Sandoy, from 1852 to 1881, and im addition owned land in Skálavík, Húsavík and Sandur. His family had for centuries been prominent im public life in the Faroe Islands. He was a Lagtimg member from 1861 to 1868, and again from 1873 to 1880. He thus took part im the deliberations leading to both the 1866 Outfield Law, and the 1867 Law which set up the Commissions.[16]

Hans Christopher Müller (1818-97) acted as deputy to Dahlsgaard durimg the latter's absence through contact with infectious disease during the Eysturoy assessment, and for Wimther during the assessment of Sandoy at times when Wimther was am interested party. Müller was one of the most talented Faroemem of the nineteenth century. He was highly self-educated, im both natural science and languages. At 20 he was already acting sysselmand of Streymoy, deputising for his father, and he held the post as a permanent appointment from the age of 25 until his death. He was the only Faroeman to visit the Great Exhibition of 1851 im London. In pursuance of his scientific interests he maintained a large foreign correspondence, some of it written in excellent English. He was in 1869 appointed postmaster, and in later life was agent for several foreign shipping companies. He served in the Lagting and in both houses of the Danish parliament for long periods.[17]

The local commissioners and deputies were all experienced farmers, many of them crown leaseholders of fifteen or twenty years' standing, many of them plainly well known in their districts for public service and probity. Not all were wealthy men - several of the crown leaseholders had quite small farms. One of the deputies for the Northern Islands, Elias Petersen of Fugloy, merely owned a few gylden. It is noteworthy that one of the deputies for South Streymoy, Simon Joensen of Hoyvík, and one of the commissioners, Christian Hansen of Syðradalur, were unable to write, and had to be signed for in the record.[18] Altogether, the selection was very successful, and the Revisory Commission had very few complaints to deal with.

THE ASSESSMENT COMMISSION AT WORK

The Assessment Commission spent four summers on its work, surveying the pastorates of the Faroe Islands in the following order:

6 June - 21 September 1868:	Eysturoy
24 May - 22 July 1869:	Northern Islands
9 August - 15 September 1869:	South Streymoy
27 May - 11 July 1870:	North Streymoy
18 April - 14 June 1871:	Sandoy
28 June - 23 September 1871:	Suðuroy

The record of their deliberations and the resulting valuations was afterwards duly printed in Copenhagen in 1872-3,[19] and a copy of the work, in compliance with paragraph 5 of the law, was sent to every sysselmand and to every parish in Faroe, generally to the house of the principal farmer, where many of them remain to this day. The three-volume work forms an impressive and most important record of the land tenure of the Faroe Islands as it existed a century ago.

The Commission began its work in the village of Oyri, on the western side of Eysturoy. The commissioners viewed the Oyri infield on 6 June 1868 and the outfield on the 8th (the 7th being a Sunday), and on the 9th, they settled down to determine not only the valuation of the Oyri lands, but also a standardised procedure for the assessment of every other village in the Faroe Islands.

The first problem was interpreting paragraph 4 of the Schedule. The Commission decided to value the annual production of a cow at 24 Rd., and to place a similar value on 10 lambs of

average quality slaughtered in the autumn, taken together with the spring wool production of an appropriate outfield stock. In line with the ancient Faroese concept of labour values, the landowner's share was considered to be two-thirds of this, or 16 Rd. annually. At 25 years' purchase, this would bring the capital value of outfield for ten autumn lambs, or the infield for maintaining one cow, to 400 Rd., which according to the Schedule was to be the value of one normal mark.

Infield was first rated by the kofoder, and converted into normal marks by the assumption that for the maintenance of a cow all the year round, 1 1/2 kofoder were required, as paragraph 4 of the Schedule laid down. The commissioners agreed, however, that the kofoder rating was not to be calculated merely by area, nor even by the average annual hay production from land kept in good condition (i.e. by a barley crop every 7-10 years). The situation and quality of the summer grazing in the húshagi had also to be taken into account, for twice as much hay might be needed for the winter foddering of a cow in some places as in others. Moreover, there was the consideration that gamal bóur had summer pasture rights in the húshagi, but tráðir usually did not.

For outfield values, the Commission laid down the general rule that the annual slaughter would bear the proportion 1 : 2 to the winter stock, and that where there was a significant divergeance from this rule, the reasons should be recorded.

Appurtenances to the land (e.g. fowling, turbary, driftwood, or seaweed rights) would be capitalised at 25 times their average annual yield in right of land ownership, and these sums would be added to the appropriate infield or outfield assessments.[20]

Whether by accident or design, the first two villages assessed, Oyri and Norðskáli, were very straightforward, and they may be used to illustrate the Commission's methods of procedure.[21]

Oyri. This village consisted of 12 marks infield and outfield, divided into two crown farms, each of 6 marks. The gamal bóur of each farm was rated at 7 kofoder, equivalent to 4 2/3 normal marks or 1,866 2/3 Rd. The two farms held a heimabeiti in common. In area this was equivalent to 1 1/2 kofoder, but because of the

nature of the soil, and the damage sometimes caused to it by a large stream, the Commission reduced its assessment to 1 kofoder = 266 2/3 Rd.

One of the farms, Norðfstovugarður, had two intakes, one of 1 kofoder = 2/3 normal marks or 266 2/3 Rd., the second of 2/3 kofoder = 4/9 normal marks or 177 7/9 Rd. There was in addition an intake forming a separate holding, rated at 1 kofoder = 2/3 normal marks or 266 2/3 Rd. The only appurtenances to the gamal böur were drift seaweed, the quantity thrown on to the beaches being calculated to be on average enough for manuring 1 barrel of seed-corn for each of the farms annually. This gave the gamal böur an added annual value of 32 sk., capitalised at 8 1/3 Rd., on each of the two farms. The total infield value at Oyri was thus 4,991 4/9 Rd.

The Oyri outfield held a winter stock of 500 sheep, of which in an average year 240 lambs would be slaughtered. The Commission found that 8 of these together with the corresponding spring wool take would correspond with 10 in an average place = 300 average lambs. The outfield was therefore rated at 30 normal marks or 12,000 Rd. The only outfield appurtenance was peat. The Commission considered that over a long stretch of years, the Oyri turbaries could produce 720 creels or 12 boatloads of peat yearly, and taking into account the damage peat-cutting did to pasturage, the value was set at 16 skilling per boatload, or 2 Rd. in all, which capitalised raised the value of the Oyri outfield by a further 50 Rd. to a total of 12,050 Rd.

Norðskáli. This village consisted of 4 marks infield and outfield. In contrast with neighbouring Oyri, the Norðskáli land was almost entirely allodial, only half a mark being crown estate. Thus the four marks of gamal böur had to be separately assessed, though they proved to be of equal value, each being rated at 2 kofoder = 1 1/3 normal marks or 533 1/3 Rd. There was a heimabeiti held in common by the owners of the gamal böur, which because of the poor soil and situation the Commission rated at only 3/100 of a kofoder = 1/50 normal mark or 8 Rd. There were two intakes held in conjunction with the gamal böur, one of 1/3 kofoder = 2/9 normal marks or 88 8/9 Rd., the other of 2/9 kofoder = 4/27 normal marks or 59 7/27 Rd.

There were six intakes which constituted separate holdings. One of these was tiny, 1/24 kofoder = 1/36 normal marks or 11 1/9 Rd. Two were rated at 1/3 kofoder = 2/9 normal marks or 88 8/9 Rd. Two were rated at 1 kofoder = 2/3 normal marks or 266 2/3 Rd. One was rated at 3/4 kofoder = 1/2 normal mark or 200 Rd. (This last was specifically noted as having been made from crown outfield in 1840, and granted in 1840 by contract to a specific tenant for his lifetime.)

The only appurtenance to the gamal böur was drift seaweed, sufficient in all to manure 1 barrel of seed-corn, adding a value of 32 skilling annually, capitalised at 8 1/3 Rd., or 2 1/12 Rd. per mark. The total value of the Norðskáli infield was thus 3,220 1/27 Rd.

The Norðskáli outfield was capable of carrying a winter stock of 280 sheep, of which in an average year 128 lambs would be slaughtered. The Commission decided that here, too, 8 of these, together with the corresponding spring wool, would be equivalent to 10 in an average place, or 160 average lambs in all. The outfield thus had a value of 16 normal marks or 6,400 Rd. The outfield turbaries were calculated as yielding 24 boatloads per year over a long stretch of years, and since the peat-cutting was taking place in the limited stretch of lower pasture, the consequent damage induced the Commission to assess its value at no more than 12 skilling per boatload, or 3 Rd. altogether, which capitalised raised the assessment of the outfield by 75 Rd. to 6,475 Rd.

GENERAL FEATURES OF THE VALUATION

The following features came to light during the valuation of the various products of infield and outfield.

Sheep. In each outfield or feitilendi,[x] the Commission determined three figures: the winter stock, the average lamb slaughter from that stock, and the number of these lambs equivalent to 10 average lambs (in the last-mentioned case, taking into account the spring

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[x] A feitilendi is a stretch of grazing richly manured by droppings of seafowl, the grass being thus of a high quality, but its situation on terraces or screes often leads to a high winter death-rate amongst animals grazing there.

wool production from the flock). The variability of the outfield mark surmised by Dahlerup and others was amply confirmed from the winter stock figures, and two other main types of variability were revealed: the proportion of lambs slaughtered to winter stock; and the quality of the slaughter and wool take.

As previously mentioned (page 206), the general rule was adopted that the annual slaughter would bear the proportion 1 : 2 to the winter stock. This rule held fairly well for Eysturoy, Streymoy and Vágar. In the Northern Islands, the Commission decided that the usual proportion was about 2 : 3, the flocks being less liable to winter mortality because of the high proportion of the lower winter pasture available, and the circumstance that the steep slopes of the Northern Islands favoured quick dispersal by wind of the winter snow which on Eysturoy, for instance, tends to accumulate in drifts. The steep slopes also facilitated drainage and reduced liver fluke.[22]

For Sandoy and Suðuroy the proportion adopted as standard was 2 : 5. Here the breed of sheep was smaller and weaker, which the Commission attributed partly to the nature of the outfields, the lower slopes of which were flatter than in the northerly islands and hence were liable to accumulate harmful water. Ewes on such pastures did not live as long as on the more northerly outfields, and thus more lambs had to be spared to maintain the winter stock.[23]

There was a good deal of variation within districts as well as between districts. However, the general pattern was that the Eysturoy and Vágar outfields tended to have lower yields than those of Streymoy, the former clustering round 45%, the latter generally close to 50%. The Sandoy yields seldom varied from 40%, and the Suðuroy figures were marginally lower. Yields in the Northern Islands might be anything from 51% to 68.5%, with an average of 52%.

The quality variations were even more dramatic. The index figure recorded was the number of lambs slaughtered in autumn which would, with the associated spring wool take, be equivalent to 10 in an average place. The best sheep were those of Gjógv, Funningur and Elduvík, in northern Eysturoy, with an index of 7,

and the worst were many of the outfield flocks on Sandoy, with an index of 14 1/2. The main tendencies were for sheep on Streymoy and Eysturoy to be above average, the more so as one moved north. Svínoy sheep had low ratings of 12 1/2 to 13, but in the remaining Northern Islands the rating was commonly 9. Vágar sheep were consistently average or nearly so. Stóra Dímun sheep were rated at 11 and Skúvoy sheep at 12, but on Sandoy proper the ratings were 14 and 14 1/2, mostly the latter. On Suðuroy the ratings were mostly 13 to 13 1/2.

The productiveness of feitilendir depended on how far the superior grazing of these places outweighed the generally higher mortality there. At one extreme, the feitilendi Skorin on Sandoy, with a winter stock of 32 sheep, was rated capable of an annual slaughter of 28 lambs with a rating of 8 (compared with a rating of 14 on the remaining Dalur outfield). On the other hand, the feitilendir Skorin, Nýurð and Lambastakkur in Tjörnuvík, north Streymoy, which carried a total winter stock of 15, were reckoned capable of producing an annual slaughter of no more than 3 lambs, again with a rating of 8, though this was no higher than the remainder of the Tjörnuvík outfield.

Seafowl. Fowling rights were found by the Commission normally to form an appurtenance to the böur, Vestmanna being a notable exception, where from time immemorial they had belonged to the hagi. In certain places their value formed a significant proportion of the value of the infield. In Skúvoy, the fowling rights were assigned a value of 1 Rd. per mark per year, or capitalised, 25 Rd. per mark. This added an average of over 16% to the value of the gamal böur. As the infield marks of Skúvoy were highly variable, there were some curious extremes. One Skúvoy quarter-mark was assessed at a mere 6 2/3 Rd., but this fragment of land carried fowling rights to a value of a further 6 1/4 Rd., an increment of 93.75%. There was a half-mark rated at 166 2/3 Rd., which carried fowling rights valued at 12 1/2 Rd. - an increment of only 7.5%. Fowling was also significant in Viðareiði, Nólsoy, Hestur, Mykines and Stóra Dímun.

In most other places, when any value was put down at all for sea-fowling, it was a nominal figure only. Thus an annual value

of 6 Rd. was placed on the fowling rights at Gjógv, and 6 2/5 Rd. for those of Tröllanes, beyond question because the former was a 15-mark village and the latter a 16-mark one, and the commissioners had decided in each case on a round-figure capitalised value of 10 Rd. per mark. Kunoy has the even more curious annual fowling valuation of 4 11/20 Rd., which works out neatly to 3 1/2 Rd. per mark for the 32 1/2 marks of that village. In every case, of course, the valuation was based on the "land's share" of the catch, not on the gross productivity of the cliffs.

Peat. Peat production was reckoned by the boatload, 60 creels being equivalent to one boatload. In its valuation, the Commission took into account the damage done to the outfield grazing by peat-cutting, and the extra labour involved in fetching in peat from the very distant turbaries. Peat was normally an appurtenance of the hagi. The maximum value assigned to peat was 16 skilling per boatload. The minimum value assessed was 8 skilling per boatload for certain of the turbaries in Sumba, Sandur, Skálavík and Oyri (Borðoy). The peat valuations do not seem to be set down in round numbers.

The Revisory Commission took the Vágar assessors to task for not placing a value on the turbaries of Mykines, or of Gásadalur and Víkar on the western side of Vágar, all places where it was well known that the inhabitants cut peat. The answer eventually elicited was that in these places the value of the peat extracted did not counterpoise the damage to the outfield and the labour costs involved, and that there was hence a nil valuation.[24]

Seaweed. The annual value in virtue of land ownership of sufficient drift seaweed to manure one barrel (about 4 bushels) of seed-corn was generally reckoned as 1/3 Rd. As with the sea-fowling valuations, the rate was, however, varied in the interests of arithmetical simplicity. The figure set down was also in part an index to the corn-growing potential of the village in question. Thus Svínoy was reckoned to have drift seaweed enough to manure 12 barrels of seed-corn, but no other village in the Northern Islands was rated higher than 2. Kirkjuböur, Skálavík, Húsavík and Hvalböur, other noted corn-growing places, also

received comparatively high valuations for drift seaweed. None of these valuations, however, exceeds more than about 2% of the total value of the böur holding the rights.

Driftwood. Although several villages are mentioned in the record as liable to receive drift timber, the commissioners found that only at Kirkjuböur did it warrent inclusion in the land valuation, and there only to a nominal 1 Rd. per year, capitalised to 25 Rd., or under a quarter per cent of the value of the böur concerned. Kirkjuböur was unique also in having a valuation placed on its eider-duck colony, this too at a nominal 1 Rd. per year.

Pilot-whales. The commissioners assessed the capital value of the "land's share" of pilot-whale catches from the records of whales caught during the completed years since St. Olaf's Day, 1808. The yearly average accruing to the landowners was then valued at approximately 2 Rd. per skind,[x] and capitalised by multiplying by 25. Once again, the notional value of the product was varied to ease the arithmetic, but never by more than 1/25 Rd. up or down.

The land's share of pilot-whales was in most villages an appurtenance of the böur, but in Vestmanna, exceptionally, it was an appurtenance of the hagi. The Commission normally assessed whale rights as an increment to the land in question. This involved a differentiation between crown land and allodial land, since the current legislation laid down different rules for the land's share of each. In Miðvágur and Vestmanna there was the added complication that the rights had in part become dissociated from the land to which they originally pertained, so the commissioners gave them a separate assessment.

Seals. The proforma on which the Commission was required to record its valuations listed seals together with the other appurtenances of land, but in no case did the Commission actually

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[x] A skind i grind is about 50 Kg. of meat and 25 Kg. of blubber, as estimated by rough measurement after a killing. For further details, see Chapter 11, and in particular for an explanation of the "land's share", see Table 21.

place a value on the rights of seal-hunting. No reason is given in the printed record, but it was probably because the land's share of the product of this hunt was of negligible value.

THE REVISORY COMMISSION

The printed Report of the Assessment Commission appeared in 1873, and in accordance with the 1867 Law, was that autumn distributed to the parishes and sysselmænd of the Faroe Islands. During the following six months, five written objections were submitted to the assessment, though only three demanded a revaluation.[25]

The Revisory Commission began work in the summer of 1876,[x] under its ex-officio chairman, landfoged C. Brendstrup. The two members elected by the Lagting were the sorenskriver, Harald Emil Höst (1835-1908), and the merchant Enok Daniel Bærentsen (1831-1900). Both were at the time Lagting members. Höst was a Dane, who had been only five years in the Faroe Islands, but during that time he had become deeply involved in the local life. In 1877 he helped to found the first successful newspaper in the Faroe Islands, Dimmalætting.[26] Bærentsen was the son of a crown leaseholder in Sund, but had as a young man undergone a commercial training in Copenhagen, and shortly after the abolition of the Monopoly, had become a merchant in Tórshavn. He was also a diligent helper in good causes, was treasurer of all the Faroese churches, was another co-founder of Dimmalætting, was a founder member of the cultural society Föringafelag in 1889, and was keenly interested in educational work. He was an active politician, who served a total of 20 years in the Lagting.[27]

The work of revision lasted from July 1876 to August 1877, the Commission generally holding its meetings on Tuesday evenings. The major task of the Commission was the detection of the inevitable miscalculations, writing errors and printing errors in

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[x] I have not been able to ascertain the reason for the two-year delay; but such delays were far from uncommon in Faroese administration. They could arise quite easily through the absence of a vital official on leave in Denmark, or the need to refer a decision to Copenhagen.

the 3,381 assessments. The Report had generally a high standard of accuracy, but enough errors were detected to justify the trouble and expense of an audit.

The five written objections were of various kinds. A Gásadalur farmer pointed out a misprint in his own assessment, and this was corrected. A Hvalböur merchant owning 3 gylden of land requested a reassessment, and his valuation was ultimately reduced from 150 to 100 Rd. The owners of an outfield in Kunoy village claimed that the assessment of a winter stock of 160 sheep on their land, and an autumn slaughter of 100 lambs, was too high, and that the figures should be 152 and 88 respectively. Their objection was upheld, and their outfield valuation was reduced from 4,444 4/9 to 3,911 1/9 Rd. The minister of Suðuroy raised an objection to certain expressions and figures used, which, he said, prejudged a dispute about the extent of the church lands there, and the offending expressions were modified. Finally, the two farmers of Húsagarður, near Tórshavn, claimed a reduction in their assessment, because since the valuation, the traðir enclosed from their farms, and cultivated by the men of Tórshavn, had been granted freedom from winter grazing, in return for compensation to the farmers, and the winter stocks of Húsagarður were thereby reduced. This claim was rejected on the grounds that it was not within the formal power of the Revisory Commission to update assessments, but only to audit their correctness at the time of valuation.[28]

The Revisory Commission, both in the course of their audit, and in their concluding remarks, also advanced a number of points on which they recommended further scrutiny, and submitted their work to the Ministry of Justice in Copenhagen.

The Ministry now requested the Lagting's assurance that the assessment had been carried out in accordance with the agreed principles, and that it would be a sufficient basis for establishing rateable values. They requested the amtmand's opinion on how to draw up a rate book from the available data. In accordance with paragraph 11 of the 1867 Law, the Ministry also wanted the Lagting to suggest a suitable emolument for the revisory commissioners.

The main work was done by a Lagting committee sitting on 24

August 1878. They gave overall approval to the work of the Assessment and Revisory Commissions, and recommended payment of 500 kroner[x] to each of the members of the latter. On the points where the Revisory Commission recommended further scrutiny, they gave their opinion, which generally supported the Assessment Commission. The principal issues were as follows:[29]

1. The Revisory Commission questioned whether the Suðuroy and Sandoy outfields had not been assessed too low. The Lagting committee gave its opinion that they had fundamental differences from the northern outfields that did indeed make their productivity as low as the Assessment Commission had stated.
2. The Revisory Commission questioned the valuation of certain fowling-cliffs, pointing out inconsistencies between the valuations for Nólsoy, Skúvoy and Mykines. The Lagting committee said that the valuations did not reflect the productivity of the cliffs, but their capitalised value to the landowner.
3. The Revisory Commission thought the Suðuroy coalfield should have been assessed. The Lagting committee said that with the present methods of working, hardly more income accrued to the landowners than offset the damage done to the outfield pasture.
4. The Revisory Commission recommended peat to be assessed as an appurtenance of the infield, not the outfield. The Lagting committee found this a difficult issue to determine. The legal position was not clear, but the matter had little practical significance as long as böur and hagi were inseparable. But if the two should become separable, they thought the balance of advantage lay in leaving it with the outfield.
5. The Revisory Commission queried why drift timber had not been valued as an appurtenance in other places than Kirkjuböur. The Lagting committee commented that with the increase in cultivation in north America, whence most of the timber came, there had been a yearly decrease in this asset, and that nowadays logs were more often employed as communal boat-skids than shared on the markatal.

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[x] The krone replaced the rigsdaler from 1 January 1875 (Monetary Law of 23 May 1873), as part of a measure uniting the monetary systems of Norway, Sweden and Denmark. The new krone was equal to half the old rigsdaler, and contained 100 öre.

6. The Revisory Commission questioned the principle of basing the pilot-whale valuation on the records for 1808-69. Sandur had since 1808 lost all importance as a whaling-bay, with no killings in 16 years. Since the acquisition of a net to seal off the harbour (first used in 1843), Vestmanna had, however, gained immensely in productivity. The Lagting committee commented that conditions had not fundamentally changed in Sandur, and the lack of killings was fortuitous. There was a case for revising the Vestmanna assessment, but the maintenance of the net was a heavy charge on the killings there, and the Assessment Commission's valuation was sufficiently near a correct figure for practical purposes.

7. The Revisory Commission objected to the new and unfamiliar Faroese orthography used in the spelling of place-names in the Report,[x] since the legal language of the islands was Danish, and there were time-hallowed Danish spellings for the place-names used in the land registry and in mortgage and conveyance documents. The Lagting committee commented that these Danish names were often misunderstandings and corruptions of the original Faroese; but to avoid any ambiguity, it would be best to adopt generally the system used in the valuation of the two pastorates of North Streymoy and the Northern Islands, of setting the Danish "official" names in brackets after the Faroese.

In dealing with these and a number of lesser objections to the assessment and its revision, the Lagting seemingly removed the last barrier to the use of the assessment for land taxation. But in fact, 27 more years were to pass before taxes were levied on its basis.

INTRODUCTION OF THE NEW ASSESSMENT

The amtmand had the task of recommending how the assessment should be used for drawing up a rate book. H.C.S. Finsen

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[x] Apart from works by the inventor of the orthography, V.U. Hammershaimb, the Taxationsprotokol was the first book, as far as I am aware, in which any considerable use was made of the new system of rendering Faroese. It came into general use in the last decade of the nineteenth century, but not for official purposes until the 1930s.

(Holten's successor) turned for assistance to a highly-regarded sysselmand, D.J. Danielsen, of Söldarfjörður in Eysturoy. Danielsen, instead of producing concrete proposals for the conversion of the Report into a suitable register, compiled a very thorough criticism of the basis on which the 1868-71 assessment had been carried out. The result was that it was 1886 before the Lagting had sufficient confidence to place firm proposals before the Ministry and the Rigsdag.[30]

There were, indeed, some powerful objections to some details of the manner in which the assessment had been made. The lands assessed were not the holdings of individual persons, but units which happened to be denoted by a single name in the sorenskriver's land register. Such units might be occupied by a single person or shared amongst several dozen. This was of no significance for outfield holdings, but for infield considerable inequity could arise where the allodial holdings were much split.

There were many villages (for instance Nólsoy) where the names of the ancient infield marks were in current use amongst the villagers as geographical expressions, their boundaries, too, being well known, but which nevertheless were not employed with reference to ownership questions. The owner of, say, seven gylden in a given hagapartur would merely know that his infield lay in various of these infield marks, but would not know the markatal value of each plot. The tax payable from such holdings could not be satisfactorily determined without further assessment. Traðir presented a further problem. If a stretch of outfield had been enclosed and divided amongst the owners, it would presumably be split in proportion to ownership on the markatal, so that tax liability would not be difficult to assess. But as mentioned in Chapter 7, an increasing number of traðir were now being enclosed from the outfield of populous villages and rented out to landless men. It was impossible to allocate the land tax due on such traðir unless the ownership shares in it were known.

Even when the value of individual plots within a stretch of infield was known, there could be inequity. In Tjörnuvík, 2/7 of the böur had been destroyed by a landslide, and the owners had

not, of course, suffered proportionately to their holding on the markatal. The value of the damaged infield was known, but the individual liability to tax could be determined only by a further survey.

When the ownership distribution of a mark of infield was known, there remained the practical problem of gathering up the tax due. Was the sysselmand to undertake the detailed arithmetic involved, or should the principal owner gather up the tax due on each mark? The latter was a frequently-employed recourse on the old taxation system; but the new assessment would make it very cumbersome, probably impossible.[31]

While these matters were under debate, a further difficulty arose. The owners of Norðarahelvt and Sunnarahelvt in Nólsoy had been pursuing an ancient quarrel over turbary rights. On 19 August 1880, one of the Sunnarahelvt owners wrote to inform the Lagting that it had lately been ruled by the appeal tribunal working under the provisions of the 1866 Outfield Law that the Nólsoy peat-cutting belonged to the present and future houses built on Nólsoy, whose owners had a share in the gamal bður. Paragraph 91 of the Outfield Law made such decisions inappellable. The dilemma was thus presented of a judicial tribunal whose word was final, advancing a view of turbary ownership flatly contradictory to that of both the Assessment Commission and the Lagting. The Lagting now asked the Ministry of Justice whether the competence of the appeal tribunal to make this decision might be tested in the Höjesteret, but permission was refused.[32]

In 1886, the new amtmand, L.H. Buchwaldt, placed a draft of the supplement to the 1867 Law before the Lagting, providing that trøðir enclosed since the original assessment should be valued by the Udskiftningskommission of each syssel, with an appeal to the appeal tribunal. Such supplementary assessment was to be repeated every twenty years. The Lagting was sympathetic in principle, but preferred to postpone the issue until the drafting of the law for the introduction of the new assessments, when in fact it passed forgotten.[33]

Buchwaldt at this point seemed uncertain of his way forward. Five agricultural bills were pending, all having passed the Lagting,

all to a certain extent bearing upon one another. In 1887, with Ministry approval, he proposed a commission, consisting of amtmand, landfoged, sorenskriver and four Lagting members, to consider these bills. This proposal was promptly rejected by the Lagting, which was willing to delay the submission of two bills concerning traðir „ but wanted the new assessment working as soon as possible, for imperfect as it might be, they expected no better. In a minority report, one Lagting member, J.H. Schröter, even drafted a detailed and ingenious bill whereby this could be achieved and the outstanding difficulties overcome.[34]

After receiving these deliberations, the Ministry drafted rules whereby the new rate book could be drawn up, in terms of a "normal mark" with a value of 1,000 kroner.[x] The 1889 Lagting proposed certain amendments, in particular permitting the correction of obvious mistakes still outstanding, and providing a procedure for such difficulties as had been encountered over the Nólsoy turbaries. They also provided for a distinction in the rate book between traðir that were mere extensions of the gamal böur, and lejetröer, i.e. traðir rented out to their occupiers by crown leaseholders, the aim here being to facilitate possible future legislation concerning the crown leases. On 24 September 1890, the amtmand was able to give the landfoged, H. Holm, instructions finally agreed by all parties.[35]

The task of drawing up the rate book took nearly five years. Schedules had to be prepared by the sysselmænd of the ownership position in every village, and checked against the conveyance and mortgage registers. As D.J. Danielsen had predicted, there was still much detailed work to do. The last of the sysselmænd's reports did not come in until March 1895, and landfoged Holm presented his completed work on 29 June 1895. As well as a complete rate book, he submitted a calculation of the imposts that should now be paid annually by the various occupiers of land. Crown rents, as well as land taxes, were to be rationalised.[36]

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[x] A confusing term, since the Assessment Commission had been employing the term "normal mark" for an area valued at 400 Rd. (= 800 kroner).

There were 1,949 42/100 normal marks of crown land. 704 7/100 were infield, 1,200 66/100 were outfield, and 44 69/100 were lejetröer. The various imposts of söjdeleje, smörleje and so on were henceforth rationalised to a single rent of 6 kr. 90 öre per normal mark.

Ministry and Lagting had agreed, however, that it would be an inequitable burden for beneficed farms to pay tax on the general scale. So their matrikulskat and kongsskat were separately calculated and apportioned according to their valuation in normal marks. There were 267 63/100 normal marks of beneficed land, of which 125 75/100 were infield and 141 88/100 outfield. The equalised land tax worked out at 20 öre per normal mark.

Of non-beneficed land, there were 1,949 42/100 normal marks of crown land as above, and 2,041 69/100 normal marks of allodial land, 834 82/100 being infield and 1,206 87/100 outfield, a grand total of 3,991 11/100 normal marks. The equalised land tax worked out at 36 öre per normal mark.

A bill to put this assessment into force was passed by the Lagting on 4 September 1896,[37] the term "normal mark" being replaced by the better term skattemark (tax mark). The bill was introduced into the Landsting in Copenhagen on 22 January 1897, and after an easy passage through both houses of the Danish parliament, it received royal assent on 23 April 1897, over thirty years after the passing of the law authorising the original assessment. The new system came into force on St. Olaf's Day, 1899.[38]

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CHAPTER ELEVEN. DEVELOPMENTS IN SHORE RIGHTS

THE EXTENT OF A FAROESE SHORE

In Faroese legal practice, the upper limit of the shore lies where the characteristic land vegetation begins. From here to high-water-mark, the shore is normally the joint property of the markatal. The foreshore extends from high- to low-water-mark and generally well below. Over the foreshore the shore owners exercise certain rights (lunnindir), usually as far as the activity in question may be more effectively carried out from the shore than from a boat. The limit was frequently defined as the marbakke, the point at which the sea-bed takes a steep turn downwards.[1]

With the growing population and the increasing fishery during the nineteenth century came an increasing economic use of shore and foreshore. Shore rights thus became subject to closer definition, and some were modified when this was in the public interest.

The position over drift timber, drift seaweed and wreckage did not alter during the century; but important changes took place in shore rights as they applied to: (i) saithe fishing; (ii) pilot-whale driving; and (iii) shellfish gathering. Legislative reaction was in each case governed by the technicality of the activity. For saithe fishing the owners' rights were defined; for pilot-whale driving they were first limited and finally extinguished; for shellfish gathering they were subjected to a conservation law.

SAITHE FISHING

The saithe or coalfish is a small member of the cod family, pollachius virens, commonly about 20-30 cm. long and weighing about 1 kg. It swims in shoals, sometimes of incredible magnitude, and during the latter part of the year these frequently approach the coast. The traditional method of catching saithe was with rod and line, either from a small boat or from land where the water close to the shore was deep enough and the current was flowing swiftly.[2] The fish was generally eaten fresh or split and hung to dry; the liver was sometimes mixed with the dough of

dýflur. The fish was one of the poor householder's staple foods in earlier times and is by no means despised today.[3]

The drag-netting of saithe was introduced into Faroe by provost C.L. Djurhuus (1708-75) about 1750, but his net was only occasionally used, in Tórshavn harbour and in other bays. Drag-netting first became economically important with the establishment of Det Thorshavnske Seyefiskeselskab med Vaad (the Tórshavn saithe-netting company) in 1788. Experiments by a few of the wealthier Tórshavn citizens had convinced the general public, and an association was formed, largely from poor folk, to maintain and employ five nets. The subscription was 16 skilling, a sum within everybody's means. Success was immediate. In under two weeks in 1793, the company caught 900,000 saithe, although the shoals were not exceptional.[4]

This quick source of profit soon attracted others. In succeeding seasons, inhabitants of surrounding villages also flocked into Tórshavn with drag-nets as soon as report reached them of saithe shoals in the twin bays. In the rivalry to make the first cast, tempers rose and fish were lost. The Tórshavn men had no redress against the villagers, since the Faroese capital was neither a village nor an incorporated town, but only a collection of buildings on a rocky headland in the outfield of a crown farm. The inhabitants thus had no shore rights over the limited stretch of beach where dragging in a net was possible. In 1795 the company thus petitioned the crown for the exclusive right of netting saithe in Tórshavn harbour. After full enquiries into the circumstances, the crown granted the company this privilege in a concession dated 28 March 1798, with certain conditions, including the right of all the Tórshavn inhabitants and the local crown leaseholders to join the company; and an obligation to sell surplus fish to the villagers at the very low price of 8 skilling per creel of about 230 saithe. The privilege was twice renewed, and the company continued its activities all through the nineteenth century, and it is still in existence today.[x 5]

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[x] During the winters of 1808-9 and 1809-10, when because of the war there was great distress in Faroe, the Tórshavn saithe-fishing saved many from hunger. During these two winters 4,400,000 saithe were landed in Tórshavn, and the villagers bought 40% of this catch. The low price they paid could be recouped several times over from making train-oil from the livers.

During the early years of the nineteenth century, saithe-netting spread to other parts of Faroe, notably Nólsoy, Skálafjörður, Kaldbak, Leynar, Vestmanna, Syðradalur (Kalsoy) and several places on Suðuroy.[6] In the autumn of 1846, indeed, the inhabitants of Suðuroy caught some six million saithe, producing 400 barrels (each of 120 litres) of train-oil for sale to the Monopoly.[7]

The rights of shore owners over the saithe fishery caused legal difficulties for much of the nineteenth century. The old Norwegian laws had no provisions covering saithe-fishing, only herring-fishing. Faroese local custom had, however, tended to uphold landowners' rights, and these were defined and limited by nineteenth-century legislation.[8]

The earliest measure concerning the saithe fishery outside Tórshavn is an Amt ruling of 14 July 1832 about saithe-fishing off Nólsoy, that (i) saithe-netting would not be allowed there before St. Olaf's Day; (ii) inhabitants of other islands should not be allowed to net more fish at a time than they could take away with them; and (iii) the Nólsoyings should have the right of first cast, and might also give such directions to others as were necessary to preserve good order in the fishery and to protect their fields. Court cases heard in 1854 and 1856, however, in which the Kollafjörður men tried to assert their right to net saithe off Nólsoy, resulted in judgement being given for the landowners.[9] Further decisions over the next fifteen years made it clear that while in certain places the inhabitants had conceded a prescriptive right to strangers to net saithe off their shores, the general rule was that the permission of the owners of the shore was necessary before nets could be pulled in on it.[10]

By about 1870, considerable discontent was being manifested over saithe-netting rights, especially by villages unfavourably placed for the fishery. In 1871, therefore, the Lagting proposed to the government that legislation should be passed. After gathering evidence, the Ministry of Justice drafted a law giving a general right to Danish subjects to pull up herring- or saithe-nets on to Faroese beaches on payment of a "land's share" of one-eighth of the catch. This draft came before the Lagting in 1873, but only after repeated postponements did the Lagting give its reaction,

in 1876, that the proposal made too sweeping an inroad into landowners' rights. They proposed instead that only the inhabitants of the village (whether owners or not) should be entitled to pull in a drag-net on that village's shores without seeking permission, whilst others must seek the permission of the majority of the landowners. They wanted netting associations to have priority over individuals, and for this type of fishing to be restricted to persons domiciled in the Faroe Islands. The government, however, preferred to work on the tradition of free access to the fish in territorial waters for all Danish subjects, and on this occasion the matter went no further.[11]

But the complaints continued, and it was asserted that maintenance of landowners' rights was leading to catchable fish being lost to everyone. The Lagting took the matter up again in 1887, and after much amendment of the original bill in both Denmark and Faroe, there finally emerged the Fishery Law of 14 April 1893.[12]

The drag-netting provisions of this Law are as follows:

2. From 1 July to 31 December, all persons entitled to fish Danish territorial waters might net saithe without previous consent of the shore owners, provided that: (i) the beach does not lie adjacent to the gamal böur; (ii) a current flows off-shore; (iii) a land's share is paid. The land's share was either one-eighth of the catch in kind, or one-sixteenth of its cash value, and was to be divided amongst the markatal, tenants taking the share of non-resident owners or beneficiaries, unless otherwise agreed.

3. On beaches adjacent to the gamal böur, and in inlets &c. where no current flows, associations may be granted the sole right to draw in nets.

4. The owners and leaseholders of more than half the markatal of a beach have the right to make regulations concerning it.

5. Where a man has a right to pull a net ashore, he has also the right to pull ashore boats or equipment used in the fishery.

6. Regulations concerning herring remain as in N.L. 5-11-16.

7. Compensation is payable for any damage sustained by landowners during the net fishery.

8. No fishing equipment may be set out that will hinder the dragging of any net, once its owners have begun to lay it.

9. Rules are laid down for procedure when two parties are fishing in one place.

10. Penalties are ordained for wilful hindrance to drag-netting.

11. Special regulations may be passed for the time or manner of fishery in places where there is no current.

This new law thus upheld the general principle that landowners had control of their shore and foreshore, but made one concession to outsiders - for half the year they might use drag-nets against payment of a land's share in places where a current flows. The motive for this lies in the saithe's habits.

In summer, Faroese saithe generally resort to the open coasts, where a strong current flows by the shore, and where there is normally space for several netting-companies. Even if the fishermen should drive away the saithe from the shore, it will not be long before the tidal current brings them back if they are present in any number. It is thus in the public interest that no-one should be hindered from drag-netting at this time in such places, and the landowners themselves are assured of a good share by reservation to them of the shore by the gamal böur, i.e. the beaches nearest their homes.

The position is different in fjords, inlets and sounds through which no current flows.[x] In these, the larger autumn saithe often gather in vast shoals, and if they are not disturbed by indiscriminate fishing, can be caught in tremendous numbers, as mentioned above in Tórshavn and Suðuroy. Here the public interest is that landowners should have the exclusive right, since unrestricted access risks total loss of the asset.[13]

The Rigsdag anticipated problems over whether a current did or did not run along a given shore, and provided for impartial assessment. There has not, however, been difficulty over this matter. The chief defect in the legislation has been the

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[x] The word "sounds" was included to give the strait between Streymoy and Eysturoy the same protection as the fjords which it closely resembles.

discovery that the coasts reserved for the landowners are less fully protected than the legislation intended. In 1895, fifteen members of a drag-net company based in Trongisvágur were accused of netting saithe on a shore reserved for the Froðböur men. But three of the accused owned a total of 5 1/2 gylden of land in Froðböur (out of a village total of 24 marks), and one of the three was a resident owner. On these grounds, the whole company was acquitted.[14] It thus appeared that the law allowed owners of an insignificant quantity of land to draw round themselves a large company of non-owners for the netting of saithe in fjord waters or off the village infield. The saithe-netting provisions of the 1893 Law have not, however, been subsequently amended, despite the apparent inequity towards majority landowners.

In the saithe fishery, then, an attempt has been made to preserve and define the landowner's rights without hindering the fishery. Fortuitously, sufficient concession has been made for the landless fisherman to have very considerable access to such shoals of saithe as may appear, if he follows the right legal procedure.

PILOT-WHALE DRIVING

In contrast, landowners' rights in pilot-whales beached on their shores were drastically curtailed early in the nineteenth century, and finally extinguished just before the outbreak of the second world war. Here, landowners' rights were a technical hindrance to a fishery demanding the skilled and willing co-operation of a large number of participants.

The hunting of the blackfish, caaing-whale or pilot-whale (globicephala malæna), known in Faroese as grindahvalur, is probably not of great antiquity. Mediæval Norwegian and Faroese enactments (including Seyðabrævið) are plainly concerned only with great whales found drifting, killed or pulled ashore. Pilot-whale hunting features in several Faroese traditional stories, but not to my knowledge in any tale dating from before 1600. The rule in Christian V's Norwegian Law (taken over from the previous Norwegian codes) was that a whale hunted at sea was the property of the huntsman, but when pulled ashore on another man's land was to be shared equally with the landowner.[15] This rule had serious

deficiencies when applied to a school of pilot-whales driven from a considerable distance by several hundred huntsmen from different villages, all subsequently eager to take home as large a share of their kill as possible, as soon as possible.

The killing of a school of pilot-whales (grindadráp) is one of the most spectacular and colourful events which a visitor to the islands can witness, and practically every author writing about the Faroe Islands has left a description of it, at first or second hand.[16] In brief, the stages of the hunt are: (i) the school is located; (ii) an alarm summons every possible boat; (iii) after quick consultation, the hunt leader orders a drive to a particular bay; (iv) the boats form a crescent round the school, and the men drive the whales gently by splashing the water with tethered stones; (v) the school is confined in its destined bay; (vi) it is either rushed on to the beach or killed in the water with spears; (vii) the dead whales are dragged from the water; (viii) the bodies are measured; (ix) the catch is shared out: it may consist of fewer than 50, or more than 1,000 small whales measuring up to 20 or 25 feet in length. (For detailed description of the grindadráp, see Appendix "H")

Incomplete records exist of pilot-whales killed during the period 1584-1640. From 1641 to 1708 there are no records; but from 1709 to the present day the record is unbroken. The period 1709-44 was marked by good catches, in eleven of these years over 1,000 being taken. 1745-95 was an extremely poor period, except for 1776, when 743 are recorded, nearly all from a single drive to Miðvágur. From 1796, catches again became good, remarkably so during the 1840s. During the entire nineteenth century, only 1890 and 1891 passed completely without killings. In 31 years over 1,000 whales were killed, and in six of these over 2,000 were killed. In 1843, 3,143 whales were killed, an all-time record.[17]

The blubber of pilot-whales used to be converted into train-oil and sold to the Monopoly. A certain strip of the skin from the fin was used for making the tough oar-strap (homluband) by which a Faroese oar is attached to the rowlock. The meat was (and still is) eaten with great relish. It tastes like a rather dry beef, and is best accompanied by a little of the blubber,

which somewhat resembles bacon-fat. The meat may be salted, or salted-and-dried for winter use, and in years of great plenty has often been fed to cattle.[18]

Until 1832, the law regarding pilot-whale driving was so deficient as to form a serious hindrance to the chase and led to disorderly scenes afterwards. The law gave no regulation whatever for the conduct of the hunt. Eighteenth-century practice was that first the largest whale was to be set aside as finding-whale for the boat that first saw the school. Next the tithe was removed. "Presentation-whales" were now allotted to the leper-house at Argir, the provost, the lawman, the landfoged and the sorenskriver. After this, compensation was paid for damage to boats or injury to men; and the remainder was divided equally between the land and the huntsmen.[19] Svabo adds that other officials often succeeded in getting presentation-whales, to the annoyance of the huntsmen, and that payments were also made to the valuers and the watchmen.[20]

Watchmen were certainly needed, though their efforts were seldom successful. Svabo says that theft, plunder and disorder on the beach were commonplace.[21] Mikkjal á Ryggi relates four stories of violence on Miðvágur sands after whale-killings, and comments:[22]

> In those days the whales were marked only according to their estimated weight, not with a serial number as well. Each man or crew got to know how much meat fell to them, and they could then take whichever whale they wished that had that weight marked on it. There was always quarrelling on the beach, because the assessment would be uneven, and everyone wanted the whales that had been assessed most favourably. The custom was that anyone who had seated himself on a whale had claimed it as his own; but if quarrelsome folk arrived and thought they had the upper hand, they would not scruple to take the whale from such a person, and this often led to fighting.

The large share of the catch falling to the shore-owners was, everyone agreed, socially indefensible. It also led to technical difficulties in the hunt, crews from different whaling-bays being anxious to drive the school different ways, regardless of tidal and other factors. The fifty years without killings were very far from being fifty years without sightings, for many a school escaped for this reason alone. When opposite sides of a whaling-

bay belonged to different groups of owners, the very process of killing might be hindered. Even before the nineteenth century reforms there had been a tendency for shore rights to be thrown together. In 1735, Funningur, Gjógv and Elduvík agreed to share the whales killed on any of their shores; and in 1800 Landt suggested that Miðvágur, Leynar and Vestmanna ought to do likewise.[23]

Unofficial attempts to end the disorder on the beaches were made as early as 1801-2. Pastor J.H. Schröter, and the man who from 1805 was to be the last lawman of the Faroe Islands, J.F. Hammershaimb, introduced on Suðuroy the system of marking the dead whales with serial numbers, enabling a school of 200 to be shared out amicably in a couple of hours.[24] In 1804, the problem of regulating pilot-whale drives was brought before the Lagting, a malpractice having recently developed of hunters harpooning individual whales from the school, instead of using the spear to help to beach the whole school. A fine of 10 Rd. was ordained for anyone using a harpoon without leave from the sysselmand and the hunt foremen, even though its use had not caused actual harm to the hunt. The Rentekammer upheld the decision, and requested the landfoged and commandant Löbner to work out a full code of practice for pilot-whale driving. After a delay caused by Löbner's illness, their proposals were submitted in a document dated 4 June 1807.[25]

The 1807 proposals contained many constructive points, particularly the complete abolition of jordehval (the land's share). But the code was also characterised by savage penalties for breaches of hunt discipline. For instance: (i) failure to give or pass on a whale alarm incurred a fine of 100 Rd.; (ii) seizing meat or blubber by violence was to be punished with 4 years' hard labour; (iii) the unauthorised use of the harpoon was to be punished with a 10-Rd. fine and the loss of the offender's share of the catch; but if the school was lost through the use of a harpoon, the culprit himself and the crew of his boat were liable to 4 years' penal servitude and a money fine in proportion to the scale of the loss; (iv) the theft of whale-meat to the value of more than 1 Rd. was to be punished with penal servitude in irons for 2 years, or more if the theft was a large one.

Landfoged Wenzel Hammershaimb and commandant Löbner mistakenly regarded exemplary punishment as the only means of repressing the deep-seated disorders accompanying the hunt. But what was needed was rather a method of division that was obviously fair to all, and which would give everyone an incentive to make the drive as sure and successful as possible; a method that would allocate particular whales to particular persons or crews; a method that would be so swift that huntsmen would have no time to conceive imaginary grievances. But it was a long time before the Rentekammer had time to consider Faroese whale-driving. War broke out that autumn, and ultimately the Rentekammer rejected the proposals because of the savagery of the penalties and the abolition of jordehval, which looked too much like an attack on property. They asked Löbner (now amtmand) to think again.[26]

Löbner's second proposals, submitted 12 June 1819, reduced jordehval from a half to a quarter instead of abolishing it altogether, and revised the scale of fines and penalties. But the Rentekammer still found them too high, and was nervous about limiting property rights, so no law resulted. The only further action taken on whale-hunting during Löbner's tenure of office was the repromulgation of the rules concerning the use of the harpoon, and minor amendment of the rules concerning crown jordehval, which did not fall to the crown leaseholder.[27]

C.L. Tillisch took some action towards improving the conditions of the hunt,[28] but F.F. Tillisch took up the matter with great energy soon after his arrival as amtmand. He made himself thoroughly acquainted with the local conventions of the hunt; he attended drives himself; and he consulted men of wisdom and experience. His draft proposals, dated 11 May 1831, became the first Pilot-Whale Law on 1 November 1832, and have formed the basis of all subsequent legislation. The penalties are only modest, but the duties of every person involved are clearly prescribed, and it was made as advantageous as possible for everyone to keep the law rather than break it.[29]

Paragraphs 1-4 established the chain of command. The amtmand was supreme commander, assisted by the landfoged. They had no executive function, but were to see that the subordinate officers

did their duties, and to watch closely for ways of increasing the productiveness and efficiency of the hunt. Leadership of the hunt and division of the kill fell to the sysselmand. He was to be assisted by the hunt foremen, four of whom were to be nominated for each whaling-bay by the amtmand on the sysselmand's recommendation.[30]

By paragraphs 5-6, the alarm was to be issued as soon as a school of pilot-whales was discovered, the signal being the traditional one of raising a garment to the mast-head. This alarm had to be passed from boat to shore and from village to village as soon as it was received. The law made two principal innovations: (i) the finding-boat had not merely to locate the school, but also to follow it; (ii) the alarm must be given by anyone discovering a school from the shore as well as from the sea. In the latter case, the first boat to arrive at the school was the finding-boat. Propagation of the alarm was a duty on the inhabitants of particular farms or houses in each village. In accordance with ancient practice, the alarm was passed on in a variety of ways. Over a narrow strait it might be by shouting, but more often the message passed by smoke-signal or by sheets spread out on a hillside in a special manner. If a visual signal was impossible, a runner would be sent. The penalty for failing to pass the alarm was set at 1-5 Rd.[31]

Paragraph 7 dealt with hunt equipment. A scale of weaponry was laid down for boats of different sizes, and the sysselmand had the duty of inspecting these implements annually, fines being imposed for deficiencies.[32]

Decisions on the drive are dealt with in paragraphs 8-11. The finding-boat and the hunt foremen were to decide which way to drive the school, the sysselmand having the casting voice in case of dispute. A recognised whaling-bay, preferably one of the better ones such as Miðvágur, was to be used, an inferior but nearer bay only for unruly schools. When the school was confined to a bay, it rested with the sysselmand and the hunt foremen to decide the time and manner of killing. In all decisions, they must be guided by the efficiency of the hunt, and were liable to heavy penalties for choosing an indefensible way of driving or

killing the school. Harpoons were to be used only if the sysselmand and hunt foremen decided it was impossible to beach the whales, and thus gave up the hunt.[33]

Once the killing had ended, the sysselmand had to appoint a watch. Henceforth the watchmen were the only persons afloat; all other boats had to be hauled out of the water. Late arrivals had to report to the watch, who would tell them where to haul their boats ashore. When the boats were all on dry land (making it difficult for anyone to steal meat), the whales themselves were to be pulled ashore so that they rested side by side with at least their heads above high-water-mark. Every person present had the duty of helping with this task. Sunk whales were to be fished up by the watch-boats. After beaching, the whales had to be "sliced up", i.e. cut up the belly to allow the entrails to fall out and thus prevent the meat from putrefying. Two of the hunt foremen had to see that this job was completed.[34]

Valuation followed. The unit employed was the skind i grind (approximately 50 kg. of meat and 25 kg. of blubber). A whale measuring 5 alen (10 feet) from eye to anus was rated at one gylden (= 20 skind), other assessments being in proportion. The two assessors chosen by the sysselmand were to work round from one end of the bay to the other, cutting on the skin of each whale the serial number in arabic figures and a valuation in roman figures. They were accompanied by the two hunt foremen not supervising the dragging up of the whales, and the sysselmand, who was to record the valuations.[35]

The method of division incorporated considerable changes from traditional practice, as follows:

Table 21 PILOT-WHALE DIVISION BY THE 1832 LAW[36]

Name	Quantity	Disposition
Tithe	10 per cent of total kill.	To sysselmand against payment of 1 1/3 pots train-oil per skind.
Finding-whale	Largest whale killed.	To finding-boat. Head to go to man (on boat or land) who first saw or heard the school.

Name	Quantity	Disposition
Madhval	Determined by sysselmand in proportion to size of catch and number of huntsmen.	To householders of the village where school killed, to aid hospitality to huntsmen.
Poor Fund	1 per cent of total kill.	None named in law, but meat normally auctioned.
School Board	1 per cent of total kill.	ditto
Skadehval	Determined by two valuers appointed by sysselmand, one of whom to be knowledgeable in boat-building.	Compensation for damage to boats or weapons, or injury to men. Normally auctioned and payment made in cash.
Watch	1/4 skind per man by day, 1/2 skind by night.	To the watchmen
Assessors	1 skind per 100 whales assessed.	To the assessors of the size of the catch and the damage caused.
Hunt foremen	1/8 per cent of total catch to each.	The four hunt foremen for the whaling-bay.
Sysselmand	1/2 per cent of total catch.	Sysselmand
Jordehval	25 per cent of the remainder after subtraction of the above, allocated to the markatal owning the shore on which the whales were killed.	CROWN JORDEHVAL To be sold for 1 1/3 pots of train-oil per skind. At amtmand's discretion a portion may be reserved for officials, minor functionaries, their widows, and needy persons in Tórshavn, as under: Kill of under 50 gl. None Kill of 50-100 gl. Officials up to 4 skind, functionaries up to 2 skind, others 1 skind. Kill of over 100 gl. 8, 4 and 2 skind to the above respectively. STIPENDIARY JORDEHVAL To the beneficiary of the stipendiary farm. ALLODIAL JORDEHVAL To the allodial markatal.

Name	Quantity	Disposition
Partehval	75 per cent of the remainder after subtraction as above	Divided amongst all the boats at the killing before valuation has ended, and the inhabitants of the whale-district concerned.
Whales recovered after calculation.	All such whales recovered on day of kill or for two days afterwards.	Allocated as partehval to boats arriving after the calculation has begun. Any surplus sold at auction for Faroe Amt Economic Fund.
	Whales recovered subsequently.	To the finder.

The reduction of the jordehval from 50% to 25% was without compensation, though there had been previous consultation. In December 1830, Tillisch had circulated the sysselmænd, requesting them to find out whether the allodial owners were willing to halve their jordehval. Owners in Streymoy, Eysturoy, Sandoy and the Northern Islands were overwhelmingly in favour, as were most on Vágar. Only on Suðuroy was there considerable opposition to the plan.[37] The move seems to have succeeded in its main purpose, the increased efficiency of hunting, if one may judge by the statistics.[x]

The 1832 Law incidentally set up "En öeconomisk Fond for Færö Amt" (an economic fund for Faroe Province), used to subsidise roads, wharves and bridges. When in 1852 the Lagting was revived, this fund was placed under its control.[38]

The 1832 legislation underwent major revision in 1857, and since then, apart from the abolition of the jordehval, has remained little changed. Through the newly-revived Lagting, a popular demand was voiced for the amendment of the 1832 Law, and amtmand Dahlerup accordingly took statements from the sysselmænd, and in 1854 drafted proposals to lay before the Lagting. The Lagting made a number of amendments, some reflecting the strained

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[x] See Figure 4 at the end of this chapter, which gives the records of killings from 1709 to 1948 in the form of a ten-year running mean. The trough at the end of the nineteenth century was less severe than that of 1750-92.

relationship between amtmand and assembly. The amended proposals finally came before the Rigsdag early in 1857. Here the upper house, the Landsting, divided the proposal into two bills. The Grindelov (Pilot-Whale Law) merely defined the legal procedure for cases and laid down the scale of punishments for the various offences. The Grindereglement (Pilot-Whale Regulations) covered the technical aspects of the hunt. The latter might be amended by the joint action of the Lagting and the Ministry of Justice. The Grindelov still applies, though its punishments have now been assimilated to those for other offences.[39]

The conduct of the actual hunt seems to have been satisfactory, for the only amendments brought in were a provision to discourage false alarms, and spreading responsibility for issuing the alarm over the whole village instead of placing it on particular farms. The sysselmand was given the extra duty of inspecting boats as well as equipment on his annual round.[40]

One major change was that hunt foremen were now elected by the whale-hunters instead of being appointed by the amtmand. The Lagting's motive was probably in part to remove power from Dahlerup, but there was a practical justification. The nominee of the sysselmand and amtmand would tend to be one of the larger landowners in the district, with a personal interest in jordehval. So henceforth, all those in the whaling-bay capable of taking part in the hunt (i.e. men from 15 to 50) were to elect hunt foremen for a term of 5 years. Moreover, every boat was to have its boat foreman, elected by the crew, whose name was to be notified to the sysselmand. These provisions, and the colourful one that sysselmand and hunt foremen were to fly a small flag from the stern of their boats, were intended to increase mutual confidence and good communications amongst the huntsmen.[41]

Procedure after the kill was amended somewhat. Assessment was speeded up by the sysselmand's being authorised to appoint more valuers after a large kill. The sysselmand had also to ensure that the bay was cleared of offal, backbones &c. within 48 hours of the final distribution of the catch.[x]

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[x] This last requirement seems to have been a little too demanding - since 1872 the period has been 72 hours. For this purpose the sysselmand may make payments from the Economic Fund.

The division of the kill was modified in the direction of equity. Half the finding-whale was now given to a man discovering a school from land and signalling a boat. The allocation of whales to officials and others was discontinued. The higher officials, it was contended, had no need of the meat, and since abolition of the Monopoly there were few subordinate functionaries needing a share either. (Of course, like anyone else, officials were entitled to shares by right of residence in their whale-districts.) Payments to the executive functionaries were, however, increased. The sysselmand now took 1% and the valuers 2 skind per 100 whales valued. The damage assessors now had a payment fixed by the sysselmand, up to 2 skind maximum each. The rates for watchmen were now half a skind by day, one skind by night, and half a skind for each boat used. Damage and injury were now to be compensated from the Economic Fund in cash, the Fund recouping the cost approximately from the skadehval.[43]

Finally, as with subsequent revisions in 1864, 1872, 1880, 1903 and on several occasions since, the whale-district boundaries were modified.[44]

The final abolition of jordehval falls outside the strict period of this enquiry, but is a subject of such importance that it must not be omitted. As mentioned earlier, the draft regulations of 1807 urged that the land's share should be abolished, and in 1832 it was reduced from 50% to 25% in the interests of hunt efficiency. Subsequently, the social inequity of jordehval was stressed, and was a prime motive for its ultimate abolition.

During the deliberations leading to the 1857 Law, voices were raised for the abolition of jordehval, but to no effect. A proposal in the Lagting in 1888 was also abortive. In 1895, when the Lagting was discussing the taxation of the newly established great-whaling industry, a proposal was raised for using the resulting income for buying out jordehval. This too came to nothing, but the idea of a sinking fund was later taken up in another way.[45]

The land's rights could not now be expropriated without compensation. Despite arguments that the supposed basis for jordehval from the Gulathing Code onwards comprised regulations

plainly designed for great whales drifting in or being pulled ashore, the landowners still had a centuries-old prescriptive right good in law. The 1832 expropriation had taken place during the absolute monarchy, but even so, had been preceded by consultation with the interested parties. But the 1849 Danish Constitution now guaranteed the inviolability of private property, so it was necessary to find funds to compensate the owners.[46]

The solution was eventually found in the abolition of the tithe system. Pilot-whale tithes came up for consideration in 1904. It was thought out of the question merely to abolish them, for the jordehval as well as the partehval would benefit. By a Ministry of Justice proclamation dated 14 June 1909, dealing with several aspects of the hunt, it was decreed that the tithe should be auctioned, and the proceeds paid into a fund for the extinction of jordehval. Legislation giving effect to the purchase was passed on 11 May 1935, and took effect on 1 January 1937. Since then both tithe and jordehval have been added to the partehval.[47]

Another species of small whale is communally hunted in Faroe, the bottlenose or döglingur (hyperoodon ampullatus). It is, however, seldom caught elsewhere than off northern Suðuroy, and the catch rarely exceeds three or four per year. Svabo says that in his time a special portion of the blubber went to the finder in place of a finding-whale, but that the rules for dividing the catch were otherwise the same as for pilot-whales. After deduction of the finder's share and other expenses, indeed, the land took a 50% share until this remaining jordehval was abolished by a Lagting Law of 3 January 1950, without compensation, at the proposal of the inhabitants of the villages principally concerned, Hvalböur and Sandvík. No opposition was raised to this reform, individuals' losses being trivial.[48]

THE GATHERING OF SHELLFISH

The use of shellfish for food is no doubt an ancient practice in the Faroe Islands as elsewhere. The shells themselves were used as a substitute for limestone in making skilp, the mortar used in the mediæval buildings at Kirkjuböur.[49] By the late eighteenth century, at least, shellfish were a regular article of diet. Svabo says the kræklingur (common mussel, mytilus edulis)

and the öður (giant horse-mussel, modiola modiolus) were commonly eaten. Landt adds several others, particularly the fliða (limpet, patella vulgata), which he tasted and found "hard and indigestible". Tradition holds that limpets were eaten only in famine years, but a vast heap of limpet-shells discovered on an old midden in Hestur suggests that some people ate them regularly. By the late nineteenth century, however, the use even of mussels for human food was a rarity.[50]

The value of shellfish as bait was a late discovery in the Faroe Islands. Svabo, and later Plöyen, mention foreigners fishing well with mussels, and commend them to the Faroese.[51] By the 1870s and 1880s, both common and giant mussels, limpets, and sometimes also whelks were being used as bait for both hand-lines and long-lines.[52] The question of property in shellfish, and their conservation, now arose. The common mussel in particular needed protection, since it flourishes in shallow waters and in places on the shore exposed at ebb tide. Fishermen in need of bait were not merely picking up fully-grown mussels by hand, but were using rakes to gather mature and immature mussels alike, creating holes in the mussel-beds enabling winter storms to rip away the growth of many years. The question was whether an extension of private property rights, or conservation legislation was the better solution to the problem. Mussel-bed protection was regularly before the Lagting from 1875 to 1891.[53]

Evidence was produced that the common mussel had been much used for food during the war years of 1807-14, and generally in former times when prolonged bad weather had hindered boat fishing. The mussel-gatherers had not asked the shore-owners' permission to collect, and it was a serious question whether a prescriptive right did not exist for all and sundry to take mussels from such large beds as those of Móstöðan, a bank off the mouth of a stream between Oyri and Norðskáli (Eysturoy).

The final outcome was a Law of 14 April 1893 for the Protection of Mussels, the provisions of which still apply. The kommune was given power to draft conservation regulations for mussel-beds within its borders, above as well as below high water, to limit the rights of lifting, the manner in which it may be done or the

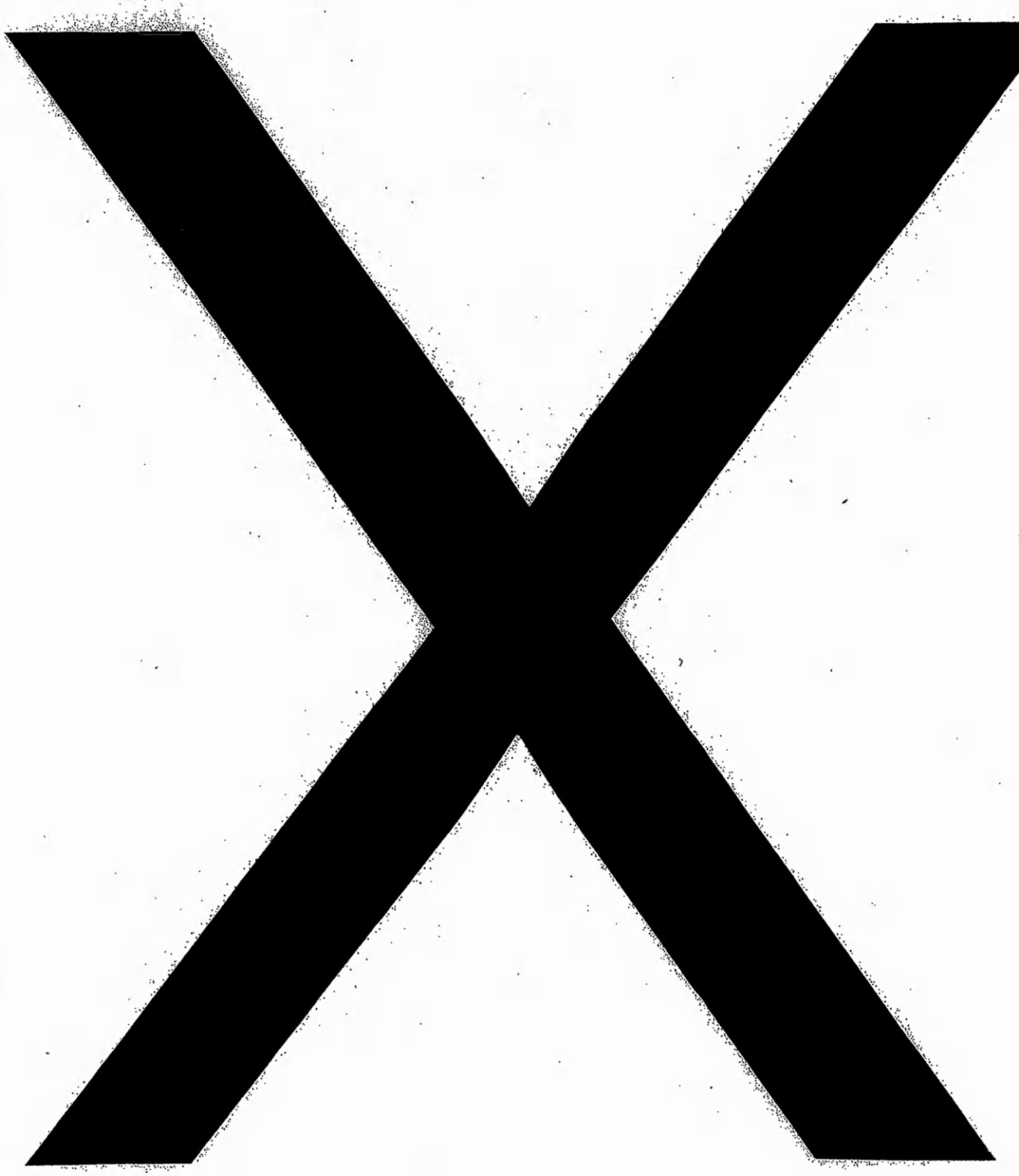
tools that may be used. A complete prohibition for three years at a time may be proposed when stocks are in danger of extinction. After two months' notice, the proposed regulations together with any objections go before the Lagting. The Lagting's opinion is now added to the dossier, which formerly went to the Ministry of Justice, but since 1948, goes to the local Faroese government. Any regulations surviving this procedure are valid for five years, after which they must be renewed by the same process. At the recommendation of the Lagting the Minister (now the Faroese government) may also grant individuals or companies the exclusive right to cultivate mussels where none grew before.[54]

The 1891 Lagting deliberations make it clear that this is a conservation, not a property law. Just as a close season in hunting limits a man's rights over hunting his own land, so this law permits regulations limiting a man's rights to gather mussels from his own foreshore. The ownership position appears to be that private ownership of mussel-beds still extends as far as the mean low-water-mark, possibly as far as a man can wade, or to the marbakke. Beyond that point, territorial waters begin, and mussels are free to all Danish subjects. However prescriptive right undoubtedly exists in many places for outsiders to gather mussels from privately-owned beds. The only stipulation is that any conservation regulations must be complied with.[55]

Limpets and whelks are not covered by the Law of 14 April 1893, neither is there any need for them to be. Limpets flourish in the same inter-tidal area as mussels, but they do not grow in beds, and in any case stick to the rocks with proverbial firmness. Judicially, whelks are not in the same category as mussels and limpets, because they have the power of free movement. An attempt in 1916 to bring in a conservation law for whelks failed, because the majority Lagting view was that they were in no danger. To gather them, a fisherman will lower a cod's head into the water, whereupon the whelks attach themselves to it. The fisherman naturally throws back whelks too small to be used as bait. For both whelks and limpets, as for mussels, the ownership rule gives the shore owner rights as far as the low-water-mark, perhaps as

far as a man can wade, perhaps to the marbakke.[56]

One may thus conclude that though the character of ownership of the Faroese shore (like the outfield, usually joint property) certainly changed during the nineteenth century, the pattern was random - with a general legal conservatism, combined with an eye for public advantage in the face of a growing population and an increased use of the sea's resources. The basic ownership rules, however, remained much as they were defined by the 1687 Norwegian Law and its predecessors back into mediæval times.



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2. Debes, op. cit., p. 71; Landt, op. cit., pp. 158, 221-2; Svabo (1959), pp. 106-7; Björk (1956-9), Vol. III, pp. 29-30; Degn (1929), p. 53.

3. Svabo (1959), p. 103; Kenneth Williamson, The Atlantic Islands (London, 1970), p. 229. On my own visits to the Faroe Islands I have frequently been out saithe-fishing, and usually eaten the product afterwards in the form of huge fish-balls called knettir.

4. Degn (1929), pp. 53-9.

5. Degn (1929), pp. 53-80.

6. Björk (1956-9), Vol. III, pp. 36-41.

7. Degn (1929), p. 80; British Museum: Add. MSS. 29,718, ff. 56-9 (letters from pastor J.H.Schröter to Sir W.C.Trevelyan).

8. Larson, op. cit., pp. 399-400; Hallager & Brandt, op. cit., VI-45, p. 144; N.L. 5-11-16; Björk (1956-9), Vol. III, pp. 24, 26-9.

9. Björk (1956-9), Vol. III, pp. 36-9.

10. Björk (1956-9), Vol. III, pp. 38-41.

11. Björk (1956-9), Vol. III, p. 41; Poul Petersen, op. cit., pp. 52-4.

12. Lagtingstidende 1887, pp. 69-72; Ibid. 1888, p. 68; Bang & Bærentsen, op. cit., pp. 305-9; Björk (1956-9), Vol. III, pp. 42-51; Poul Petersen, op. cit., pp. 52-4; Nitens, op. cit., pp. 80-83.

13. Lagtingstidende 1890, pp. 23-4; Björk (1956-9), Vol. III, pp. 45-59.

14. Björk (1956-9), Vol. III, pp. 59-67, citing FDR 1.10.1895.

15. J.H.W. Poulsen & Ulf Zachariasen (eds.), Seyðabrævið (Tórshavn, 1971), pp. 49, 58; Larson, op. cit., pp. 126-7, 396-7; Björk (1956-9), Vol. III, pp. 161-4, 174; Poul Petersen, op. cit., p. 42. Rights in whales found dead, in Christian V's code, on the other hand, depended on whether they were found dead at sea, or had drifted ashore. With the former: (i) the finder might cut as much blubber as he wished from the whale, provided he did not cut it so that the remainder of the carcase sank; (ii) whales of 9 alen (18 feet) or less belonged to the finder, and might be brought to land where the finder wished, provided he compensated the landowner

for any damage done; (iii) whales over 9 alen belonged to the crown, but the finder had a right to the "finding-blubber" - a square slice two fathoms each way. Of whales drifting ashore, the finder got the finding-blubber as before, and the remainder was shared between the crown and the landowner.

16. In English alone are to be found Lucas Debes, A description of the islands and inhabitants of Foeroe, translated by J(ohn) S(terpin) (London, 1676), p. 80; G. Landt, A description of the Feroe Islands (London, 1810), pp. 357-62; E.H. Greig, A Narrative of the Cruise of the Yacht Maria among the Feroe Islands in the Summer of 1854 (London, 1855), pp. 66-73; A.J. Symington, Pen and Pencil Sketches of Faroe and Iceland (London, 1862), p. 22; J. Russell-Jeaffreson, The Faroe Islands (London, 1902), pp. 207-32; Nelson Annandale, The Faroes and Iceland (Oxford, 1905), pp. 43-5; Gordon Huson, The Faroes in Pictures (London, 1946), pp. 38-43; Kenneth Williamson, op. cit., pp. 95-119; A.S. Jensen and others, The Zoology of the Faroes LXV (Copenhagen, 1940), pp. 119-24; Jörgen-Frantz Jacobsen, Færöerne, natur og folk (Tórshavn, 1953), pp. 111-12; H.C. Müller, "Whale-Fishing in the Faröe Isles", in International Fisheries Exhibition (Edinburgh, 1882), and David Herbert (ed.) Fish and Fisheries (Edinburgh & London, 1883); and a fictional account in Heðin Brú, The Old Man and his Sons, tr. John F. West (New York, 1970). Among the many articles may be mentioned Sir G.S. Mackenzie, "Faroe", in Edinburgh Encyclopædia (Edinburgh, 1830); Ian Lindsay Stewart, "Grind a Voe", British Sea Anglers' Society's Quarterly Vol. 9 (London, 1916), pp. 20-23; J.F. West, "A Faroese Whale-Hunt", Manchester Guardian, 22 September 1958.

17. Louis Zachariasen, Föroyar sum rættarsamfelag 1535-1655 (Tórshavn, 1959-61), pp. 89-91; Björk (1956-9), Vol. III, p. 182.

18. Svabo (1959), pp. 81, 255-6; Landt, op. cit., pp. 224, 227; V.U. Hammershaimb, Færösk Anthologi Vol. 1 (Copenhagen, 1891), pp. xxviii-xxix; Rasmus Rasmussen, Sær er siður á landi (Tórshavn, 1949), pp. 60-62.

19. Degn (1929), pp. 79-81.

20. Svabo (1959), pp. 256-7.

21. Svabo (1959), p. 256.

22. Mikkjal Dánjalsson á Ryggi, Miðvinga söga (Tórshavn, 1965), pp. 43, 65-6, 81, 83-4.

23. Svabo (1959), 253-9; Landt, op. cit., pp. 226-7; Björk (1956-9), Vol. III, pp. 254-6.

24. British Museum: Add. MSS. 29,718, ff. 30-31, 78-80 (letters from pastor J.H. Schröter to Sir W.C. Trevelyan).

25. FL: Færö Amts Skrivelse, 4 June 1807; Björk (1956-9), Vol. III, p. 187.

26. Björk (1956-9), Vol. III, pp. 187-8.

27. FL: Færö Amts Skrivelse, 12 June 1819; Björk (1956-9), Vol. III, p. 188; Degn (1929), pp. 79-81; also FL: Færö Amts Skrivelser, 21 April 1817, 16 January 1818, 24 July 1822, 30 July 1822, 21 July 1824.

28. FL: Færö Amts Skrivelser, 9 June 1827, 14 September 1827.

29. Lov om Grindefangsten paa Færöerne af 1. November 1832 (hereafter GR); Björk (1956-9), Vol. III, pp. 188-9; Poul Petersen, op. cit., pp. 43-5.

30. GR paragraphs 1-4; Björk (1956-9), Vol. III, pp. 201-2, 208.

31. GR paragraphs 5-6, 11b; Björk (1956-9), Vol. III, pp. 191, 194-5, 149-51.

32. GR paragraph 7; Björk (1956-9), Vol. III, pp. 197-9.

33. GR paragraphs 8-11; Björk (1956-9), Vol. III, pp. 210-14.

34. GR paragraphs 12-15; Björk (1956-9), Vol. III, pp. 238-9.

35. GR paragraphs 16-17; Björk (1956-9), Vol. III, pp. 239-40; Poul Petersen, op. cit., pp. 44-5.

36. GR paragraphs 18-22.

37. FL: Færö Amts Skrivelse, 22 December 1830; Björk (1956-9), Vol. III, pp. 264-5.

38. GR paragraphs 29, 31; Poul Petersen, op. cit., p. 45.

39. Udkast til Lov om Grindefangsten paa Færöerne (Copenhagen, c. 1857) (henceforth 1857 Udkast); Lov om Grindefangsten paa Færöerne af 29. December 1857 (henceforth GR57); Björk (1956-9), Vol. III, p. 180; Mitens, op. cit., pp. 46-7.

40. 1857 Udkast, pp. 18-19; GR57, paragraphs 6-7; Björk (1956-9), Vol. III, pp. 194, 196-7.

41. 1857 Udkast, pp. 17-18, 20; GR57, paragraphs 4-5, 9; Björk (1956-9), Vol. III, pp. 202-3.

42. 1857 Udkast, pp. 21, 26-7; GR57, paragraphs 18, 32; Björk (1956-9), Vol. III, pp. 204, 251.

43. 1857 Udkast, pp. 21-3; GR57, paragraphs 20-34; Björk (1956-9), Vol. III, pp. 243-51.

44. 1857 Udkast, pp. 23-6; GR57, paragraphs 24-5; Björk (1956-9), Vol. III, p. 273

45. Björk (1956-9), Vol. III, p. 252.

46. Björk (1956-9), Vol. III, p. 259.

47. Björk (1956-9), Vol. III, pp. 252-72; Williamson, op. cit., p. 110; Mitens, op. cit., pp. 550-51.

48. Svabo (1959), p. 72; Björk (1956-9), Vol. III, pp. 273-7; Mitens, op. cit., p. 915.

49. Færöerne I, p. 151; Jóannes Patursson, Kirkjuböar söga (Tórshavn, 1966), p. 18.

50. Svabo (1959), pp. 67-70; Landt, op. cit., p. 165; Jóan C. Poulsen, Hestsöga (Tórshavn, 1947), pp. 11-12. In Heðin Brú, op. cit., p. 61, there is a fictional account of the use of mussels for an impromptu meal.

51. Svabo (1959), p. 94.

52. Björk (1956-9), Vol. III, pp. 70ff; Rasmus Rasmussen, op. cit., p. 143.

53. Björk (1956-9), Vol. III, pp. 71-4; Poul Petersen, op. cit., pp. 49-51; Lagtingstidende 1884, pp. 82-6; Ibid. 1890, pp. 105-6; Ibid. 1891, pp. 53-60.

54. Björk (1956-9), Vol. III, p. 74; Poul Petersen, op. cit., p. 51; Mitens, op. cit., pp. 83-4.

55. Lagtingstidende 1891, pp. 53-60; Björk (1956-9), Vol. III, pp. 83-4.

56. Björk (1956-9), Vol. III, pp. 84-7.

CHAPTER TWELVE THE DISTANT-WATER FISHERY AND ITS EFFECTS

At the beginning of this thesis (page 30), the point was made that during the nineteenth century, fishery was steadily overhauling farming in economic importance. Even before the Monopoly was abolished, the export of fish had begun to increase in an unprecedented manner. In part, this was a response to an increased population pressing against limited resources ashore. The development was stimulated by amtmand Plöyen's journey to Shetland in 1839, for Shetland already had a well-developed boat fishery, and Plöyen's three Faroese companions brought back the craft of making dried salt cod (klipfish), a more reliable process than the mere wind-drying of stockfish.

Even so, earlier in the century, the fishery was no more than a supplement to the traditional peasant economy. Until 1865, indeed, the larger farmers had been legally bound to maintain fishing-boats, and in return had something approaching a conscription right over their poor neighbours for service in them (page 184). From 1872, however, we may regard the fishery as in competition with the farming economy. This was due to two developments: the Iceland boat-fishery, and the rise of sloop fishing.

THE ICELAND BOAT FISHERY

About 1872, Faroese fishermen began travelling to the fjords of eastern Iceland by post-boat or fishing-boat to spend two or three months of the summer boat-fishing, with hand-line or long-line. By 1877 it was sufficiently important for the Alþing to regulate it by law.

Until 1880, this fishery was on a limited scale, about 100 men taking part. During the following decade, after the success of the pioneers, it increased dramatically. In 1885, some 600 Faroemen were at the fishery with 150 boats in six of the fjords of eastern Iceland. From 1888, Faroese women travelled to Iceland also, both as cooks for the menfolk, and to work up the fish ashore. It was estimated that in 1890, no fewer than 1,000 Faroese travelled to eastern Iceland for the summer. This fishery continued until well after the 1914-18 war, though latterly on a much reduced scale.[1]

THE SLOOP FISHERY

Faroemen were making attempts at fishing from decked vessels from late in the eighteenth century, though without financial success. The most celebrated of these ships was the Royndin Frída, built in 1804 by the Faroese national hero Poul Poulsen Nolsöe, which during the next four years undertook both fishing and commercial journeys.[2]

Success in this form of fishery was finally achieved by the three brothers Dánjal, Niclas and Petur Haraldsen, of Tórshavn. In early summer 1872 they bought the 38-ton cutter Fox in Scarborough. They arrived with it in Tórshavn in July, whereupon they set off at once for Seyðisfjörður in eastern Iceland. Here they used the Fox as a mother-ship from which to conduct a boat-fishery, returning to Faroe in October with a full cargo. In February 1873 they resumed fishing, this time on the banks near the Faroe Islands. Dánjal Haraldsen said that the vessel had originally cost only 7,000 kroner, but by 1877 he was making 35% on his capital annually.[3]

Others soon followed the brothers' example, some using the mother-ship technique, others fishing directly from the vessel. When, towards the end of the century, the British fishing fleet was turning over to steam trawling, many serviceable wooden smacks ("sloops" as the Faroemen called them), could be bought at very low prices. The growth of the Faroese ship fishery may be illustrated from the following table:

Table 22 DECKED VESSELS IN THE FAROESE FISHING FLEET, 1872-1910[4]

1872	1	1891	15	1901	87
1874	4	1892	24	1902	84
1878	12	1893	36	1903	98
1882	22	1894	39	1904	107
1885	21	1895	45	1905	118
1886	18	1896	61	1906	128
1887	15	1897	66	1907	140
1888	16	1898	65	1908	142
1889	16	1899	62	1909	137
1890	14	1900	81	1910	137

In 1900, 80 sloops were taking part in the fishing season off the Faroe Islands, and 74 in the season off Iceland, and over 1,000 men were involved.[5] For fishing the local banks, the crew was normally 11-15, for Iceland 12-17. What this meant in terms of

manpower unavailable for work on the land may be appreciated from the following table, which gives, for individual vessels for which the information is available, the period of absence and the size of crew during the 1899 fishing season.

Table 23 CREWS AND FISHING SEASONS FOR 64 FAROESE SLOOPS, 1899[6]

Vessel	OFF FAROE		OFF ICELAND	
	Crew	Weeks fishing	Crew	Weeks fishing
Livingstone	14	14	12	9
Helene	16	4	15	26
Spurn	11	13	12	10
Delphinen	13	18	13	10
Prosperous	-	-	17	24
Beautiful Star	14	13	14	8
Atlantic	-	-	17	28
Phoebe	-	-	16	26
Cyclone	-	-	16	21
Gauntlet	-	-	10	14
Sandoy	12	23	12	9
Streymoy	12	17	12	8
Vágoy	12	17	12	8
Suðuroy	13	16	13	9
Amaranth	11	8	13	17
Lalla Rookh	15	18	14	8
Galatea	14	18	15	9
Florence	17	16	19	9
Nordlyset	16	17	14	8
Docea	-	-	15	23
Jubilee	13	15	12	8
Vinur	12	10	14	13
Norðingur	11	16	14	8
Dart	12	18	11	10
Pioneer	8	2	-	-
Flower of the Valley	14	16	14	19
Vestmanna	13	6	14	22
Bóndin	9	6	-	-
Guiding Star	13	16	13	18
Daggry	12	2	12	8
Prince of Wales	11	14	11	8
John Brown	-	-	14	22
Saltaire	12	12	17	14
Orðvingur	13	21	14	11
Norðstjörnan	14	19	14	11
Marshall	12	14	11	13
Suðringur	13	16	14	13
Falkur	14	20	14	11
Viking	14	15	14	13
Grage	10	9	9	18

Vessel	OFF FAROE		OFF ICELAND	
	Crew	Weeks fishing	Crew	Weeks fishing
Immanuel	14	15	14	13
Othello	14	11	14	17
William Clowes	13	18	15	11
Fearless	12	20	12	10
Emerald	12	8	12	10
Royndin Fríða	12	17	14	12
Sildberi	14	8	14	21
Carl	13	20	13	12
Th. Charlton	15	12	15	17
Energy	12	11	12	18
Robert Miller	12	18	12	8
Regina	14	16	14	14
Tjaldri	15	17	16	13
H.M. Stanley	12	19	12	8
Snowdrop	7	19	7	8
Vábbingur	11	13	12	15
Johanne	13	15	14	14
Albert Victor	14	14	14	15
Kittiwake	13	13	13	15
Heimdalur	13	17	15	12
Riddarin	13	8	16	21
Trongisvingur	12	9	14	20
Jeanette	12	13	12	11
Vigilant	6	18	-	-

The sloop fishery presented the landless man with a golden opportunity to win himself a chance of prosperity, but the development meant a summer labour famine for the farmer, particularly the larger crown leaseholder. The way of life of the sloop fisherman with the initiative to make the best of his chances has been described by an informed eye-witness in the following terms:[7]

> In the home of such a fisherman-smallholder the son would, immediately after confirmation, sign up on a ship for the fishery. In the winter he would be at home with his parents and work with his father. When he reached the age at which he could marry, he obtained a tröð, walled it in, and built himself a house with the money he had saved up. When in the winter the tide and weather conditions were favourable, he carried on the fishery in a boat in which he himself owned a share. The rest of the time he tilled the land. In March he left home for the sloop fishery, came back late in April and was now home for a couple of weeks. In this period corn was sown and potatoes were set. He managed also to dig his family's annual peat requirements, before he set off again.

> Now his wife would look after the fields and the peat, until the sloop fishery was over in September, and the husband came home to harvest the crops. Soon the husband would have cultivated so much of his plot that he could keep a cow, and the wife acquired half a score of hens. A large proportion of the family's clothing and footwear was made at home in the winter-time. Here was lived a diligent life, providing secure conditions in economic independence.

Shortage of male labour was already becoming felt on the crown farms as early as 1884, since it was in particular the young, unmarried men who were attracted to the Iceland boat fishery and the sloop fishery. Whereas early in the century, a farm hand could be obtained for 12-16 Rbd. (24-32 kroner) per year plus board and lodging, daily wage rates in the commercial centres were now at least 2 kroner, and in the height of the fishing season labourers were hardly obtainable even at 3 kroner a day. Female labour was at the same time much engaged in the working up of klipfish. By 1890 resident farm hands were becoming unobtainable, and the management of a large farm in the old manner with hired help was likely to lose rather than gain money.[8] By 1909 it was possible for crown leaseholders to write:[9]

> Folk who put their confidence in Faroese agriculture have already for many years watched with anxiety its manifest decline. The owners of the larger farms have ever more difficulty in working their land by the old system of management, since nearly all the male labour prefers the ship fishery as, at any rate seemingly, better paid. And as far as the smaller farms and smallholdings are concerned, it is now in many places common to see them neglected, since the owners for the most part spend the summer months at the fishery, and especially as regards the younger generation, who already from the age of confirmation go to sea every spring, so that they are becoming quite unaccustomed to farm work. And the abundance of unemployed manpower in the winter benefits the land in only small measure. Agricultural activity has lost its esteem.
>
> Not least in poor fishing times such as the present must one often recognise the truth of the old proverb, that "it is not good to have one's whole larder in the sea". It is obvious that the community would be far better placed economically, if agriculture were to yield a greater output than it does.

Census figures bear out this picture of a massive flight from the land. It is, however, impossible from such figures to describe quantitatively the labour withdrawn from the farms. In

some cases this took the form of *trađarmenn* paying their landlord a cash rent instead of a labour rent. Quite a superficial acquaintance with Faroese village traditions will show that a man described as a smallholder may in fact have been the effective manager of a local crown farm, or that another, apparently a resident farm hand, will in reality have been a pauper maintained by the charity of the farmer; and so on. Yet the census figures, imperfect as they are, confirm the picture of a society where fishing was completely displacing farming as the key occupation.

Table 24 OCCUPATIONS AS GIVEN IN CENSUS RETURNS, 1834-1911[10]

Year	Total Population	Living from Agriculture		Living from Fishery		Living from Manufacture		Living from Labouring	
1834	6,628	4,911	74.2%	262	3.9%	568	8.6%	448	6.7%
1850	8,137	5,313	65.4	1,266	15.5	353	4.3	227	2.8
1880	11,220	5,460	49.1	3,532	31.7	850	7.6	392	3.5
1890	12,995	4,920	37.9	4,984	38.4	1,016	7.4		
1901	15,230	4,393	29.0	6,119	40.6	1,686	11.1		
1911	18,000	3,324	18.5	9,515	52.9	1,671	9.3		

Note: The classifications were not made on precisely the same grounds each time. The labouring groups in the first three years given lived predominantly from agriculture.

THE GLEBE FARMS

Reference has previously (pages 20, 21, 23 & 64) been made to the glebe farms and the annexed glebes of the Faroese clergy, the yield from which constituted the major part of their income. The glebe farms, when personally managed by the priest, could until the late nineteenth century yield a very comfortable income. Under really efficient management, they could yield riches. It is said that when Clemen Laugesen Follerup became minister of Sandoy in 1648, he carried all his possessions in a single carpet-bag; at his death he owned land in Sandoy, Skúvoy and Suðuroy to the extent of no less than 47 marks, with stock of 20 horses, 57 cattle and 2,246 sheep.[11] But prosperity was dependent upon a labour supply adequate to run the farm properly. The labour crisis hit these farms, which were amongst the largest in the Faroe Islands, first of all.

On 1 March 1890, the six priests of the Faroe Islands

submitted a petition to the Minister for Ecclesiastical and Educational Affairs, setting out the reasons for their worsened financial position. Both farming and fishing had lately suffered bad years, and the product of the tithe, especially the fish tithe, had been only half what it had yielded 10-15 years before. The yield of the glebe farms, which should provide more than half the priest's income, now provided only a quarter. 20-25 years before, when labour was plentiful, the priests could not only manage their own farms, but could also carry on a boat fishery. Their only recourse now was to get a tenant to take on the farm for a third of the gross yield. The priest had to pay the taxes and maintain the buildings in good condition, and this left him with only about half the yield of the farm. The priests thus recommended the sale of the glebes in half-mark lots so that the resulting capital could be more profitably invested, leaving only sufficient infield for the foddering of two cows for each priest. In advocating the sale the priests pointed out that by it, more Faroese families would be enabled to own land, as an additional resource when the fishery failed.[12]

The petition was supported by the amtmand and the provost, who commended the sale as a desirable step towards modernising clergy stipends and rendering the land concerned more productive. However, they emphasised the continuing need of the clergy for some land, since outside Tórshavn, milk and meat could not be obtained by purchase. They requested that the issue might come before that year's Lagting, and the Ministry agreed.[13]

The Lagting came to the conclusion that while current tenant-management of a mark of land would produce an annual income of no more than 35-50 kroner for the incumbent, the probable sum realised by sale, invested at 3 1/2%, would yield 98 kroner annually. They therefore proposed that a commission for each pastorate, under the chairmanship of the provost, should supervise the piecemeal sale of the farms when the incumbent proposed this. Various conditions were appended, such as one to safeguard the tenure of any traðarmenn. The lots sold were to be not less than half a mark or more than two marks - the purpose being to set up holdings that would at the least support one cow, and which at the

largest would be within the capacity of a single family to manage. The Lagting suggested that since the farms were not crown estate of the usual kind, no special law was necessary, but sale could take place by administrative decision.[14]

The Ministry, on the other hand, regarded a law as desirable, and sent back a draft for the 1891 Lagting to consider. The draft in general followed the rules proposed by the 1890 Lagting, with the curious addition of a provision that a third of the purchase price should be commuted to a kind of ground rent, the size of which was to vary with the barley price in Sjælland. The motive for this was to secure the pastorates against a fall in the value of money.[15]

The Lagting was occupied with this proposal from 7 August to 19 September. All agreed on the desirability of sale, though one member feared the disruption consequent on too swift a disposal of 150 marks of land. But there were many disagreements on detail, in particular: (i) Some members wanted compulsion on the priests to sell, as soon as a certain price level was obtainable. (ii) The members were profoundly disagreed on how far limitations ought to be placed on the subsequent fragmentation of the parcels sold (which could make an eventual infield enclosure more tedious) or on their union into larger holdings. (iii) The ground-rent plan was disliked as a hindrance to the original and subsequent sales of the land. (iv) Members disagreed whether in these sales böur ought to be separable from hagi. The Lagting found itself unable to draft alternative proposals for the Ministry, but merely sent its proceedings and all relevant documents, with a request for another draft law.[16] The Ministry, not surprisingly, let the papers gather dust until the 1908 Commission was established.

The passing of the 1894 Trölov raised the related issue of traðir enclosed from glebe outfield. In a petition dated 15 July 1894, eleven Viðareiði traðarmenn requested permission to buy their traðir on the same terms as those now permitted to traðarmenn who had enclosed crown leasehold outfield. They represented that their tenancy terms were far from light; but their chief worry was that with a change of priest, these terms might be varied to their disadvantage.

The Lagting committee considering the petition sent round to all the Faroese priests to enquire what traðir had been enclosed from glebe outfield, and whether the priests were willing to have them transferred to freehold tenure on suitable conditions.[17] The reply was as follows:

Table 25 GLEBE TRAÐIR, 1894

Pastorate	Number of traðir	Whether willing to sell	Notes
Northern Islands	11	Yes	-
Eysturoy	7	Yes	-
North Streymoy	no reply	No	-
South Streymoy	1	Yes	This tröð was situated on the annexed glebe, so the widow's consent needed.
Vágar	6	4 Yes 2 No	Not willing on terms of 1894 Trölov for two let at small or no rents.
Sandoy	no reply	no reply	Did not answer letter.
Suðuroy	1	Yes	-

Note: Various grazing, peat-cutting and other rights were often associated with these traðir. The priests who consented all stipulated that the terms of sale must be such that the income of the pastorate did not suffer.

The Lagting therefore referred the matter to the Ministry, but once again, approval was not forthcoming. Here the matter rested for a decade, until the eve of the 1908 Agricultural Commission, which as part of its work was asked to draft a new law permitting the alienation of both traðir and integral portions of the glebe farm.[18] No legislation followed, however, until 1937, when the state bought out the glebes for 250,000 kroner.[19]

IMPROVING FAROESE AGRICULTURAL TECHNIQUE

From the eighteenth century onwards, the Danish government had shown a sporadic interest in increasing Faroese agricultural productivity. With the labour famine towards the end of the nineteenth century, there seemed at last the possibility of introducing foreign techniques.

The first step was to survey the existing position with an expert eye. Here the initiative was taken by Den kongelige danske

Landhusholdningsselskab, with the aid of funds bequeathed in 1802 for the promotion of economic advance in Faroe, Iceland and Greenland. In 1885, under the Society's sponsorship, the young agricultural graduate, Rasmus Christoffer Effersöe (1857-1916), conducted an agricultural survey, which in the autumn of 1886 the Ministry of Justice published, under the title Landbruget og Husdyrbruget paa Færöerne.[20]

At the time of the printing of this report was advanced the project of establishing an agricultural consultancy service for the Faroe Islands. The Ministry envisaged two consultants, one resident in Faroe, the other travelling round countries with closely related problems, i.e. western Norway and the Scottish highlands and islands. The Lagting approved of the appointments, not least to aid the officials administering the crown estates, who seldom had any relevant agricultural knowledge.[21] No suitable peripatetic consultant could be found, but Rasmus Effersöe was appointed as resident consultant from 1 April 1889.[22]

Rasmus Effersöe was extremely well suited to this position. In character he was a friendly, outgoing person, hospitable, with a sense of humour, and something of an actor. He was a native Faroese, son of the Suðuroy sysselmand. In 1872 he had gone to Denmark to learn agriculture on a farm there, and he later went to Scotland to study shepherding. In 1877 he entered the Copenhagen Agricultural College, and graduated two years later. From 1879 to 1884 he had managed farms in Sweden, but in 1885 happened to be temporarily without an appointment. He continued as government agricultural consultant until a year before his death, and was the foremost influence in bringing modern methods into Faroese agriculture. He was incidentally a journalist, and a poet of some talent, and was an important figure in the development of Faroese literature.[23]

Several Faroese had at this period studied abroad, but foreign agricultural experience was not always relevant to the islands. Thus there was mooted an experimental or model farm at which Faroese farmers could see modern techniques in practice. A Lagting proposal of 1884 was, however, rejected by the Danish parliament.[24] But the subsequent plan of the young crown

leaseholder of Kirkjuböur, Jóannes Patursson,[x] who had studied agriculture at a Norwegian college, to set up a private agricultural school on his farm with the aid of an annual grant won the support of the 1892 Lagting and subsequently the Danish government and parliament. The grant was only small, 1,500 kroner annually for six years, after which the school closed, but its pupils were enthusiastic about the benefits they had received from it. But no further attempts were made in this direction until the Hoyvík model farm was set up in 1920.[25]

The modern farming techniques which in particular made headway in the Faroe Islands during this period were the use of the wagon, harrow and mowing-machine, and modern dairy equipment, and even to a certain extent the plough,[26] though these were expensive for the smaller farmers, and infield fragmentation made their employment difficult for most allodial owners and even many crown leaseholders.

FARM FINANCE

Even by the end of the nineteenth century, Faroese farming was operating only subordinately on a money basis, so farmers could rarely finance their improvements out of revenue.[27] The small size of most allodial holdings made it desirable that the crown leaseholders should lead the way; but crown leaseholders could not raise mortgage loans on land which was not theirs to pledge. Moreover, they were unwilling to pay for improvements which might, with the lease, pass out of their family. With the glebe farms the problem was more severe still, since a priest was usually succeeded in the calling by a complete stranger.

This problem was not a new one. Indeed, a system had been

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[x] Jóannes Patursson (1866-1946), farmer, poet and nationalist politician, later became one of the most colourful personages in the Faroe Islands of his time. He studied at Stend Agricultural College near Bergen, from 1882 to 1884, and qualified with first-class honours. In his autobiography he says that his experience was very different from that of Effersöe, who was the better theoretician, though he himself with the better practical farmer.

operating in the 1830s whereby a crown leaseholder could apply through the amtmand to the Rentekammer for a grant of 50% of the cost of erecting new buildings or extending old ones, which would then be added to the lease inventory for successive leaseholders to maintain. But such grants were made entirely at the discretion of the Rentekammer on the recommendation of the amtmand, and were a slow and arbitrary method of farm finance, unsuited to the needs of the new age.[28]

The Lagting first discussed the problem in 1885, when Poul Petersen, then Kirkjubøur leaseholder, submitted an application for 6-8,000 kroner to erect a byre on his lease, of the modern kind his son Jóannes had seen in Norway. The Lagting was unable to support this particular application because of the number of other calls on state finance that were then going forward from the Faroe Islands, but instead began drafting a general law to enable crown leaseholders to get public finance for the improvement of their farms. The proposal did not go to the Ministry of Justice until 1889, because the Lagting had to wait until the post of agricultural consultant was made before certain provisions could be included.[29] The draft finally emerged as the Law of 12 April 1892 on compensation for improvements carried out on the state's lands in the Faroe Islands.[30]

The law enabled crown leaseholders to reclaim the actual cost of improvements undertaken on crown estates when these resulted in an increase in the productivity of the farm. Payment of the grant was conditional on prior approval of the plans by the crown estates administration (advised of course by the consultant), and a subsequent inspection to ensure that the work had been properly carried out. From the time of payment the annual rent of the farm would be increased by 4% of the amount of the grant if the improvement was of a permanent nature, or by a larger percentage for a fixed term of years for an improvement likely to have only a limited duration. The law finally provided that improvements undertaken during the previous twenty years might be compensated for at the discretion of the Ministry of Justice. The crown leaseholder's problems were thus largely reduced to finding bridging finance.

The 1892 Law did not, of course, help *trøðarmenn* or allodial owners. These could of course take out mortgages on their lands, and especially during the nineties many did so, but probably more often with the intention of financing their fishery than their farming. The funds available were not large - there was a little available from the public trustee and certain other funds with capital to invest on good security, and of course from the savings bank. But the problem of easy loans for the smallholder was not raised in the *Lagting* until 1906, and then it was referred to the 1908 Agricultural Commission.[31]

THE PROPOSAL TO SELL THE CROWN LEASEHOLDS

The general consideration that owner-occupiers are likely to improve their farms more than leaseholders has been repeatedly urged as a motive for the Danish state to sell its large Faroese estates to the occupiers on reasonable terms. The first such plan was, indeed, advanced as early as 1787.[32] As agricultural reforms progressed in Denmark proper, particularly after the Law of 8 April 1851 encouraging the sale of state-owned leasehold farms to their tenants, the proposal was several times revived. With the rise of the commercial fishery, the summer labour famine hit the larger crown farms as it had done the glebe farms; the smaller crown tenancies were often simply neglected by their lessees, who were trying their fortunes at the fisheries. There seemed a chance that ownership might prove a timely stimulus to Faroese farming. The tenure of the Faroese crown leaseholder was, however, thanks to the Laws of 1673 and 1691, far more secure than that of his Danish counterpart, and once improvement finance had been assured by the 1892, he had little economic motivation for desiring ownership.

In 1876 the *Lagting* considered the possibility of transfer to ownership on the same kind of terms as the Tórshavn *trøðarmenn* had lately been given (see page 153). The *Lagting*'s reservations were that the crown lands must not be allowed to fragment as the allodial lands had done; and the intake of further *trøðir* must not be hindered. Most important of all, the *Lagting* wanted to prevent the rise of a class of wealthy landowners exploiting tenants-at-will. The matter was adjourned to the 1877 session,

when a majority saw no advantage in changing the existing state of affairs.[33]

The issue was revived in the 1879 Lagting in connection with the progress of the Trösag (see page 154). It was thought unreasonable to permit the poor man to acquire proprietorship of stretches of a crown farm, when the farmer himself was debarred from proprietorship of the land he worked. The draft law that emerged provided for voluntary purchase by the sitting tenant at 25 times the rent as it would be revised on the introduction of the new land assessment (see Chapter 10, especially pages 219-220). The subsequent division of the estate was to be permitted only by royal consent, except for the sale of stretches of outfield for traðir, or the alienation of building or industrial sites, which could be carried through with the amtmand's permission. No-one was to be permitted more than one such holding. The matter was adjourned to the 1880 Lagting session, when the point was raised that if the sale was to be made at 25 times the low leasehold rents being charged, the purchasing occupier could simply re-sell at a large profit, and would then in effect have been presented with a large sum which might otherwise have benefited the public at large. A fresh draft was thus made, setting the purchase price at the values assessed by the 1868 Commission (which were indeed on the low side), minus half the assessed value of the infield, in recognition of the labour of the leaseholder and his ancestors in bringing it to its present productive state. The Lagting sent this draft to the Ministry of Justice, but the Ministry shelved the matter on the grounds that such a law could not be brought into effect before the new land assessment was actually in force. The 1887 Lagting, faced with the delay in bringing in the new assessment, agreed to a deferment of the bill, and to consider it afresh before re-submission.[34]

The issue was duly revived in 1899, and a fresh bill was drawn up, incorporating clauses consequential on the introduction of the new assessment and the passing of the 1894 Trölov. Once again, opinion was much divided. The tröð advocates were much against sale since it would hinder further intakes. A postponement was once again agreed, so that the views of officials

and the kommuner could be sought. After much amendment, the 1900 Lagting finally produced a bill commanding almost unanimous support. This bill, however, came before, not the Danish Rigsdag, but the 1908 Agricultural Commission, whose opinion was expressed in three minority reports.[35] Thus no law was ever passed, and the crown estates have to this day remained in leasehold tenure, though their administration has now passed into the hands of the local Faroese government.

THE INFIELD ENCLOSURE ISSUE REVIVED

With the labour famine came a re-examination of the possibility of curtailing the degree of communality of land tenure in the Faroe Islands. In particular, the prospect of introducing improved farming methods was remote, as long as the allodial infield, and even much of the crown infield, was so fragmented, as was pointed out in the 1877 Lagting.[36] During the discussion of the sale of glebe farms in the 1891 Lagting, Oliver Effersöe represented the urgent need for infield udskiftning, which was hampering every other agricultural reform in the islands.[37]

The fragmentation of infield holdings, dealt with at length in Chapter 8, was certainly some inconvenience even in the days of spade cultivation, but became intolerable when the larger owners wished to mechanise their operations. Consolidated holdings, individually fenced, were essential when large- and small-scale farming co-existed in a single village infield.

The revival of the issue was occasioned by the discussion of the separability of böur and hagi in 1897 (see pages 150-51). When the latter came before the 1898 Lagting, a provision for infield udskiftning was actually included in the draft law. This provided that a two-thirds markatal vote at the grannastevna could require udskiftning, which would be carried out by a commission of three, one nominated by the king, the other two by the Lagting, with the assistance of a land surveyor.[38] As mentioned in Chapter 7, the Ministry found this bill poorly drafted, and it never became law. Instead, it too came before the 1908 Agricultural Commission.

THE 1908 AGRICULTURAL COMMISSION

The extent to which Faroese agricultural problems were interrelated became fully apparent with the continuing agitation for the enclosure of more outfield as smallholdings for landless fishermen. The Trösag certainly did not end with the 1894 Law; two Lagting members, M.A. Winther (1871-1923), grandson of the assessment commissioner, and J.H. Poulsen (1869-1954), both profoundly influenced by the thinking of Henry George, were its enthusiastic advocates. A series of articles in the radical newspaper Tingakrossur in May-June 1905 urged the promotion of the enclosure of smallholdings by the democratisation of the crown estates admininstration (which the writers accused of being bureaucratic), rejection of the proposal to sell the crown leaseholds, and the passing of a law to permit the expropriation, against compensation, of stretches of allodial outfield.

When the issue came before the 1905 Lagting, the point was raised that where a village consisted largely of allodial land, there were great difficulties in enclosing a whole kofoder of crown outfield, particularly in the small villages of the Northern Islands. In any case, the one-kofoder limit was not essential. Smallholdings might be created by uniting a smaller tröð with a small allodial infield holding; and it was asserted that by skilful management and the use of cattle-cake, as many as 3 cows could be supported on a single kofoder. The argument that further enclosures would endanger the húshagi was countered by the argument that summer outfield cattle-grazing demanded much labour and im fact yielded little milk.

But the Lagting found formidable legal difficulties in the way of amending the Trölov to permit composite smallholdings. The piecemeal agricultural legislation of the nineteenth century now formed such a complex interlocking structure that it was necessary to examine the whole before any part could be amended with profit. Discussion was deferred until the 1906 Lagting.

During January 1906, Poulsen and Winther published a series of five further articles in Tingakrossur, which were reprinted as a pamphlet, Vore Landboforhold, during the spring. The authors urged that the entrenched privileged position of the kongsbönder must not stand in the way of the social need to advance cultivation,

and that the land legislation as a whole must be reformed to remove other outdated obstacles to the extension of smallholding. They urged the setting up of an Agricultural Commission, with the following principal tasks:

1. Revision of the 1894 Trölov, and the provision of means for traðarmenn to secure improvement loans on easy terms.
2. Revision of the 1891 Grannastevna Law: Amtmand Bærentsen had discovered a legal flaw restricting the right of appeal by minorities from the grannastevna to the landvæsens-kommission, placing a hindrance in the way of extended cultivation.
3. Contingent revision of the Landvæsenskommissioner Law.
4. Legislation permitting the separation of böur and hagi, necessary to forward the sale of traðir from allodial land.
5. Enclosure legislation.
6. Infield fencing legislation.
7. Modification of the crown estates administration.
8. Widening the scope of agricultural consultancy work.
9. Modification of the crown leasehold system.

The 1906 Lagting discussed agriculture at length, and accepted the principle of an extension of smallholding, and the extension to traðarmenn of agricultural credit, the interest rate on which they thought should be lowered (for all borrowers) from 4% to the 3% current in Denmark. The Lagting accepted the principle of an Agricultural Commission, but deferred further discussion until the following year, when sorenskriver J.C. Helms would be back from a very relevant study tour of Norway. The 1907 Lagting was able to send firm proposals for the Commission to the Ministry of Justice; these eventually reached the statute book as the Law of 13 March 1908.[39]

The Law provided that the Ministry of Justice should choose two members of the Commission and one deputy, and that the Lagting should, from each Faroese pastorate, elect one member and one deputy, making a Commission of nine, which should elect its own chairman. Its terms of reference included all agricultural matters referred to it by either the Ministry or the Lagting, or which the Commission itself found occasion to consider. It had

full powers to require officials to supply information, and was to submit its recommendations in a printed report by 1 July 1910. The Commission's task was so intricate, however, that it had to be granted another year - the eventual report was 317 pages long, and was accompanied by an 807-page supplement.[40]

The Ministry's members were the amtmand, Christian Bærentsen, and the agricultural consultant, R.C. Effersöe, both native Faroemen, their deputy being sorenskriver Helms. The Lagting chose two allodial farmers, one sysselmand, one tráðarmaður, two crown leaseholders and one heir to a crown lease. Five of the seven were also Lagting members.[41]

The principal issues submitted to the Commission by the Ministry were: (i) the desirability of infield udskiftning; (ii) whether bður and hagi should be separable; (iii) proposed amendments to the 1857 Law limiting land fragmentation; (iv) proposed amendments to the Trölov of 1894; (v) the proposal to transfer crown leases to ownership; (vi) improvement finance for crown farms and smallholdings; (vii) ownership rights over fresh water and water-power; (viii) an application by Jóannes Patursson for subsidy in aid of agricultural experimental work at Kirkjubður; (ix) the application of a French company for a coal-mining concession in Suðuroy. The Lagting added: (x) the proposed sale of the glebe farms; (xi) amendment of the hunting law concerning protection of hares; (xii) the winter fencing of plantations and gardens; (xiii) amendments to the laws protecting sea-fowl; (xiv) the application of Hvalbður kommune for sole mining rights within its borders.[42]

The Commission found it necessary to survey the entire Faroese land law, which was in so many respects deficient that reforms in individual statutes would have been inadequate. To discover motivations and preliminary drafts of the older enactments demanded considerable archival research. They finally devised a new Faroese land law which, while building on the old Faroese tradition, would ease communal tenure when udskiftning was impossible, would aid enclosure of the infield and hence the introduction of modern cultivation techniques, and would bring about greater certainty in the general state of the land law.[43]

To deal fully with the Commission's recommendations, and the extent to which they were eventually implemented, would require several chapters, and would carry this study far beyond its projected limits; but it is appropriate to consider them in outline, and to conclude the complex story of Faroese communal land tenure in the nineteenth century with the direction in which it was destined to move in the twentieth.

The Commission set out sixteen detailed proposals.[44] The final two of these were a revised hunting law and recommendations on Suðuroy coal-mining, to which I shall omit further reference. The others, nearly all in the form of draft legislation, were:

I. A new outfield law, its principal aim being to ease the burdens of communal land tenure by restricting joint management to the hagapartur as far as possible. Only sheep-dog and horse regulations were henceforth to be subject to village (i.e. to grannastevna) regulation. Day-to-day management of each jointly-owned hagapartur was henceforth to be in the hands of a hagastýri of three or five members, elected by an annual hagastevna, i.e. a meeting of all shareholders in the hagapartur which laid down general policy and appointed the shepherds.

II. A fencing and boundary law, replacing the fencing and boundary provisions of the 1866 Outfield Law. With the change in emphasis in Faroese farming from sheep-culture to infield tillage, consequent on the fragmentation of infield and the rise of the commercial fishery, the new law endeavoured to accord to cultivated land that protection from animals without which agricultural progress would be hampered, and udskiftning be in vain. The law establishes circumstances in which fencing can be demanded of a neighbour, and provides for the impounding of stray animals and the penalising of their owners. The infield grazing of cattle, horses or geese, where now permitted, was to cease on the demand of one-third of the infield owners or one-third of the markatal.

III. An enclosure law, closely following the Norwegian Enclosure Law of 1882, itself in broad outline following the Danish Law of 1781, to which reference has already been made (page 114). A somewhat easier procedure was provided for outfield division, but

the law was primarily concerned with remedying infield fragmentation, of which they remarked: "This is not an evil peculiar to us, but which has its parallels throughout Scandinavia and other European lands, and the means which everywhere has been used to combat it, and which has shown itself to be efficient, is enclosure". A demand for infield enclosure was to require the signature of one-tenth of the markatal.

IV. A rights of way law transferring management of the cairned village tracks from the grannastevna to the kommune.

V. A grannastevna law amending the 1891 Law to harmonise with the remainder of the Commission's draft legislation.

VI. A landvæsenskommissioner law making similar contingent revision.

VII. A fragmentation law amending the 1857 legislation. Böur and hagi were henceforth to be separable, and the one-gylden limit for transfer was to apply to either. But transfers of less than one gylden might be permitted for rounding-off and consolidating other holdings, on the recommendation of the sysselmand.

VIII. An assessment law, progressively revising the 1869-71 Assessment. A new assessment was to be undertaken for traðir not hitherto included, and for non-agricultural land. Agricultural land would be added to this new assessment as udskiftning took place in each village. The motive of this law was to spread the land taxation burden over all kinds of land.

IX. A law on water rights, filling a deficiency in Faroese land legislation, covering ownership and usage rights over streams and lakes. Water rights generally were to pertain to the landowner, or for joint properties, the hagastevna or the grannastevna. Drainage of lakes was not to be undertaken without the permission of the amtmand.

X. Sale of glebe farms. This law varied only slightly from the 1890 Lagting proposals, the chief difference being that a request by the priest for such sale was to be irrevocable, and the commission charged with the sale to be permanently established.

XIa. A law of crown leasehold, consolidating the old legal provisions and incorporating certain established customs, such as the transfer of the lease to a younger son when the elder did not wish to take it over. This law was to incorporate the 1892 improvement law, and the 1894 Trölov, as well as the old legislation of 1691 and 1777. The main purpose of this law was codification, and to restore to crown leaseholders some of the confidence that the tröð struggle had taken from them.

XIb. A law on the sale of crown leasehold estates. This measure caused a threefold split on the Commission. One member (R.C. Effersöe) wanted to encourage the transfer of crown leaseholds to individual ownership. Four wanted to make transfer optional, but not universal; the remaining four wanted to keep the leasehold system as it was. But all were concerned to give crown leaseholders a feeling of security of tenure. On the assumption that sale was to take place, the Commission agreed that the price ought to be 25 years' purchase (at the new standardised rents), plus the entry fine. Payment should be made by means of a 4% mortgage repayable over 28 years. There were to be safeguards against landlordism, and the purchaser had to leave the decision on udskiftning in the hands of the Minister of Justice, as far as his purchase was concerned. Effersöe added a proposal for the transfer of farms used as part of the salaries of officials other than priests to private ownership.

XII. A law to establish a land bank, chiefly for the benefit of trađarmenn. Loans could be granted either direct, or on the guarantee of the appropriate kommune, in line with a Norwegian law of 9 June 1903.

XIII. Regulations for an agricultural school, together with a draft curriculum.

XIV. A proposal for a crop experimental station.

The Hoyvík experimental farm was established in 1920, and was soon publishing research papers.[45] But the main body of the Commission's draft legislation did not begin to reach the statute book until 1926.

The first was the enclosure legislation, which the Lagting

took up in 1922, perhaps under the stimulus of Norwegian amendments to their enclosure law of 1892, the Commission's model. Five applications had, indeed, come in from villages desiring infield enclosure. After amendments by the Lagting and the Ministry of Justice, there eventually emerged, on 20 April 1926, the first Faroese enclosure act applicable to infield, valid for five years from 1 April 1927. It was renewed three times, to a total life of nine years.[46]

Under the 1926 Law the infields of the following villages were enclosed: Fámjin, Trongisvágur, Froðbøur/Tvøroyri, Vestmanna, Hvalbøur/Sandvík, Porkeri and Nes (part of Vágur, Suðuroy). These villages totalled 237 marks, or nearly 10% of the total Faroese markatal.[47]

Together with the 1926 enclosure law, only one other Commission proposal came into force, the rather inconspicuous VI, though land registration began in 1928.[48] The remainder was submitted to further scrutiny by a revisory committee set up by the Danish Ministry of Agriculture, whose report was published in April 1932.[49]

The bulk of the 1908 Commission's draft legislation came into force, more or less amended, in 1937. On 18 May 1937 was passed IX (water rights), V (grannastevnur), II (fences and boundaries) and I (outfield management). The principal addition to the Commission's proposals was the reservation in IX of hydro-electric rights to the state.[50] On 24 May 1937, a Law established an Agricultural Council (Landbrugsråd) to administer the crown estates, and a Land Fund, contributed jointly by the state and the Lagting, into which crown rents and the proceeds of the sale of traðir were in future paid. The Land Fund took over most of the functions envisaged by the Commission proposal XII (land bank). The management of the crown estates was largely in line with proposal XIa, while the project of selling them was dropped. Their rents were fixed at 0.8% of their value on the assessment of 1869-71. There was provision for the intake of further traðir on easy terms. The glebe farms were taken over and parcelled out into smallholdings.[51]

On 27 March 1939, and 31 March 1950, followed a second and a

third enclosure law, under which infield enclosure has continued. By a wartime legislative measure of 19 December 1940, *böur* and *hagi* became to a certain degree legally separable.[52] The registration of land has progressed in stages from 1928, when the first Tórshavn register was introduced, to the present day, when title is recorded with the aid of aerial photographs.[53]

Yet twentieth-century rationalisation has not brought about the expected agricultural progress in Faroe. The post-war prosperity of the Faroese fishing industry, and year-round fishing, have tempted the islanders to rely on imported agricultural produce rather than to produce their own. The number of milch cows has fallen from over 3,000 in 1935 to about 1,500 today. The islands are no longer self-sufficient in hay or potatoes, vegetables are expensive, and barley has gone completely out of cultivation.[54] The best-tilled infields are those either supplying purely domestic needs, or those near the towns devoted to market gardening.

Communal tenure remains in the Faroese outfield. The communal spring drives for wool, and autumn drives for slaughter, are still carried on in much the same old way. In winter, the infield gates are still thrown open for the sheep to come through and graze. In summer, a few cattle still graze the *húshagi*, though most milch cows are today kept in stall or tethered in the infield. The communal fowling-cliffs are visited by co-owners skilful with the *fleygistong*, and here and there an old-fashioned (or far-sighted) man can be found cutting peat. Owners of a few gylden are still jealous in asserting their rights. There remains in the Faroe Islands, curiously, an interest in and a hunger for land. One can only guess whether some unexpected twist in the terms of trade will give a renewed boost to Faroese agriculture, and render the complexities of Faroese land tenure once again topical.[55]

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2. Degn (1929), pp. 30-37; Erlendur Patursson, op. cit., pp. 29-34; Páll J. Nolsöe (1963), passim; John F. West, Faroe, the emergence of a nation (London & New York, 1973), pp. 55-66.

3. Degn (1929), pp. 50-52; Erlendur Patursson, op. cit., pp. 34-6.

4. Erlendur Patursson, op. cit., pp. 37, 45, 83.

5. Erlendur Patursson, op. cit., p. 45.

6. Föringatíðindi, 15 February 1900. The figures evidently include some vessels purchased during the year.

7. H.J. Jacobsen (Heðin Brú) in Færöerne II, p. 195. Jacobsen grew up in a village of this kind, and later became government agricultural consultant. His novel, Tað stóra takið (Tórshavn, 1972), deals with the rise of the sloop fishery and its effect upon the crown leaseholdings.

8. Rasmus C. Effersöe, Landbruget og Husdyrbruget paa Færöerne (Copenhagen, 1886), p. 18; Lagtingstidende 1884, pp. 45-51; Ibid. 1890, p. 5.

9. LBK Forslag, p. 288.

10. Betænkning angaaende en særlig Lovgivning, sigtende til fremme af Opdyrkning på Færöerne (Copenhagen, 1932) (hereafter Grábók), pp. 53-4.

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12. Lagtingstidende 1890, pp. 4-6.

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15. Lagtingstidende 1891, pp. 75-7.

16. Lagtingstidende 1891, pp. 77-100.

17. Lagtingstidende 1894, pp. 65-70.

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19. Mitens, op. cit., p. 621.

20. Lagtingstidende 1887, pp. 1-2; R.C. Effersöe, op. cit., pp. 3-4.

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22. Rasmus C. Effersöe, Rasmus Effersöe 1857-1957. Minnisútgáva, edited by E. Mitens (Tórshavn, 1957), p. 10.

23. R.C. Effersöe (1957), pp. 9-10. For details of Effersöe's character, I draw on conversations I had in 1971 with Faroemen who knew him personally: Richard Long, William Heinesen, Christian Matras and Hans Jacob Jacobsen. Effersöe was editor of the first Faroese-language newspaper, Föringatíðindi, and through its columns was likewise tireless in his efforts to improve Faroese agriculture.

24. Lagtingstidende 1884, pp. 45-51; Ibid. 1885, pp. 83-4; LBK Forslag, pp. 282-3.

25. LBK Forslag, pp. 283-4, 288-9. A description of Kirkjubøur by an expert observer appears in P. Feilberg, Fra lier og fjelde (Copenhagen, 1900), pp. 146-9. Jóannes Patursson's enterprise was not, however, universally popular. Some Faroemen regarded his grant as an unjustified public subsidy to an already prosperous man. At an open-air public meeting on Nólsoy on 22 June 1895, Patursson was very unsympathetically handled by some fellow-farmers. See Föringatíðindi, 4 July 1895.

26. LBK Forslag, pp. 288-9.

27. Provost Evensen remarked that money was still a rare thing in the Faroe Islands, Lagtingstidende 1891, p. 91.

28. FL: Færö Amts Journal over Indkomne Sager, Litr. H, 1836, contains a number of such applications, several of which were granted. I know of no law, however, regulating such grants. FL: Færö Amts Skrivelse, 25 April 1842 seems to indicate a disclaimer by the Rentekammer of any obligation towards crown leaseholders.

29. Lagtingstidende 1885, pp. 77-83; Ibid. 1886, pp. 38-56; Ibid. 1887, pp. 22-3; Ibid. 1888, p. 47; Ibid. 1889, pp. 16-19.

30. Bang & Bærentsen, op. cit., pp. 197-8.

31. FL: Skjöde- og Pante-Registre, passim; LBK Forslag, pp. 275-8.

32. LBK Tillæg, pp. 85-6.

33. LBK Tillæg, pp. 681-6.

34. LBK Tillæg, pp. 686-711; Lagtingstidende 1887, pp. 9-21.

35. LBK Tillæg, pp. 711-33; LBK Forslag, p. 207.

36. LBK Tillæg, p. 683.

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38. Lagtingstidende 1897, pp. 87-92; Ibid. 1898, pp. 24-36, especially paragraphs 9-18 of the draft law on pp. 26-7.

39. Information on Winther from M.A. Winther, Úrvalsrit (Tórshavn, 1970), p. XVII; information on Poulsen from his son, Niels Winther Poulsen. Tingakrossur, 10, 17, 24 & 31 May, 7 & 21 June 1905, 3, 10, 17, 24 &31 January 1906; Lagtingstidende 1905, pp. 61-4, 146-55, 183-4; Ibid. 1906 pp. 122-9, 131-9; Ibid. 1907, pp. 98-105.

40. LBK Forslag, pp. 1-5; Lagtingstidende 1910, pp. 79-81.

41. LBK Forslag, p. 2.

42. LBK Forslag, pp. 2-3.

43. LBK Forslag, pp. 3-4.

44. LBK Forslag, passim.

45. Daniel Brunn, Fra de færöske bygder (Copenhagen, 1929), p.181.

46. Björk (1956-9), Vol. II, p. 208.

47. Björk (1956-9), Vol. II, pp. 209-10.

48. Mitens, op. cit., pp. 363-6.

49. Grábók, passim. The proposals in this work included provision for the expropriation of outfield for road-building, from crown outfields without compensation, and other measures which outraged the veteran home-rule politician Jóannes Patursson, who replied to its proposals in a pamphlet: Gråbogen m.m. Gensvar til Rigsdagsforhandlingen fra 28.3.1936 - 30.4.1937 (Tórshavn, 1937).

50. Mitens, op. cit., pp. 592-616.

51. Mitens, op. cit., pp. 617-29; Færöerne II, pp. 190-92.

52. Björk (1956-9), Vol. II, pp. 155, 211; Mitens, op. cit., p. 914.

53. Mitens, op. cit., pp. 380-82, 394-5, 465-8, 475, 889.

54. Grábók, p. 56; Rigsombudsmand på Færöerne, Årsberetning 1973, (Tórshavn, 1974), p. 44.

55. J.F. West, "Land Tenure in a Faroese Village", Saga-Book Vol. XVIII, (London, 1970-71), pp. 19-46.

CHAPTER THIRTEEN CONCLUSIONS

My aim has been, in this thesis, to examine the Faroese land tenure system as it existed at the beginning of the nineteenth century, and modified itself during the course of the next hundred years or so, to chart its general tendencies, and to point to long-term and short-term forces at work. In this final chapter, it is my purpose to summarise and highlight the most important of those forces and tendencies.

1. My first conclusion is that during the nineteenth century, allodial fragmentation created a new situation in the Faroese village commonwealth. The subdivision of allodial lands and the joint working of their outfield component were evidently nothing new even in the seventeenth century. But we may judge from the legislative reaction of introducing the system of joint flocks on joint land, that a fairly small degree of communality was involved. Backward extrapolation leads me to believe that in the main, communal land tenure was not a primitive Faroese phenomenon, but an accelerating process of later times, which began to gain momentum in the mid-seventeenth century, and passed a critical point about 1832. It may be objected that Seyðabrævið contains references to the joint use of land for sheep pasturage. I am inclined, however, to interpret these as referring to a state of affairs in which the boundaries between villages (then more or less single farms) were undefined, and the outfield thus subject to a species of joint tenure between neighbours, not altogether unknown in later times, a plot of this kind being known in Faroese as a semingsstykki.

I have endeavoured to document the precise nature of the allodial fragmentation of the nineteenth century. My research tends to show how the number of individual holdings increased and their average size decreased, a well-known phenomenon. An effect which I have never read of, also appearing from my research, was that in villages where the fishery was producing a strong cash flow, there was a striking tendency for the land to pass into the hands of residents. In other villages, the distribution of land

between resident and non-resident remained much the same. In both types of village, the number of persons with a right to be consulted on land tenure matters increased by a large factor. In addition, there were two types of internal fragmentation of holdings: each individual's land tended to become increasingly distributed between hagapartar in its outfield component and split into tiny plots in its infield component.

2. This fragmentation placed an increasing strain on the forbearance of individuals within the village commonwealth. When a large number of persons had a right to be consulted, decision-making became far more difficult. There were also increased problems of conservation, such as the regulation of fowling rights to prevent destruction of the breeding stock, and the regulation of peat-cutting to minimise damage to outfield pasture. Maintenance problems, especially of walling, became more tedious to settle. There were also problems of management, such as the need to secure tranquillity for the flocks by restricting access to the outfield, even by co-owners. The legislative reaction was: (a) to prescribe minuteness of regulation for communal tenure where universal rules were possible, and (b) to devise devolved and decentralised systems of conciliation and arbitration for disputes of a particularly local nature, systems which would also be rapid and cheap.

A key institution in this process was the grannastevna. In my appendix to Chapter 6 (pages 135-9), I justify my rejection of the orthodox view that the grannastevna is of ancient institution in the Faroe Islands. At the very least, I maintain that it was from the 1830s that it was officially fostered as a medium for settling communal problems under the chairmanship of the sysselmand. From 1854, the grannastevna began to acquire the power to take decisions by majority (usually markatal majority) instead of the previously required unanimity. An appeal structure of tribunals came into being by the laws of 1857 and 1866, consolidated in 1891 as the Landvæsenskommissioner and the Overlandvæsenskommission. These tribunals took over the detailed arbitration of individual disputes of a highly local nature, and also supervised the intake of outfield for cultivation.

3. The population increase in the nineteenth century also resulted in a land hunger, particularly for infield. An increasing proportion of the Faroese population now "had their larder in the sea", but nevertheless needed a small stretch of land on which to grow potatoes, and if possible, maintain a cow, to balance the household economy. The 1857 legislation made it easier for owners of communal outfield to enclose and divide portions for cultivation; while to aid the landless, individual and public effort facilitated the intake and alienation of traðir, particularly from crown leaseholdings. The latter culminated in the 1894 legislation, which to a certain degree curtailed the 200-year-old privileged position of the 300 crown leaseholders.

4. The increase in the boat fishery as a principal economic resource led to: (a) the foundation of new villages, and (b) a definition of and modification of shore rights. In the interests of fishermen and landowners alike, steps were also taken to conserve shellfish.

5. Simultaneously with the growth of the boat fishery, and in part due to the rapid constitutional development of Denmark proper, came the liberalising of Faroese institutions. In particular, the commercial monopoly was abolished, and the Lagting came into being as a popularly elected consultative chamber for the islands. Both these developments had a long-term tendency to increase public expenditure. Contributory to this tendency was the enthusiasm of the more enlightened Danish officials and Faroese for popular elementary education. The consequent increase in land taxation led to the new assessment of 1868-71, the detailed information of which powerfully assisted later reforms. A further consequence of liberalisation was that money was used much more than before.

6. Towards the end of the century, the Iceland boat-fishery and the sloop-fishery created a sudden labour famine, and led to a crisis for the crown leaseholdings. There was a consequent need for the crown farms to introduce labour-saving methods, and to secure finance for improvements. The first result was the Law of 1892 for improvement grants paid by rent increases. The labour famine, reacting on an already complex land tenure position, later

led to the convening of the 1908 Agricultural Commission. The work of the Commission, which took effect largely during the years 1926-40, had the following principal effects on Faroese land tenure: (a) communality at village level was as far as possible abolished; (b) infield and outfield were as far as possible separated, to facilitate enclosure of the former, while the latter was placed under the management of a small committee elected by the co-owners of each hagapartur; (c) still more land was made available for smallholdings by intakes from crown outfield and by the sale of the glebe farms; (d) foreign expertise was made more readily available through the work of the agricultural consultant and the experimental station; (e) land finance was greatly eased, and extended to smallholders.

If the entire area of the Faroe Islands, or a major part of it, had been cultivable, there would, instead of a codification of outfield law as occurred in 1866, have been a general enclosure act, and the problems of communal tenure, with the associated complexity of the interpenetration of infield and outfield rights, would have found a simpler, if less picturesque solution.

Communal tenure thus remains over the Faroese outfield to this day, though with the modern importance of a highly-capitalised distant-water fishery, and the comparative unimportance of the flocks on the hills, it is now becoming truer to regard it as a survival of a bygone age. Yet that age is not one of the remote past. The fullest flower of Faroese communal land tenure might be placed within the period 1860-1890, and it was still a factor of prime importance in the working life of many persons still alive.

APPENDICES A - H

APPENDIX "A"

SEYÐABRÆVIÐ (The Sheep Letter)[x]

Hákon, by the grace of God, Duke of Norway, son of king Magnus the Crowned, sends God's greetings and his own to all men in the Faroes who see or hear this document. Our spiritual father and dearest friend, Erlendr, bishop of the Faroes, and Sigurðr lawman from Shetland, whom we had sent to you, pointed out to us on behalf of the inhabitants of the islands those things which seemed to them to be deficient in the agricultural law. We therefore caused to be drawn up on these four pages the ordinance we have made in counsel with the best men, in accordance with what he trust will be of greatest benefit to the people. But with regard to the ecclesiastical law we are unable to make any changes at the present. Let it remain as the noble lord, our father the King, had it fashioned and presented to Bishop Erlendr, as the National Law itself testifies. Our whole command and true desire is that both these laws be kept well and carefully, saving the honour of the Crown and of our successors, until such time as we decide to make a new law in counsel with the wisest men, in accordance with our knowledge and the understanding given us by God of what would be most beneficial to the people. In confirmation we had our seal placed on this ordinance which was issued in Oslo on the Saturday after the feast of St. John the Baptist (28 June) in the year of Our Lord 1298, in the nineteenth year of our dukedom. It was sealed by Áki, the chancellor, and written by Teitr, the priest. Bárðr Pétrsson, our scribe, wrote the letter.

1. The next thing is that the following items are those which my lord, the Duke, has granted us, and which are most beneficial to our country although they do not appear in the law code which our noble lord, King Magnus the Crowned, gave us and which was accepted at the General Assembly. If a man goes into another man's pasture and drives away his livestock, doing half a mǫrk's worth of damage,

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[x] Although this law is available in primt, the edition is a very small one, and the text is here given for the convenience of readers of this thesis.

he is to make a personal atonement to the man who owns the livestock, according to his situation, and pay half a mǫrk of silver to the king, and he is to provide the owner with fresh livestock as good as he had before. But if a man accuses another of having been in his pasture with dogs and of having inflicted damage on him in that way, he is to make atonement in accordance with a lawful judgement, provided there are witnesses. But if he denies the charge, he is to make his denial in accordance with the law, and those who own sheep or pasture land jointly (with him) are to be informed and summoned to a meeting at their common fold with three days' notice. But anyone who refuses to come to the meeting without a lawful excuse is to pay a fine of two aurar of silver to the king. But wherever men own sheep or pasture land jointly, there are not to be more dogs than all sensible men are agreed on, and all the dogs are to be equally available to them all.

2. But if a man leases land from another and the rent is not paid before he leaves the land, the landlord is to take possession of the crops. But if a man leases land from another and has not the money to pay his rent when he leaves the land in the spring, he is to have paid it all by Ólafsvaka (29 July), or the landlord is to take possession of his crops, unless their value is less than that of the rent. Now a tenant leaves his land and another man takes it over. Each of them is to work on the land he used to farm in such a way that the new tenant suffers no loss. But if men leave the land they are on during the winter and move so far away that they are unable to attend to their corn or look after it themselves, then the new tenant must fence it in and look after it, reap it and thresh it, and by doing so gain a quarter of the corn and the straw. But if the corn is spoilt, he is to make good corn damage to the owner of the land, to be fixed by judgement, and pay two aurar of silver to the king.

3. Then there are those men who force themselves upon others for no good reason and stay with them for five nights or longer. They are to pay a fine of three aurar to the king, except in cases where household servants might go to take up a new position, or are sent on business by their master. All the poor may go and

ask for alms with impunity. Then there are also those whom householders take in; if they do so, they are to pay a fine of three aurar of silver to the king and another three aurar to you(?).[x]

4. We have also heard about the bad custom concerning sheep and their young which has been more prevalent in this country than it ought, and about which it does not befit us to remain silent any longer; rather we should take steps to put an end to it so that every man may enjoy what is his by law. If two men or more put their sheep to graze on the same land, and both want to slaughter their animals - first of all those which are unmarked, whether they be lambs or sheep - then, with the help of his dog or by some other means, each takes all the unmarked ones he can get, whether he owns them or not. Now since it seems to us and to wise men that it cannot accord with our dignity that lawlessness break out in the country or wrongfully prosper, we hereby issue that decree and ordinance: if a man wishes to take his lambs or those of his sheep (for slaughter) which are unmarked, he is to produce the testimony of two trustworthy men to the effect that they are his sheep and that they (the men) know the dam. But if this testimony fails, he is to make such amends as if the animals were not his property.

5. Now the pastures lie adjacent outside the home-fields, and two men each have their own piece of pasture land, and the sheep belonging to one of the men invade the pasture of the other and graze there constantly and the owner of the pasture objects, then the owner of the sheep is to move them all back into his pasture. Now these sheep go back into the same pasture from which they were removed and do this a second and a third time; they may them be taken without compensation being paid to their owner, unless the owner of the pasture is willing to accept rent for the use of his

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[x]The last sentence of this section has caused grave difficulties of interpretation. A recent plausible suggestion interprets the sentence as a prohibition against lodging female vagabonds on pain of a fine of three aurar each to the king. See Povl Skårup, "Husbeðr í Seyðabrævinum", Fróðskaparrit Vol. 21 (Tórshavn, 1973), pp. 51-8.

land - twenty ells of *vaðmál* for each *sheep mork*. But if he will not have rent then the owner of the sheep is to offer to sell him half of them. Now if he will neither buy, nor take any rent, then the owner of the sheep is to remove them from the pasture at his own convenience, and they are to be removed within a year. Now the owner of the sheep refuses either to offer rent or to sell to the owner of the pasture; the sheep may then be taken with impunity as before. Sheep are to be driven down from the pasture where they normally graze and each man is to maintain the (common) folds according to the number of sheep he owns. But if men act in any other way, they are to pay a fine of three *aurar* of silver to the king and compensation as prescribed by the law to any sheep owner if damage occurs. Now if men are at a common fold and there are many who own sheep there, each is to mark lambs according to the number of ewes he owns and to take note of how many ewes have twins. Similarly if strange sheep get into the fold, the shepherds are to take note of how many of the ewes have lambs and to mark a lamb for every ewe that is not barren. But if anyone incorrectly marks sheep in this fold, as soon as they are recognised they are to be returned to their rightful owner, if he is able to prove his ownership, or he is to have others sheep of equal value. But the man who incorrectly marked sheep in a common fold is not liable to any penalty. Now several men graze (their sheep) together on one pasture and one or more of them wishes to tame his sheep, while others do not. In that case the man who wishes to tame his sheep and improve them is to have his way, and not the one who would spoil them. Now a man who owns tame sheep drives them into a fold and wild sheep get in amongst them; he is to quieten them down and not to drive them in amongst the tame sheep. But if he drives his wild sheep in among another man's tame sheep, he is to pay him a personal atonement for the damage and compensation for malice as the law prescribes. He is further to pay three *aurar* of silver to the king and to tame those of his sheep which remain on that pasture land. Now if men walk alone through pasture land without letting anyone who has sheep there know and (one of them) wrongly puts his mark on a lamb belonging to one of those who share the pasture without informing him, and

the lambs are previously unmarked, then he has marked in secret and is to pay compensation to the owner to be fixed by judgement. He is also to pay three merkr to the king if it is valued at one eyrir. If it is worth less, it is a case of pilfering. But if he marks sheep which are already marked, and puts his mark over that of the owner, he is a thief.

6. Now if men take dogs which are confirmed sheep worriers into pasture land and they attack the sheep, the owner is to be compensated with sheep as good as those he owned before; and if the dog attacks sheep again, the owner is to pay the same compensation he would pay if he had slaughtered them himself. But if the dogs which men have agreed are to be used in the pastures harm any sheep, then the man the dog follows is to compensate the owner with sheep as good as those he had before and so be warned to keep his dog under control. A dog is a sheep worrier if it harms sheep more than once or goes off into a pasture of its own accord to attack sheep. The number of sheep to be kept on an area of pasture land shall be the same as it was in previous times, unless men see that it can accommodate more. In that case they are to have as many sheep as they agree on, and each man is to keep a flock proportionate to the size of his pasture. The same applies to other forms of livestock, cattle or horses. No-one is to keep a greater number than has previously been agreed upon by everyone. And no-one is to keep animals in any man's pasture but his own; but if he does, he is to answer for it as the law prescribes.

7. Something must also be said about men who set up house in some poor croft as soon as they have sufficient food for half a year. Now from now on no man who owns less than three cows is to set up house on his own; but if anyone provides a man who owns less with land, both of them are to pay a fine of an eyrir to the king. And no other men are to set up on their own except those who are unable to find any (other) means of livelihood with which to support themselves. Similarly, with regard to servants who run away from their masters without good reason, no-one is to keep them for more than three nights; but if they do keep them lpnger,

they are to make such payments as the National Law stipulates for men who take away another's servants.

8. Now if a farmer's servants find a whale out at sea and cut off sufficient to make a boatload, they are to have a seventh of it; but if they bring a whale ashore uncut, they are to have the amount stipulated by the National Law. Now men drive a whale ashore, kill it and get it safe above high water mark, but do not themselves own the land above the shore; they are to have a quarter share. The same applies to driftwood. But if men find cattle or sheep or any other animal out at sea and bring it ashore, they are (also) to have a quarter share.

9. And then concerning men who stay here over the winter whom farmers invite to live with them, there is the question of how much farmers are to take for keeping them for a year. Those who do not have ale, but the same food as the farmer, are to pay three hundred and sixty ells of vaðmál. But a man who has ale with his meals on holy days and fast days is to pay four hundred and eight ells of vaðmál, and one who has ale every day six hundred ells.

10. The next matter is that if a man fills another man's pasture with his sheep and refuses to remove them in spite of the other's objections, the owner is to give him notice to clear his pasture within a given period. The first period is to run from Ólafsvaka to the feast of St. Andrew (30 November). But if the sheep have not been removed by the end of this period and no reasonable excuse is offered, the owner of the pasture gains possession of a third of the sheep. The second period runs from the feast of St. Andrew to the beginning of Lent. But if the sheep have not been removed by the end of this period and no reasonable excuse is offered, the owner of the pasture gains possession of two-thirds of the sheep. The third period runs from Lent to Ólafsvaka. But if the sheep have still not been removed by the end of this period, the owner of the pasture gains possession of all the sheep, unless their removal was prevented by genuine difficulties which their owners' neighbours know about and which wise men consider a reasonable excuse. Now if it is considered that genuine difficulties have

have prevented the owner from removing his sheep, although he wished to do so, he is to receive payment for all those of his sheep which remain in the other man's pasture. It is also laid down that the only sheep which are constant grazers in another man's pasture are those which graze there through the winter and lamb there in the spring. But where men's pastures share a boundary line and their sheep visit each other, the man who wishes to go to the boundary line is to send word to the owner of the adjacent pasture, and they are both to go together. But if either of them refuses to go, then the man who sent for the other is to go into his own pasture, but not into the other's without lawful witnesses. Now if he goes across the boundary line into the other man's pasture, he is to answer for it as though he had not sent the other man word. But if no word is sent and he goes (across) all the same, he is liable to answer any charge the man who remained at home cares to make and (is liable for) all the damage which resulted from his trip up to the pasture on that day and (to pay) such compensation for malice as the National Law prescribes, and three aurar of silver to the king. But if men own pasture land jointly and have wild sheep and some wish to tame them while others do not, then the man who wishes to tame them and improve his sheep is to have his way, and not the man who is causing them both damage. But otherwise the man who refuses to bring them in is to take responsibility for any damage that is caused to his neighbour's sheep, unless there is some good reason why he could not do so.

11. We have also decided that those pieces of whale which we call "killer cuts", or pieces which have been drifting for so long that they cannot be salted, are to be given to the person who owns the land where they drift ashore. This is for the sake of God and of our father and mother, to bring us peace and prosperity, and is to be done in the following way: it (the whale) is first to be shown to two witnesses, and they are to reach some decision about it - unless our successors feel that this is against the interests of the Crown.

12. Then there are those who harm good men in word or deed and rely on their poverty, having nothing with which to pay compensation. They are to have such punishment as twelve wise men lawfully appointed by the judiciary shall decide. Now if a man is present at a quarrel, or when men strike a bargain, and he refuses to give testimony about it when lawfully summoned, he is to pay a mǫrk of silver to the king for each refusal, until such time as he gives the testimony.

Translated from the original (Stockholm 33 4°) by Michael Barnes and David R. Margolin, and printed in the facsimile edition of Seyðabrævið, published by Föroya Fróðskaparfelag, Tórshavn, 1971.

APPENDIX "B"

POPULATION STATISTICS, 1801-1901

PARISH	1801	1834	1840	1845	1850	1855	1860	1870	1880	1890	1901
Tórshavn	554	721	714	801	841	856	823	918	984	1303	1656
Tórshavn udenbys	54	89	136	153	155	192	174	139	154	173	184
Kaldbak	79	101	97	102	100	100	101	118	100	100	93
Kirkjuböur (incl. Hestur)	186	208	205	204	210	218	223	258	236	220	236
Nólsoy	100	136	153	149	134	135	148	170	183	209	240
SOUTH STREYMOY	973	1255	1305	1409	1440	1501	1469	1603	1657	2005	2409
Kvívík	136	182	161	195	210	221	237	251	317	374	431
Kollafjörður	134	169	184	212	228	235	240	233	261	284	287
Hvalvík	136	140	161	158	169	193	203	236	242	238	262
Haldórsvík Saksun	172	241	251	255	259	270	(234 (48	251 51	303 49	306 56	337 43
Vestmanna	126	182	190	176	196	224	239	272	308	346	489
NORTH STREYMOY	704	914	947	996	1062	1143	1201	1294	1480	1604	1849
STREYMOY	1677	2169	2252	2405	2502	2644	2670	2897	3137	3609	4258
Nes	192	296	310	330	352	383	387	418	465	554	672
Sjógvur	223	322	350	379	388	405	420	432	467	492	496
Eiði	165	224	256	282	298	294	333	404	479	501	576
Fuglafjörður (incl. Lorvík)	213	241	259	272	270	272	293	380	432	497	681
Göta	151	207	217	223	233	240	267	257	279	329	380
Oyndarfjörður	134	181	197	217	235	245	268	269	289	330	342
Funningur	136	177	185	206	217	228	252	261	301	305	336
EYSTUROY	1214	1648	1774	1909	1993	2067	2220	2421	2712	3008	3483
Miðvágur	145	215	229	256	260	250	246	297	331	374	412
Sandavágur	110	140	151	166	175	183	193	249	261	295	349
Sörvágur	86	124	140	143	157	163	191	224	295	366	426
Böur	66	70	77	84	96	106	99	102	113	119	98
Mykines	75	93	97	99	100	112	100	114	130	152	143
VÁGAR	482	642	694	748	788	814	829	986	1130	1306	1428

PARISH	1801	1834	1840	1845	1850	1855	1860	1870	1880	1890	1901
Viðareiði	163	194	202	185	187	203	215	268	286	297	410
Fuglov	58	68	74	88	88	99	106	109	119	145	146
Svínov	47	75	72	82	79	84	90	100	110	124	165
Klaksvík	158	225	244	253	278	301	285	367	451	534	647
Kunov	94	137	143	149	150	147	148	169	171	176	176
Mikladalur	57	82	87	94	94	98	93	104	126	118	115
Húsar	68	81	91	102	104	100	97	110	134	134	127
NORTHERN ISLANDS	545	862	913	953	980	1032	1034	1227	1397	1528	1786
Sandur (incl. Skopun)	168	234	253	271	280	313	323	359	433	526	644
Skálavík	107	114	117	118	121	133	138	154	149	147	181
Húsavík	121	134	132	139	142	172	189	187	183	198	238
Skúvov	57	53	56	61	64	69	64	74	77	104	116
Stóra Dímun	13	17	19	21	21	20	14	20	28	18	17
SANDOY	466	552	577	610	628	707	728	794	870	993	1196
Hvalbøur	202	244	254	236	259	297	306	410	390	518	610
Froðbøur	121	197	210	235	258	310	338	351	468	650	933
Fámjin	48	65	70	73	75	80	75	80	99	116	130
Porkeri & Hov	161	201	217	236	244	256	250	305	367	415	472
Vágur	101	136	138	143	165	177	198	240	335	416	507
Sumba	148	212	215	233	245	267	274	281	315	396	427
SUÐUROY	781	1055	1104	1156	1246	1387	1441	1667	1974	2511	3079
FAROE ISLANDS	5265	6928	7314	7781	8137	8651	8922	9992	11220	12955	15230

Source: Official Census Returns

APPENDIX "C"

THE OUTFIELD LAW OF 23 FEBRUARY 1866

LAW FOR THE ORDERING OF MATTERS RELATING TO FAROESE OUTFIELDS

Chapter 1. On the division of outfields, the uniting of outfield sections and grazing rights in the infield. 1. Outfields may be divided into outfield sections (hagapartar) and outfield sections may be reunited, though with the written consent of the mortgagees concerned. 2. If it is desired that outfields should be divided or outfield sections united, the procedure shall be followed in accordance with the provisions and conditions in the Law of 4 March 1857 on the enclosure of common outfields in the Faroe Islands, and in particular every such contract shall be legally registered (tinglæst). 3. Where the division of an outfield cannot be linked to natural boundaries, the course of the boundary shall be denoted by stone cairns with peat-ash underneath. Every new boundary shall, in the presence of the sysselmand, be precisely fixed from the highest to the lowest, consequently through the underlying infield or other cultivated land, when the document on which the division is based, contract or judgement, does not expressly include that the right to sheep-grazing in the infield or cultivated land shall remain in common. Every boundary shall once every tenth year be visited by men chosen for the purpose at the grannastevna or in default thereof by the sysselmand in rotation amongst the owners and tenants of the outfield sections in the village. The cost of marking and maintaining the boundary shall be met by the owners of the adjacent outfield sections according to markatal. 4. With reference to the outfields or outfield sections where the boundary is either not known or not recognisable, the provisions in paragraph 3 shall likewise be followed, but insofar as the neighbours cannot agree amicably, the case is to be determined by the procedure laid down in Chapter 12. 5. The grazing right for sheep on the infield or other cultivated land shall in every village where the shareholders cannot otherwise agree be guided by what from ancient time has been usage in the village. Nevertheless in every village where the grazing right is not regulated by a judgement or other registered document, firm provisions shall be made for infield

grazing either by contract or by decision of the tribunal established in Chapter 12, which provisions shall be registered, and the contract shall be concluded or the summons to the tribunal taken out within 2 years from this law's publication in the syssel, since otherwise joint ownership shall be dissolved and the grazing right on the underlying infield or other cultivated land shall belong to the owners of the sheep in the overlying outfield. 6. When any contract, judgement or sentence concerning grazing rights is registered, the sorenskriver shall remit a copy thereof to the sysselmand concerned, which shall be paid for by the shareholders according to markatal. The sysselmand shall thereafter every tenth year at the grannastevna read out the document and enter in his record book that this has been done, which shall be regarded as a valid renewal, unless before the same day the following year anyone shall assert his supposed right to claim a variation, or within the same time submits for registration a lawfully entered voluntary agreement for change in the existing position. 7. The period during which there shall subsist the right to winter-graze sheep on the infield or other cultivated land shall be reckoned from 25 October, when akting shall cease, until 14 May, on which date the sheep shall be rounded up and the land once again protected. Should any variation in this provision be deemed desirable or necessary in a village, but the parties cannot come to an agreement thereupon, the matter will be decided by the tribunal dealt with in Chapter 12.

Chapter 2. On the stock of sheep in the outfield. 8. The stock of sheep in an outfield must not be made so large that for that reason they invade a neighbouring outfield and take up permanent residence there. The sheep which, without thereto having special warrant in a voluntary agreement or contract, demonstrably go more in a neighbouring outfield than their own shall as unlawful be removed at the next general slaughter, when this has provably been demanded at the dwelling of the shepherd concerned, in winter before Lent, in summer before St. Olaf's Day, according to whether the trespass takes place in the winter outfield or the summer outfield. If they are not removed, they shall be forfeit to the poor fund of the district concerned against

a reasonable compensation which shall be assessed at one-third of the value to the owner of the outfield in which they have trespassed. This provision on the removal of trespassing sheep shall not come into force until the slaughtering-time of the 4th year after the proclamation of this law; in the mean time the hitherto valid regulations shall be followed. Wild sheep which run over the boundary and disturb the sheep of neighbours, shall be tamed or removed the next autumn after it is provably demanded at the residence of the shepherd concerned; if this is not done, the sheep shall be forfeit. 9. Breeding-rams shall be selected by the shepherds from amongst the nest that are to be found in the outfield. If anyone with fraudulent intent selects or causes to be selected an inferior breeding-ram although a better was available he shall be fined 3 Rd. For breeding shall be chosen either 3 ram-lambs for every 100 ewes in the outfield or one ram which as a lamb did not tup, for every 40 ewes. For every breeding-ram deficient, the shepherds shall be fined 2 Rd., unless as soon as possible they notify the sysselmand that this has taken place against their will, in which case they shall be free of blame. If the owners of the outfield section have caused the forementioned wrong against the shepherd's protest, the guilty will be responsible for the fine jointly and severally. If a breeding-ram has entered a foreign outfield, the shepherd shall be entitled to go in search of it, and the shepherd of the foreign outfield shall be bound to accompany him when he wishes to go in search of it, or allow him to go alone in search of it. Whoever is found to conceal another's breeding-ram when this is asked for, shall be liable to a fine of 5 Rd. 10. In every outfield section shall be employed a particular mark for the sheep, but the same mark must not be used in two outfield sections on the same island. 11. Insofar as the same mark is now in use in two or more outfield sections im the same island, the necessary change shall take place in it as soon as circumstances make this possible. 12. Where several marks are now in use or in the future may be desired in use for different flocks of sheep in an outfield section, permission to keep or to vary the present number of marks may be given by the Amt, when no disorder may thereby arise. 13. Matters

concerning the variation of marks shall first be discussed at the grannastevna. The sysselmand shall then submit them to the Amt for written decision. 14. When the marks are in order on all islands, there shall for each island be drawn up a list of the marks which are used there. These lists, which shall be compiled by the sysselmand and sent in to the Amt, shall thereafter be printed at the expense of the Amtsrepartitionsfond and distributed to all villages for information and safe keeping. 15. If in the future, when 1 year has elapsed from the proclamation of this law, any sheep, which is 2 1/2 years old or above, is found either unmarked, or so carelessly marked that the sysselmand and two impartial men summoned by him declare the mark to be unrecognisable, it shall, when the owner is uncertain, be allotted to the poor fund of the district concerned. Unmarked lambs which are encountered in autumn, accrue to the outfield section in which they are found, if contention or doubt arises to which outfield they belong. 16. Sheep may not be imported to the Faroe Islands from other places, unless there is shown to the sysselmand a certificate from their place of origin that no sickness is there prevalent among the sheep. For every sheep imported without such certificate shall be imposed a fine of 5 Rd., and the sheep shall be instantly killed.

Chapter 3. On cow-grazing &c. 17. The stock of cows in every outfield or outfield section that yields summer grazing for cows (húshagi), shall be fixed at a given total (skipan) which may be driven out gratuitously. Free driving-out of cows to summer grazing pertains to each person in proportion to the markatal he owns or occupies in the village. When in the future fresh intakes are taken up for cultivation, it shall always be determined in writing how the cows foddered in winter from the cultivated intakes shall be grazed in summer. 18. Decisions concerning bull-holding shall in ever village be taken by majority vote according to markatal. 19. Matters concerning the acceptance of the fixed stock of cows and concerning the bull-holding shall be negotiated at the grannastevna. The agreement which is entered upon by those concerned who meet shall at once be written down by the sysselmand in the record book and shall thereafter be fully

binding on all. When the business is considered the grannastevna shall be conducted in accordance with the provisions in the Law of 4 March 1857 concerning the enclosure of common outfields in the Faroe Islands, paragraph 5. The tenants of non-resident owners shall in all cases have voting rights with reference to bull-holding. If agreement by the forementioned method cannot be achieved, the case will be decided by the tribunal ordained in Chapter 12. 20. If anyone regards himself as entitled to drive out cows into a húshagi gratuitously, and this right is denied him, he may plead his claim before the forementioned tribunal. 21. For all cows that are driven out in excess of the fixed number (skipan) shall be paid a grazing fee, the size of which shall be determined by the owners or occupiers of the outfield at the grannastevna by majority vote according to markatal. 22. When in a village at the grannastevna it is determined how many cows may be driven out to summer grazing without payment, or likewise at the grannastevna a decision has been reached about driving out against payment, there shall for every cow which is unlawfully kept in the outfield, be paid a fine of 5 Rd., and the cow shall thereupon be removed from the outfield within 8 days after complaint of trespass has been provably lodged with the owner. If it continues to trespass after that time, the fine is repeated in the same manner. Full compensation shall be given to the owner of the outfield. 23. When the cows of an outfield go over the boundary into a foreign outfield, they shall nevertheless always be milked in the outfield to which they belong, even if between the neighbours it is agreed that search for them may take place. Whoever has his cows milked in a foreign outfield shall, for every time it takes place, be fined as for outfield trespass 1 Rd.

Chapter 4. On horse-holding. 24. In every village may be kept as many horses grazing in the outfields of the village as the owners and occupiers at the grannastevna by majority vote according to markatal can be agreed upon, though, with the exception of the cases mentioned in paragraph 25, not more than one horse per mark of land. In the same manner shall decisions about ungelded stallions be taken for each village. If

non-resident owners are shareholders in the outfield, those who are tenants on the land shall be regarded as authorised by the owner to give votes on his behalf. The decisions accepted shall be minuted and thereafter be binding on all concerned. 25. If the owners or occupiers of an outfield or outfield section wish to keep more than one horse per mark, they shall notify this to the sysselmand, by whom the occupiers of the adjoining outfields shall be informed; and then these shall, if any horse from the outfield or outfield section in which according to the foregoing are held more than one per mark, shall stray into their outfield, be entitled, when they take them up and bring them to their owner, besides the impounding fee mentioned below, to a remuneration of 1 Rd. for each time they so bring the horse to him. If the owner refuses to pay these impounding fees, those concerned shall proceed as is laid down in paragraph 33 below. 26. A man who in a common outfield owns less than one mark of land shall be entitled to unite with other shareholders in the same outfield to hold horses in proportion to what they thus own together, and also in agreement with what is provided for above. 27. The man who is entitled to keep horses in an outfield may, when he does not himself wish to exercise this right, rent out the entitlement to another for the payment on which they can agree. 28. If anyone in an outfield keeps more horses than he is entitled to, everyone with a share in the outfield itself or the neighbouring outfields is entitled to lay a charge, and the guilty person will be fined 10 Rd. for equal division between the informer and the poor fund of the district concerned, and he shall be ordered under pain of a daily fine of 16 Sk. to get rid of the unlawfully held horse. 29. The man who is entitled to keep a horse in the outfield is also entitled, when it is a mare and foals, to let the foal graze with the mother, until it is one year old; but after that time the same provisions apply with regard to the foal as otherwise are determined for grown horses, unless the owners and tenants of the outfield at the grannastevna by contract have decided otherwise. 30. When two or more outfields adjoin, so that it is difficult to keep the horses of the one from intruding into one of the others, the owners of the outfields - instead of employing the provision

given below in paragraph 32 - may come to an agreement about the grazing of the horses which they are severally entitled to keep, and decide what compensation the occupiers of the outfields from which it is difficult to exclude the horses should have of these owners. If those who occupy more than half the markatal in each of the outfields concerned agree about such an arrangement, this shall be binding for all the shareholders in the outfield and be registered at the expense of the latter. 31. The sysselmand shall every year at the grannastevna in each village demand from the villagers information about how many horses are being kept in the different outfields of the village, and enter this in his politiprotokol. Everyone who keeps a horse in the outfield may then be challenged by his co-owners and co-occupiers in the outfield to state by what right he holds the horse. If he refuses to state his entitlement he shall nevertheless, if the matter becomes the subject of legal proceedings, even if during these he proves his entitlement, be sentence to pay the costs of the case with the fine prescribed in the Ordinance of 11 August 1819 for bringing an unjustifiable action. 32. When any person's horse enters a foreign outfield and is there encountered by the outfield owner, the latter shall, when he takes the horse and brings it to its owner, be entitled for this to demand double the skyds payment for the distance he has brought the horse. If he takes the horse and brings it to its owner three times in the course of 4 weeks, he can, besides the forementioned remuneration by the owner, demand a medium-quality slaughtering-lamb or its value as compensation for the horse's grazing in his outfield during the current year. 33. If the owner of the horse will not pay the remuneration fixed in paragraph 32 for its return, the impounder can take it to the sysselmand and deliver it to him. Should circumstances not permit bringing the horse to the sysselmand, written notification may stand in place of it. The sysselmand shall thereupon as soon as he has ascertained the correctness of what is stated, at once demand payment by the owner of thrice the sum which otherwise would have been due to the impounder, and 1 Rd. for himself. If these sums are not paid within 72 hours, the sysselmand shall sell the horse by auction and from the incoming

sum pay the impounder the forementioned triple sum and deduct the 1 Rd. due to himself, whereupon the balance shall be paid to the owner. The tenant or occupier of a non-resident owner's land, on whose share of the outfield the horse should graze, shall be regarded in the forementioned instance as the owner. 34. If anyone uses another man's horse without the owner's knowledge and consent and the latter lodges a complaint, he shall give the owner compensation according to the court's estimate and in addition pay 2 Rd. to the appropriate district's poor fund. 35. If anyone drives either his own or his co-owners' or a third party's horse into a foreign outfield to graze, or drives any other man's horse in upon his own ground or outfield with the intention of availing himself of the provisions concerning impounding fees, he shall be fined 5 Rd. to the appropriate district's poor fund, which fine in case of a repetition of the offence shall be doubled.

Chapter 5. On goose-keeping. 36. Keeping geese shall be allowed only when for the village in question a written convention concerning it is established and when two-thirds of the votes by markatal are cast in favour of it, which convention shall then be bindingfor all in the village. 37. The convention shall determine where and under what conditions the geese may be held, how long they may stay in the infield, and when they must be kept in the outfield. The convention shall be kept by the skydsskaffer in the village for the information of all. 38. If a complaint is lodged that geese with clipped wings are intruding upon a different village's infield or outfield, the owner of the geese shall be liable to a daily fine according to the adjudication of the sysselmand to remove them and shall pay compensation for the damage done according to the assessment of impartial men. Geese with unclipped wings shall be regarded as wild.

Chapter 6. On fencing in the outfield, drainage of outfields, and peat-bogs. 39. Fencing in the outfield, such as folds, wind-breaks and cattle-fences, the walls around the infield and in the heimrustir, such as those round geilar shall be properly maintained as they have been from ancient times. If it is desired

to change or move the ancient folds and fencing, or to erect new, the person or persons who wish this are to propose it at the grannastevna, where it shall be determined in the presence of the sysselmand whether there shall be undertaken any alteration in the forementioned respect, which may only take place when the owners of over half the outfield section's markatal votes in favour. If it is resolved by one outfield section's owners that boundary fences ought to be erected to protect against the incursion of the neighbouring outfield's cows, the owners of the latter shall be bound either to take part in the erection of the fence according to markatal, when the Udskiftningskommission, and in any case the appeal tribunal has by judicial decision declared that the erection of the fence is necessary and practicable, or else keep herdsmen with the cows. 40. The necessary manpower for the repair and maintenance of the old walls and the erection of the new, together with outfield drainage &c., is supplied according to markatal. 41. Everyone who cuts peat in an outfield must do it so that the outfield incurs as little damage as possible; in particular he must drain off the water from the peat diggings when it would otherwise remain standing, properly cover these with the greensward removed, that should be cut into turves and not hacked off, and not let peat or other excavated soil lie openly on the grass, but throw all such material down into the digging. 42. The sysselmand for Suðuroy shall every year on his round before St. Olaf's Day and the other sysselmænd every year on their first round after St. Olaf's Day[x] require from at least one shepherd for every outfield section a report on the treatment of the turbaries, and in case either the shepherds or any of the owners lodge a complaint that the turbaries are being improperly treated, the sysselmand in the company of witnesses shall personally examine the turbaries complained of and settle the matter by judicial decision, which shall at once be entered in the politiprotokol. In cases of infringement the person concerned shall be subjected to a fine of 48 Sk. to 2 Rd., and in addition he shall within a period fixed by the sysselmand remedy the disorders complained of

[x]The Suðuroy sysselmand had a different timetable of rounds from the sysselmænd of other districts.

on pain of a daily fine of 8 Sk. If the person concerned is discontent with the sysselmand's decision, he may make an appeal of the case to the overpolitiret,[x] though he must take the necessary steps within 8 days, as in default hereof he loses his right to appeal. With reference to the turbaries on the state's property near Tórshavn it shall remain in accordance with the regulations now in force[+] or those which the government in this respect shall lay down.

Chapter 7. On Shepherds. 43. There shall for all outfields and outfield sections be certain shepherds, and it shall rest upon them alone to conduct the tending of the sheep, the round-ups, marking, drainage and all other work in the outfield that may be regarded as necessary for its well-being. Likewise they shall see to it that each person concerned fulfils his duty, and shall be empowered at the expense of the neglectful to have the work carried out by hired persons. As in their service they are responsible to the owners and occupiers, they shall on the demand of the individual owner or tenant be bound to give him a statement of the number and condition of the sheep entrusted to them, their tending in the outfield &c. 44. Shepherds shall be appointed, dismissed and their payment decided at a meeting to be held by the owners and tenants of every outfield section in the village on Michaelmas Day. The decision shall be made by majority vote according to the markatal each one occupies, without reference to whether he is owner, leaseholder or tenant. The person who wishes to have this meeting held shall bring it to the knowledge of those concerned 8 days in advance. Everyone shall meet in person or by written proxy, as otherwise he shall lose his voting right. If it is thought necessary to appoint a chief shepherd, this shall be done in the same manner. 45. At the meeting named in the foregoing paragraph the shepherds who wish to retire will resign their service. The retiring shepherd may not, however, be

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[x] Summary jurisdiction by the amtmand, a process applicable to a number of local and technical matters, in which the sysselmand acted as summary court of first instance (see pp. 57, 130).

[+] An inspection system for these had been put into effect by an Order in Council dated 21 December 1827.

quit of his task before the round-up for the breeding-rams has ended, unless he leaves the village, or circumstances render it impossible for him to continue his service. 46. Every shepherd may go everywhere in the outfield at all times, alone or with dogs, when restrictions to this are not stipulated at his appointment. 47. When any shepherd in his herding or at a round-up wishes to search for his outfield's sheep in a foreign outfield, he shall on each occasion notify one of its shepherds early enough for them to accompany him or to meet at the boundary unless it is otherwise decided. The shepherd who has thus sent word may cross the boundary, though with only a leashed dog. 48. For all work in the outfield the shepherds shall give notification the evening before and send an invitation to the neighbours concerned to be present, unless it is otherwise determined by contract. For omission hereof the shepherds of the outfield shall be fined jointly and severally 1 Rd. 49. When shepherds in herding or rounding-up meet foreign sheep in the outfield and know them to belong to a neighbouring outfield, they shall drive them back into it. 50. If they do not recognise the sheep so encountered, or if these belong to a non-bordering outfield, they shall at the first opportunity announce their number and markings and thereafter let the sheep remain in the outfield until their owner reports to fetch them, or until the next round-up. 51. After the round-up the shepherds, if they recognise the mark, shall either send such foreign sheep to their owner or send him word, and the owner shall be bound to fetch away the sheep thus remaining in another's outfield (skotaseyður). If they wander back the next autumn, they shall be taken off; if this is not done, they shall be forfeit. 52. The shepherds shall as far as possible undertake all marking of sheep. The unauthorised person who on his own account engages in marking shall for each lamb that he has thus marked, be fined 1 Rd. 53. It shall be closely noted whether ewes that do not belong to the outfield come into the fold at round-up, and if any such sheep has come amongst the outfield's own, it shall be marked with a band so that when it comes back into the outfield where it belongs, it may be known that it has been in fold. If this is noted, it shall not be regarded as an irregularity that such a ewe's lamb should bear

the mark of the outfield in which it was encountered.

Chapter 8. On access to the outfield, dog-keeping, and access with dogs. 54. No-one who does not in this Law's provisions have special authority to do so, shall walk over any foreign outfield save by the regular village paths. These shall therefore be denoted with stone cairns which shall be erected and maintained by the whole village to which the outfield belongs, in proportion to the markatal. All questions concerning the number, size and designation &c. of these cairns shall be decided by the sysselmand, whose judgement may be varied by the amtmand's resolution. 55. In every outfield the owners and occupiers may go without restriction, unless they themselves by majority vote according to markatal determine otherwise, which them ought to take place at the grannastevna and by the sysselmand be entered in his record book. 56. From the general rule about access to foreign outfields are permitted, however, the following exceptions: a) At the time of the year when horses are employed to fetch manure or peat, everyone is entitled by day to fetch his horse from where he can find it. The same applies also without regard to the time of the year to cases where at the order of the skydsskaffer horses shall be delivered for skyds. No-one may otherwise go for horses in any foreign outfield section without in advance having notified the shepherd concerned. b) Everyone is entitled to fetch his peat when he wishes; though he must do it by day and go by the ordinary way. c) With reference to access to their fowling-cliffs, feitilendir (special pastures), enjoyment of lunnindir (appurtenances), access to cows, access to outlying outfields &c., it shall continue in each place as it has been use and custom, or may be decided by common agreement. Day is reckoned in all the forementioned instances, in summer (i.e. from 14 April to 31 August) from 5 o'clock in the morning to 9 o'clock in the evening, and in winter (i.e. from 1 September to 13 April) from the time in the morning when daylight begins until in the evening when it ends. 57. For the collection of loose wool and birds' eggs those who as owners and occupiers are entitled to these may go only in company, unless another rule for this is adopted. Anyone who as owner or occupier wishes to dig cinquefoil root, scrape korki or collect

steinamosi (types of lichen) or go into the outfield om other such errands, may do so only during the day and must notify the shepherd concerned. 58. Whoever otherwise goes into any outfield, shall for each occasion be fined 1 Rd. 59. Owners and occupiers of the land in each village shall by majority vote by markatal at the grannastevna decide how many dogs may be held in the village. In the same manner it shall be resolved also how the shepherds in the different outfield sections shall take their dogs with them when they need to go through a foreign outfield to come to their own. All these decisions shall be minuted by the sysselmand. Om the other hand, the owners and occupiers of each outfield section shall likewise by majority vote give regulations to their own shepherds how in their own outfields they should go with dogs. 60. When anyone takes a dog through a foreign outfield, he shall go by the public way and have the dog leashed or bound[x] when it is not otherwise decided. The only exception from this is the case when a flock of sheep are to be driven through a foreign outfield, for which it shall be permitted to employ loose dogs, though against full compensation for the damage which arises from these in the outfield. 61. If anyone keeps a dog which is not approved, then it may at once before witnesses be denounced by any outfield owner in the village. The unapproved dog which is thus denounced shall at once be kept locked in and within 8 days be got rid of. If it is not got rid of within 8 days, the dog's owner shall be fined 2 Rd. The fine shall be repeated for every 8 days this provision is ignored, and the denounced dog can also, if it is encountered outside its owner's dwelling, be killed without guilt. The provisions here laid down do not apply to dogs which are constantly kept chained. 62. For trespass with a dog, whether it takes place in one's own or a foreign village, is incurred a fine of 2 Rd. even if no damage is occasioned. 63. All the damage occasioned by dogs shall be compensated for by their owner after lawful assessment. From this is excepted only the damage which approved dogs commit the first and second time during

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[x]The word used denotes a method of binding the dog's foreleg in such a manner as to prevent it from running.

round-up, herding or co-operative work in the outfield in which they are lawfully used. If the dog commits damage the third time, it shall be got rid of. 64. Dogs which go on their own into the countryside and chase or bite sheep, shall at once be got rid of by their owner, and if the latter, after having before witnesses been informed that his dog does such damage, does not within 8 days get rid of it, he shall pay a fine of 2 Rd. and also compensate for the damage according to paragraph 63; for every 8 days the dog continues loose in the village, the fine shall be repeated. Dogs which three times have been provably found straying round the outfield shall be got rid of, even if they have caused no damage. 65. If anyone lends out his dog and damage is thereby occasioned, the owner is responsible for it, though the borrower himself shall pay the fine for trespass with the dog. 66. The number of bitches, varð- or aktingarhundar and fuglahundar, where it may still be desired to employ these, shall be determined in the same manner as is prescribed in paragraph 59, and in addition the provisions laid down about sheep-dogs shall also be applicable to these dogs.

Chapter 9. On akting. 67. Where there are not sheep-proof walls, firm decisions shall be taken about akting. 68. If the owners or occupiers of the böur or traðir cannot come to an agreement with the owners or tenants of the sheep, the matter shall be determined by the tribunal established in Chapter 12.

Chapter 10. On common flocks. 69. The general rule for outfield management shall be that the sheep in every outfield section shall be in common to the entire markatal sharing in the outfield section. How it may as an exception to this rule be permitted to have sheep in kenning is treated in Chapter 11 of this Law. 70. On slaughter and stocking in every common, outfield decisions shall be taken at the meeting prescribed in paragraph 55 and in the manner there prescribed. If this does not take place because of the occurrence of impediments the outfield section shepherds alone shall take the decision for the slaughter or stocking for the year in question. 71. The sheep shall follow the land in every conveyance. 72. Every ewe which

is on the crown land found in addition to the fixed stock shall on conveyance be paid for with 1 Rd. 48 Sk. in the Northern Islands, Eysturoy, Streymoy and Vágar syssels and with 1 Rd. in Sandoy and Suðuroy syssels.

Chapter 11. On kenning. 73. Although common flocks in accordance with the preceding chapter shall continue to be the general rule for outfield management, in future kenning will also be permissible either for the whole outfield or for certain flocks in it, when at least two-thirds of the owners, leaseholders and beneficiaries, who together own or occupy half of the outfield markatal are agreed on this, and when the conditions which are laid down on the matter in this chapter are precisely observed. Other kenning shall on the other hand as hitherto be unlawful and punished with confiscation. Shepherds who do not immediately denounce unlawful kenning to the sysselmand and who thus share in the offence shall each be fined 5 Rd. It is not kenning when the shepherd as agreed payment has certain sheep (röktingarseyðir) grazing in the outfield, nor when a shareholder with the consent of all his co-owners puts certain sheep into the common outfield to graze there temporarily. 74. Where kenning is introduced, the contract therefor shall be drawn up in writing and signed by all the owners, leaseholders and beneficiaries sharing the outfield. The non-resident shareholders shall either themselves sign or send their tenants written proxies to do so, and the consent of mortgagees to the contract must be obtained. In this contract shall be entered how large a stock shall be allowed for the whole outfield, how much is to be held in kenning and how much in common. 75. Kenning is lawful only when the following provisions are observed: a) Herding shall be undertaken by shepherds who are chosen in accordance with paragraph 44. b) The sheep shall have a particular mark for the outfield section, and the sheep belonging to each person must be made recognisable with individual marks which, however, must not make the principal mark indistinct, and, before they are employed, shall be approved by the sysselmand. c) Breeding-rams shall be removed in advance in the fold and the owner of such compensated in kind according to a valuation.

Besides these conditions, which must be found in every kenning contract, other conditions may be added to kenning contracts, for which in particular cases there may be occasion. The tithe shall be rendered in the customary manner on the sysselmand's second yearly round. Anyone who is guilty of fraud or dishonesty with regard to the kenning outfield shall be fined from 1 to 10 Rd. 76. Kenning contracts as well as contracts for the abrogation of kenning shall be registered (tinglæst) at the next ordinary law sessions in the syssel concerned after the contract is entered or abrogated. When the kenning for whatever reason ceases, the outfield's stock naturally comes under common ownership. When on a count it is found that some of the owners have a full stock, others not, these last shall purchase sheep from those who have them in excess, until all have as many sheep in proportion to their markatal in common. The sheep which are thus bought and sold by the outfield section's owners between themselves shall be paid for at their full value. If the parties cannot agree on what should be regarded as their full value, this shall be determined by lawfully nominated impartial men, who shall be paid according to the Public Fees Regulations (Sportelreglement). 78. If land which lies in an outfield section within which kenning is permitted is transferred, it shall be entered in the transfer document how many kenning sheep accompany the land. If this is not done, the document will not be regarded as a legal title, and an endorsement to that effect shall be made on it by the sorenskriver at registration. 79. At a leasehold transfer, or a transfer of stipendiary lands, the full stock on these lands shall accompany the same and any surplus over the fixed stock shall be paid for according to paragraph 72; however this payment does not apply to the surplus stock on glebe farms and annexed glebes. If the retiring occupier of crown land or a stipendiary estate owns allodial land in the same outfield section, the whole of his sheep stock shall be divided equally over all his land in proportion to markatal.

Chapter 12. On the legal procedure in cases concerning matters treated in this Law. 80. Criminal actions which are brought for breach of the provisions of this Law, shall be heard and dealt with

summarily by the sysselmand concerned according to the Plakat of 23 March 1813,[x] and appeal may be made to the Amt's Overpolitiret (summary appeal court) which will finally determine them without further appeal. Disputes concerning the rights and duties treated in this Law shall be heard and decided by the syssel's Udskiftningskommission according to the Law of 4 March 1857, and the forementioned tribunal's decision may be referred to the appeal tribunal described in paragraph 86. 81. When a case is brought in the manner prescribed before the tribunal, the latter shall decide when it shall be heard. The case shall always be dealt with in the village to which it most closely belongs. The summons issued by the tribunal, with a statement of time and place shall be delivered to the plaintiff, who shall arrange for it to be lawfully served on all concerned with 14 days' warning. 82. When the tribunal has once assembled, it shall as far as possible continue uninterruptedly until all the necessary information has been obtained, and if amicable agreement cannot be brought about between the parties, it shall within six weeks of taking up the evidence, pronounce its decision. 83. The tribunal shall, immediately after the decision has been pronounced, have it formally notified by the witnesses for writs to the parties in the case. The expenses therewith connected shall be paid at the time of taking up the case for judgement together with the fee for the taking-up itself. If anyone wishes to forego this formal notification, such that the judgement shall be regarded as notified to him at the time the decision is made, then as far as he is concerned the expenses shall be waived, and the time of enforcement as far as he is concerned shall be reckoned from that same time. The like procedure may be followed with regard to the appeal. 84. If any of the parties is aggrieved at the decision of the tribunal, he shall be free, within 3 months reckoned according to paragraph 83 either from decision or formal pronouncement, to make an appeal in the case to the Overinstans (see paragraph 86), and he has then by a certificate from the sorenskriver to prove that an appeal has been demanded. 85. After the lapse of the 3 months provided for in paragraph 84, no-one shall be entitled to appeal from any tribunal decision, unless he

[x] See pages 57, 130.

obtains permission from the Amt to revive the case, which shall be granted only when the person concerned shows probable cause why an appeal was not made at the right time, and no longer period than six months has elapsed since the pronouncement of the decision. For this permission to revive, which shall be given by a simple written document, no fee is payable. 86. The appeal shall be demanded in writing of the sorenskriver, who, after having issued the certificate detailed in paragraph 84, shall of the Amt request four men appointed with him to determine the case. The Overinstans so constituted shall at once prepare a summons, to be furnished to the appellant for notification to those concerned, including the members of the Udskiftningskommission which pronounced on the case in the first instance. 87. The parties are not required to submit situation plans to the Overinstans, but its members shall, when this is requested, or when in their own opinion the case requires it, visit the place in question. 88. The parties are entitled to bring new witnesses or submit fresh documents to the Overinstans, without any permission being required for this. 89. The same right, which in paragraph 83 is granted to the parties to forego formal notification of the Udskiftningskommission's decision, shall be granted them with reference to the decisions of the Overinstans. If they do not avail themselves of this right, the expenses of the formal notification arranged by the sorenskriver shall be paid with the fee for taking up the case to judgement. 90. Witnesses may without reference to their competent law-court be summoned to appear before either tribunal in the place where the tribunal is held, to give their evidence there, though if they move from their ordinary place of witness it shall be against free travel and subsistence like the members of the tribunal, to be rendered in the same manner as the expenses of the latter to them. 91. From the forementioned Overinstans no appeal can be made. 92. The members of the tribunal as well as of the Overinstans shall have compensation in accordance with the provisions in paragraph 10 of the Law of 4 March 1857 on the enclosure of common outfields, and in addition for the issue of the summons, the commission of the case, and its taking-up to judgement, the fees according to the

Public Fees Regulations equally divided, these fees being paid in the manner prescribed by law. 93. Fines which are imposed in accordance with the present Law, as well as everything which according to its provisions is forfeited, shall accrue to the poor fund of the district concerned unless in the Law it is otherwise determined. In default of payment the penalties shall be served according to the provisions in force. 94. All earlier provisions which conflict with the provisions in the present Law hereby lose their validity.

Translated from the original text as printed in (Chapters 1-11) T.E. Bang & C. Bærentsen (eds.), Færösk Lovsamling (Tórshavn, 1901), and (Chapter 12) Tillæg til Forslag og Betænkninger afgivne af den færöske Landbokommission nedsat i Henhold til Lov af 13. Marts 1908 (Copenhagen, 1911), by JFW.

APPENDIX "D"

LAW FOR THE (PARTIAL) ENCLOSURE OF COMMON OUTFIELDS OF 4 MARCH 1857

1. For every syssel there shall be set up an enclosures tribunal, consisting of two men nominated by the Lagting and one by the amtmand, who shall be of respected character and resident in the syssel, and the sysselmand, who shall also act as the tribunal's secretary. 2. The tribunal shall choose one of its members as chairman. The person chosen shall cause the result of the election to be announced in the syssel. 3. At the expense of the Amtsrepartitionsfond the tribunal shall be furnished with a record book, which shall be authorised by the amtmand, and in it the tribunal's proceedings shall be entered. 4. When anyone who is co-owner or co-occupier of an outfield wishes that a portion of the outfield shall be enclosed, he shall, when he cannot come to an agreement with the other owners and occupiers, notify the sysselmand of this. The latter shall thereupon at the next grannastevna bring the matter up for discussion and enter in the politiprotokol what has been discussed, so that in particular it may be known how large a number of co-owners desire enclosure, and for what reason those who do not desire it oppose the same. If all the owners and occupiers are unanimous or become unanimous at the grannastevna they may themselves arrange everything pertaining to the enclosure, without the intervention of the sysselmand or the enclosures tribunal; however, if there is crown land in the outfield which it is desired to enclose, the consent of the crown estates management must be obtained for the enclosure, and if others than the owners and occupiers have any right in the outfield, the consent of these shall be obtained with reference to their rights in the outfield; if agreement in the last-named respect cannot be obtained, this portion of the case may be brought for decision in the manner prescribed in paragraphs 8 and 11. 5. If anyone with a share in the outfield is not resident in the village, the tenant of the land shall be regarded as empowered to act on his behalf, unless the owner himself appears at the proceedings; the owner shall, if his estate constitutes half a

mark or more, be informed of the consideration of the matter at the grannastevna with 14 days' notice by the sysselmand, and such information shall also be communicated to the landfoged with the same notice, when there is crown land in the outfield of which it is desired to enclose a portion. 6. If the occupiers of at least half the outfield's markatal or at least three-quarters of those who are shareholders desire enclosure, they shall be entitled to demand a copy of what has been entered in the politiprotokol concerning the same. This copy shall thereafter be sent to the chairman of the enclosures tribunal with a request to him to cause the matter to be taken further. 7. The chairman shall then, after discussion with the other members of the tribunal, appoint a time for taking up the case and shall have all the resident owners and occupiers of the outfield informed with at least 14 days' notice. 8. At the appointed time the tribunal shall meet at the place and, after closely investigating all the local conditions and having further heard and considered what the parties have to adduce for and against the undertaking of the enclosure, give a decision with reasons how far the enclosure ought to be undertaken or not, how action should be taken with regard to cow-grazing, peat-cutting and other outfield rights, of which according to local conditions there may be question, and on how the enclosure as a whole ought to be carried out. In the case of an equality of votes the chairman shall have the casting vote. 9. This decision, which shall be drawn up while the tribunal is assembled at the place in question and entered in the tribunal's record book, shall be read to those present who are interested in the case, and communicated afterwards in written form to those who have required the decision of the tribunal. Other persons may likewise receive a copy of the decision, but only against payment in accordance with the Public Fees Regulations. 10. For the execution of the task entrusted to them the members of the tribunal shall each receive a payment of 64 Sk. for each day the tribunal shall be in session, and free conveyance. The payment shall be rendered in advance by those who have requested the undertaking of the business, but divided amongst all the shareholders according to markatal, if enclosure is put into effect. 11. If anyone is

aggrieved with the decision given by the tribunal, he shall be entitled, within three months of its pronouncement, to appeal to the amtmand, who thereupon together with two men nominated by the Lagting shall finally determine the case by a judicial decision with reasons. 12. When it has been finally decided that enclosure shall be undertaken, those concerned shall apply to the sysselmand with the decision thus given on the matter and request him to put the same into effect. The sysselmand shall then, after having caused all concerned (cp. paragraph 7) to be informed of this at the church with at least 14 days' warning, appear at the place and measure out and allot to each of the co-owners the share of the outfield portion which with regard to the decision may fall to him, such that each shall get his part of what is enclosed, as far as possible, united in one place. Concerning the execution of the business the sysselmand shall enter what is necessary in the politiprotokol, where in particular he shall denote the individual portions assigned to each person such that thereby it can be seen how much and if possible which piece is assigned to each person. If any of the persons concerned are aggrieved at the outcome of the sysselmand's proceedings, they shall at once declare this to the record and thereafter before the lapse of four weeks apply to the court and by the same have three impartial men to undertake a fresh survey and allotment. This proceeding shall, after the sysselmand and other persons concerned have been informed of this with 14 days' notice, be undertaken within 8 weeks of the men being chosen, whereby the matter shall then be determined. If the men chosen by the court should come to the conclusion that the sysselmand's apportionment has not been correct and precise, the expenses of their nomination and payment shall be borne by all the shareholders of the outfield in question in proportion to what they own or occupy in the outfield; in the contrary case the person or persons who requested them chosen shall alone bear the expenses so occasioned. 13. To put an enclosure into effect the sysselmand shall receive a remuneration of 5 Rd., which will be apportioned amongst the shareholders in the outfield. The men chosen by the court shall receive payment according to the Public Fees Regulations of 30 March 1836 paragraph 62. 14. The

Ministry may at the request of the Lagting make other provisions than the forementioned, as well with reference to the compensation for the labour connected with enclosure as with reference to which persons shall carry out the enclosure after the giving of the judicial decision. 15. If the owners and occupiers concerned undertake an enclosure of common outfields without the intervention of the sysselmand and the enclosure tribunal there shall, when their enclosure is to have legal validity, be drawn up a written document on the matter, which shall likewise contain what is necessary about how matters shall be conducted with reference to cow-grazing, peat-cutting and other outfield rights. 16. What in the foregoing paragraphs is provided about outfields shall also apply to outfield sections (hagapartar).

Translated from the original text as printed in Bang & Bærentsen, op. cit., by JFW.

APPENDIX "E"

OLIVER EFFERSÖE'S MEMORANDUM ON THE TRÖSAG, 1891

To the Lagting of the Faroe Islands!

The much-discussed "trösag" was again brought forward for discussion in the Lagting in 1889. Concerning one of the principal points in the case, that the present occupiers of traðir on state leasehold land should be assured that to them and their heirs should accrue the full benefit of their work in the cultivation of the traðir, a result was achieved, insofar that the Lagting pronounced in favour of an introduction of hereditary leases for the occupier and his family. The second principal point, namely the opportunity of taking in further traðir from the outfields of crown land for the use of persons who may desire land for cultivation, remained completely unresolved, since the proposal that it should rest with the crown estates administration, against the leaseholder's will, to permit the intake of traðir by others than the leaseholder, was rejected.

With regard to the stand which the Lagting took over this matter in 1889, it may be seen that to a large measure it has forsaken the proposal accepted by the Lagting in 1879, which incidentally has made no further progress since its resolution in the Lagting.

In contrast with the earlier instance, the Government is now seen to have declared its opinion in the case, since the Ministry of Justice in a communication of 4 July this year to the amtmand of the Faroe Islands has, amongst other things, made it known that it cannot comply with the Lagting's proposal for hereditary leases, but finds it most proper that a solution of the question should be sought by the traðir becoming the property of the occupiers, but that the moment is not regarded as propitious for laying before the Lagting a draft law with this in view.

By the wish of the Lagting, the Ministry expresses an opinion concerning the second principal point, by which it is intimated that the question of how far, in the future, traðir may be acquired for cultivation even against the wishes of the leaseholder concerned must be answered in the negative, and that insofar as

any decisions concerning the intake of future traðir may be taken in connection with an eventual draft law concerning the tröð situation as a whole, it would be most proper that it should be laid down that the intake of traðir from leasehold land can in future only take place when both the crown estates administration and, except in the case of a vacancy of the lease, the leaseholder concerned give their consent thereto.

The question now arises whether one should allow the matter to rest here, and wait until the indefinite future for its solution. And what would the consequences of this be?

It must be recognised that the commutation of the present tenancies of traðir on the state's land to hereditary leases or outright ownership is extremely urgent and pressing, but on the other hand, if there is a postponement of the matter for some time, it will hardly lead to very serious consequences. Tenants will work on the cultivation of their traðir with less of a will, which will occasion a loss for themselves and for the community, for as has often been urged, they will not be able to feel themselves assured that the tröð will remain im the occupation of their descendants and their work thereby benefit them. At times they may even have no guarantee that they themselves will keep the tröð for their own lifetimes. If things fall out badly, it could even happen that the leaseholders frequently or continually deprived the tenants' heirs of their traðir, but in reality one may feel oneself to a certain degree secured against arbitrary treatment in this respect, and the occasions when such might happen could be expected to be few, as they have hitherto been.

More important and more urgent in my opinion is the resolution of the problem of the acquisition of further traðir.

The population of the Faroe Islands has now for many decades been sharply increasing, in contrast with the past, when different conditions, the monopoly trade, epidemics, legislation about the contraction of matrimony &c., hindered its growth. The different censuses show a population of 5,265 in 1801, 7,314 in 1840, 8,922 in 1860, 9,992 in 1870, 11,220 in 1880 and 12,954 in 1890.

It should assuredly be expected that the increase in the immediate future will be proportionately greater, especially if

the rich fishery now begun should continue. Early marriages will be encouraged by a rich fishery, and the necessary house-room will be found easily enough. The question now becomes very urgent: What will all these people live on, especially if bad fishery years occur after a good period? The number of smacks will possibly be greatly increased, even though a shortage of capital with certainly make itself felt as a hindrance, and the boat fishery will be carried on by more persons than before, and be expected to give a greater total product. Perhaps one may be pushed, even, into a a more rational use of the land already enclosed for cultivation, of cows and of sheep. By this more may be produced than now, but still, as far as may be expected, not at all in proportion to the size of population. Many will, in the half of the year when the smack fishery is discontinued, be practically without employment. The wimter boat fishery, especially, because of weather conditions, is only occasionally productive, and daily wage labour on the land-holdings of others will scarcely yield any serious contribution to the support of many families. The working of wool cannot now, as once, give significant employment. A large labour force will thus remain unused causing an irreparable loss both in the economic and the moral respect. Already one sees during the winter a proportion of the male youth without occupation. Even if the summer earnings at the fishery have produced so much that they are sufficient to maintain life the whole year, the position would not be much better.

The very circumstance that there is, and will be, a large surplus of manpower is the reason that the promotion of cultivation in a rational manner is the only efficient means against overpopulation in the very near future. Cultivation is as a rule not at all profitable in the sense that one merely gets a tolerably good wage from the produce of the earth. Cultivation will now, as before, be an extremely important secondary occupation for the fisherman, as for many who are engaged in handicrafts; it will give them and their families an occupation which can keep the family on its feet.

If the cultivation of the outfield is not promoted in the right way, there will arise a numerous propertyless class, and the

consequences of this will be in the highest degree damaging, not only for this class but also for the possessors. This is so evident that it does not need to be illustrated further.

But cultivation of the outfield is for the Faroe Islands of the same significance as the struggle against overpopulation is for nearly all the countries of Europe. Whilst, however, there has been proposed and in part promoted an emigration to thinly populated lands as the effective means, it is for us for the time being only necessary to gain access to gainful occupation at home.

To illustrate the importance of a cultivation based on sound principles, I shall permit myself to set forward certain remarks on the experience I and others have had here in the islands on this matter, since I may state in advance that since the authorities have done nothing towards investigating the conditions, it is not possible to produce facts to so nearly a great extent as desirable, but I am compelled to build upon my own and others' observations, made as opportunity arose.

The most striking proof of the utility of a properly carried through enclosure of outfield for cultivation is presented by Tórshavn. Half a century ago and earlier the town was extremely poor, but the number of traðir was also small. Besides the two crown leaseholders and the persons who had their employment in the Monopoly and as officials, there was found a relatively large number of poor persons who could get little or no gainful employment. It was a commonplace that a proportion of these, at certain times of the year, wandered round the country as beggars. The better-placed in the town had also to a large degree to come to the help of the poor with gifts. The position was prevented from deteriorating completely when radical provisions were made against overpopulation by requiring a certain fortune of persons who wished to contract matrimony (a decision which applied over the whole country), and by compelling poor people to send their children to farmers in the countryside who needed a labour force.

By the Law of 19 January 1863 it was decided that all the enclosed and cultivated traðir belonging to the leasehold farm of Húsagarður near Tórshavn, which were rented out to the inhabitants of Tórshavn, should pass over to outright ownership. Although

this law did not authorise the sale of portions of the outfield for cultivation, with respect to Húsagarður the rule has been followed of alienating such when the leaseholder has agreed to this. The case has been similar in the case of the farm of Áløker. The consequence of allowing this sale and granting the leaseholder concerned, as far as is known, 1/4 of the purchase price, has been that the Húsagarður leaseholders have not opposed cultivation, whilst the demand for land for the enclosure of *trøðir* has been considerable. There are now found near Tórshavn a large number of *trøðir*, which comprise a considerable area of well cultivated land, the like of which can hardly be shown elsewhere in the Faroe Islands. Fifty years ago Tórshavn had a population of 714 inhabitants, whilst the last census on 1 February 1890 gave 1,303. To the support of these people the cultivation of the land contributes significantly. Reliable data for the illustration of this are not at my disposal, but the matter may be regarded as sufficiently known. It is also of great significance that this intake of *trøðir* has been undertaken in a place where the population is not exclusively or for a large part driven to live from the cultivation of land. Other occupations have also been available, especially labouring, handicrafts and the fishery. The enclosed *trøðir* have ordinarily had such a size that in their cultivated state they can give at least one *kofoder*, and they are each individually walled.

The best proof that the matter has been tackled correctly, and only needs to be promoted in the same way in other places to achieve a good result, one may have when one merely takes note of the *trøðir* cultivated in Tórshavn, and the population which has carried out this work.

How matters have gone forward in other places in the islands with cultivation on crown and allodial land, especially with the foundation of new villages, is difficult for me to illustrate, and a thorough investigation of conditions in the individual places is necessary, but nothing is known about them, although the *tröð* question has long been on the table, and it has still been the subject of debate how far cultivation is of use or not. Clichés and single, often misleading examples have been used instead of

instituting a thorough investigation, an investigation that naturally can only be instituted by public action.

Despite the difficulty I shall nevertheless set down certain remarks on this point.

I shall first comment on conditions in a place where I have had the opportunity to conduct observations personally, namely in Froðböur village on Suðuroy. Fifty years ago the Royal Monopoly Trading Company set up a trading station near Tvöroyri in the outfield of the village of Froðböur, and somewhat later a large tröð was enclosed for the company's employees. Since then, time after time, enclosures have been made along a stretch of about one English mile in length by the shore from the boundary with the village of Trongisvágur almost to the ancient böur of Froðböur, as traðir. All these enclosures of the outfield have been undertaken by the owners of the outfield, but in the course of time a great number of the traðir have by sale passed over into other hands, although such an alienation is in defiance of legislation. The enclosure has been undertaken from two outfields with a considerable number of large and small owners, and the enclosures for cultivation have been made by degrees, a piece now and another later, and also the different enclosures, if not all yet some, have been divided into two or several portions, to allow the individual owners their proportionate share in each. The consequence has therefore been that the land has become much fragmented, and each owner has his share in different places, quite resembling the position in the ancient böur and perhaps worse. Further, by the subsequent alienation of the arbitrarily purchased portions of traðir, the fragmentation has further increased.

On this enclosed land have settled newcomers to a total of over 200. Some of these as merchants, officials and ships' masters are quite independent of the cultivation of the land. For others, on the other hand, cultivation will be, if not a principal occupation, yet an essential for a good existence. Unfortunately the cultivation undertaken hitherto has not been able to enjoy its rightful prosperity.

As previously mentioned, the land is much fragmented. It has also walling only against the outfield, and this wall it has not paid itself to erect sufficiently. The individual plots are

not, as in Tórshavn, individually enclosed. A large proportion of the land belongs to persons who live in the old village of Froðböur about two English miles distant. Others, who have bought plots of tröð from the original owners, certainly live on their traðir, but have no vote in the decision of questions concerning the common interests of the traðir, about driving out intruding sheep, the condition of the walling, and such like, since they do not own the registered land of which the tröð after all comprises a constituent part. The consequence is that two parties are to be found, of which the one without voting rights desires the greatest possible independence and protection for the enclosure, while the other party, the owners resident in the old village, pay no regard to this, but wish to protect the sheep-raising in the outfield. For this reason cultivation is greatly retarded. Practically nobody places any great weight upon it, and the bulk of the considerable tröð in the neighbourhood of Tvöroyri lies uncultivated or is employed only for the raising of potatoes. Many of the new inhabitants of Tvöroyri are landless, others have so much that they can raise a few potatoes, without being in a position to fodder a cow. Nor is it possible even at a high price to purchase milk. That this last will be to the irreparable damage of the rising generation, is obvious. Fuel (peat) one has hitherto been able to purchase, but soon many will be compelled to buy the exceedingly dear coal which is brought from England. With regard to access to the fishery the population is not badly placed, and other occupations: handicrafts, the discharging of ships, the processing of fish and the like have been considerable.

Although in the establishment of the new village of Tvöroyri things have proceeded in an utterly objectionable way, the evil consequences have not shown themselves yet to any significant degree. The reason for this is that in that place have been established several large trading and fish-processing concerns that have given the work-seeking population a profitable occupation in part also during that period of the year when the smack fishery is discontinued and on the whole access to productive employment is difficult. The population of Tvöroyri and the surrounding places has not yet risen so much that overpopulation has set in.

When one has observed the conditions particularly in later years, one will find there is a considerable tendency for people to settle in that place, since in the other villages on the island it is difficult for the landless to maintain themselves. If the immigration continues, which with certainty one may predict, there will in a fairly short time arise a class of people who perhaps own the dwelling they live in and the site on which it stands, but who otherwise are landless. In the summer they will at any rate for the time being find plenty of employment, the mean on board the fishing smacks, the women and children with fish processing, but in winter, i.e. about half the year, they will be driven to seek daily-paid labour, which cannot give much to the many, and to the boat fishery, which is a very uncertain occupation. In the main, unemployment will set in during the winter period accompanied by the customary evil consequences from the economic and the moral standpoint. One will there, by the side of a proportion of prosperous and rich folk, have a great number of proletarians of the worst sort. This the people in that place too have noticed, and many of the present inhabitants deplore the poor conditions, especially that they cannot get land for cultivation, which they could have the benefit of, but are compelled, amongst other things, to work on the cultivation of others' land.

So much for the present situation in the new village of Tvöroyri and the future outlook of the place.

The new village of Tvöroyri is built partly on crown land and partly on allodial land, quite in character with the ancient villages of the Faroe Islands and with just as complex an ownership position. There are many places besides, including on Suðuroy, where in recent times the enclosure of <u>traðir</u> and the setting up of new villages has been undertaken, but unfortunately always on an irrational principle and with poor results.

As far as Suðuroy is concerned, only in a small degree have <u>traðir</u> been created on the state leaseholdings and nowhere are new villages exclusively on these.

The management of the crown estates of the islands have at times shown considerable interest in the cultivation of outfield,

and thereby many new villages have appeared on the state's land. Often, certainly, the business has gone forward without sufficient discrimination and the creation of new villages has been permitted or promoted in places where one ought to have seen that folk could not find support, such as where no, or only poor, access to the fishery was present (as in the Sundalag), and constantly the mistake has been made of setting up lifetime leases and on the whole making the tröð owner dependant on the crown leaseholder. Nowhere is there to be found, as far as is known, a situation similar to that in Tórshavn, and there is certainly scarcely any place which has achieved as good a result as there, but there has been, to our great detriment, nourished up an already numerous proletariat. As, however, my knowledge of these conditions may be too superficial, I shall not enter on a further account of this case. I can only assert that my opinions in the main are correct.

There have certainly, in places, been instances of cultivation by newcomers promoted against the leaseholder's will and at his cost, without thereby having created good conditions for the newcomer. The damage which the settlement of newcomers has occasioned the crown leaseholders, and the demand which one has often heard advanced that the crown farms as a whole, so to speak, ought utterly to be given over to the indiscriminate enclosure of trøðir, has occasioned the trösag's meeting an absolute opposition on the part of the crown farmers.

I must maintain that now, when the urge to cultivate is already with us - and with the increase of population it will increase strongly - it is indefensible to let the trösag, or at least its principal point, the promotion of cultivation, rest, and that the Lagting must take up the matter afresh and discuss what measures ought to be taken, and inform the government of them.

As the bulk of the cultivable land in the immediate neighbourhood of Tórshavn is already taken up, and the chance of getting trøðir from the crown estates, according to the Ministry's pronouncement, becomes somewhat difficult, one is led to reflect on acquiring the necessary areas by expropriation in suitable places.

With reference to the foregoing I permit myself to advance the following proposals:

1. As soon as possible there should be constituted a Commission (of three members, including the agricultural consultant) who shall undertake a journey round the Faroe Islands.

2. They shall undertake an investigation into what results cultivation of the outfield both on crown estates and allodial land has hitherto given, and to what degree they have taken place, and especially concerning those places that may be adapted to habitation.

3. There should be designated certain, probably only a very few places (perhaps two or three), which are to be laid out for the creation of new villages.

4. The Commission shall draw up a proposal on the basis of the investigations they have made how large an area ought to be enclosed for cultivation in each place, how the necessary fuel will be provided for the newcomers, whether outfield grazing for cows ought to be arranged or not, together with an arrangement of conditions in general, in which respect it is a foregone conclusion, that there shall always be straightway set up a sheep-proof outer wall.

5. The necessary area, which shall, however, as far as possible be provided from crown land, shall be expropriated, if necessary, and the expenses incurred, together with the expense of the outer wall, shall be met by the exchequer.

6. The land shall be transferred by degrees as applications are received, either to hereditary lease or individual proprietorship. In the latter case the conditions of payment and the interest must be set such that the less wealthy may be in a position to buy. The individual plots are to be given such a size that in a properly cultivated condition they will be able to give fodder for from 1 to 2 cows, respectively winter fodder alone or fodder for the whole year according to whether summer outfield grazing is available or not. The plots should be neither amalgamated nor divided. Each one is taken with the obligation to have it fenced and inhabited within a certain period. The buildings in future always pass with the land, and the land may only be managed by the man who lives on it.

This is undeniably a radical measure, but when the community's welfare imperatively demands it, one must not hold back with respect to the individuals whose land will be expropriated and who will have full compensation. There is also a great difference between bringing newcomers here and there in many places in the outfield of the leaseholders and taking in large pieces of land united in a few places.

On the other hand, as a matter of course, no further intake

of traðir on the state's land other than by the leaseholder should be allowed, even if the leaseholder concerned gives his consent, for such creation of new villages may in places, as mentioned earlier, easily have bad consequences.

p.t. Tórshavn, 16 August 1891.

OLIVER EFFERSÖE

Translated from the text in Lagtingstidende 1891, pp. 119-24, by JFW.

APPENDIX "F"

LAW ON THE ALIENATION OF INTAKES AND BUILDING SITES FROM THE STATE'S LEASEHOLD ESTATES IN THE FAROE ISLANDS OF 13 APRIL 1894

I. 1. The *traðir* or parts of *traðir* belonging to the state's leasehold estates, which have been enclosed by others than the leaseholder, and boathouse or dwelling-house sites may, when they are occupied by others than the leaseholder himself, and the occupier of the *tröð* or site concerned makes application herefor to the estates management, be transferred to freehold ownership on the conditions stated in the following paragraphs. Of *traðir* or parts of *traðir* which are enclosed by the leaseholder himself and only later in a cultivated condition rented out, such transfer may take place only when either the leaseholder and the estates management both agree thereto, or the estates management considers that the *tröð* occupier's relationship to the *tröð* or part *tröð* by reason of specially existing circumstances ought to be placed in a class with that of the occupier who has himself cultivated a *tröð* or by inheritance or other means has entered on the cultivator's rights. 2. The purchase price of each *tröð* or part of a *tröð*, boathouse or dwelling-house site shall be determined at the sum of 25 times the rent which the present occupier has paid, exclusive of what is paid for rights which according to the present Law do not accompany the sale - though the purchase price for *traðir* or parts of *traðir* shall not exceed 100 kroner per *kofoder* (winter and summer foddering). In the case of no rent having been paid, the purchase price of a *tröð* or part of a *tröð* shall be 50 kroner for every *kofoder* at which it is rated by the assessment commission established in accordance with the Law of 29 March 1867 concerning a new assessment of lands in the Faroe Islands. When no assessment in *kofoder* has been undertaken by the assessment commission of the *tröð* or *tröð* part that is desired for purchase - and for boathouse and dwelling-house sites for which no rent has been paid - the purchase price shall be determined by a valuation in conformity with law, undertaken by two men, of which the estates management shall choose the one and the purchaser the other. If

these men cannot agree, they shall choose an arbiter, and if they cannot agree about the choice of the latter, the court shall choose an arbiter. 3. With the freehold right to the tröð or tröð part shall go neither the right to drive cows into the outfield nor any other right or appurtenance connected with occupation of the assessed böur, and to the leaseholder is reserved the customary winter grazing right for his sheep, unless the same shall be commuted by voluntary agreement between the leaseholder and the tröð owner. If commutation is to be permanent or even for a longer time than the tenancy of the leaseholder concerned and of a possible widow, this cannot take place unless the Landvæsenskommission judges that commutation can take place without significant damage to the lease, and the estates management gives its consent. Of the commutation sum for the right, which is to be fixed by the Landvæsenskommission and shall accrue to the state treasury, there shall be paid to the relinquishing leaseholder and his widow, as long as they occupy the lease, 4% annually, which shall be deducted from the leasehdd rent. 4. The purchase price of the tröð or tröð part, boathouse or dwelling-house site accrues to the state treasury, from which in reduction of the leasehold rent shall be paid to the leaseholder relinquishing the tröð or site, and his widow, for the period of their tenancy, 4 per cent annually of the paid purchase price. If this sum is smaller than the rent of the tröð or site hitherto paid, the difference will be annually paid to the relinquishing leaseholder and his widow during their tenancy by the purchaser, who for the fulfilment of the obligation shall give surety on the purchased property with a first mortgage, or, if the sum is wholly or partly paid by bond to the state treasury, then with a mortgage next after the latter. The purchaser of a tröð or tröð part is entitled either wholly or partly to pay the purchase price by issuing for the same a bond bearing 4 per cent interest with first priority security in the tröð or tröð part, which shall be irrevocable on the part of the state treasury, as long as the first owner or his widow occupies the property and duly fulfils the duties which are imposed by the bond, or with a bond with first priority security of which

interest and repayments will be made at 6 per cent annually of the sum of the bond, such that of this 4 per cent annually shall be reckoned as interest on the outstanding capital, and the remainder constitute an instalment repayment on the loan. The purchaser shall defray all the expenses connected with the forementioned conveyances. 5. No tröð or tröð part may hereafter be divided or parcelled out without the consent of the Amt, which shall also apply, when 2 or more traðir by amalgamation have come to constitute a single holding. If a person who owns part of a tröð wishes to sell the same it shall, insofar as it is under 1 kofoder, be offered to the person or persons who own the remaining portion of the tröð, who shall be entitled to demand that the tröð part shall be transferred to him for the highest price that anyone else will give for it. - For the parcelling out of traðir of 1 kofoder or under permission can only be given if a suitable land adjustment or union of tröð parts may make it necessary, or there may be a need for boathouse or building sites. When a tröð becomes inhabited, the house and tröð shall continue as a united property, so that a separate conveyance of one of the parts may not without the Amt's permission take place either by gift, sale, inheritance or in other ways. 6. Every tröð owner is bound to maintain strong and sheep-proof walls around his tröð. If between several tröð owners there can be attained agreement about the erection and maintenance of a strong and sheep-proof main wall around their traðir, the walls around each one of these need no longer be sheep-proof, or between two adjoining traðir , if their owners are agreed about this, may be dispensed with altogether. The contract drawn up on this matter to be valid must be approved by the Amt. 7. Every person who, by pulling down stone from the walls around the traðir or by other means bringing about the intrusion of cattle or sheep shall, besides compensating for the damage caused according to the estimate of impartial men, pay a fine of 2-10 kroner, which shall accrue to the relief fund of the kommune concerned, established by the Law of 9 February 1883 on amendments to the Law concerning poor relief in the Faroe Islands of 22 March 1855. The same punishment shall apply to breaches of paragraph 6. These cases shall be heard and judged by the

politiret of the syssel with appeal to the Amt's overpolitiret.

II. 8. The Ministry of Justice shall, after recommendation from the estates management, be entitled to alienate to others than the leaseholder not only boathouse and dwelling-house sites, when there is a need for these, but also such areas of the leasehold estates' share of the outfield as may be found fit for future cultivation as well with as without habitation, which may without significant damage to the operation of the lease be considered completely separable from it. Such alienation may also take place without the consent of the leaseholder concerned, though in such cases, as far as they concern areas for cultivation, a report must be obtained from the syssel's Landvæsenskommission and for the foundation of new villages from the council of the kommune also. 9. If an alienation of areas which it is desired to dispose of according to paragraph 8 cannot take place without a previous enclosure, the Ministry of Justice shall be entitled by the landfoged to bring the case for action by the village grannastevna, where the landfoged shall be entitled to vote on behalf of the leasehold estate. The introduction of the case and subsequent action shall be in accordance with the provisions prescribed in the Law of 1 April 1891 on grannastevnur in the Faroe Islands and the Law of 4 March 1857 on the enclosure of common outfields. After the matter has been the subject of discussion at the grannastevna, the Ministry of Justice shall be entitled, notwithstanding the provisions in paragraph 6 of the Law of 4 March 1857, to bring a request for enclosure before the syssel's Landvæsenskommission, which shall deal with the case according to the legislative provisions on that subject. 10. The areas concerned shall be transferred by degrees as requests for them come forward, to freehold ownership, though as far as traðir or parts of traðir are concerned, not in smaller parcels than that each one of them in cultivated condition can yield summer and winter foddering for one cow or serve to complete one kofoder, and with the obligation on the purchaser to have the parcel of land properly fenced within 5 years; if this does not take place, the plot shall revert to the lease, and the purchase price be forfeit to the state treasury. The purchase price for a kofoder, which

constitutes 50 kroner, accrues to the state treasury, and the interest hereof shall be compensated in the leasehold rent in the same manner as in paragraph 4 is appointed. Otherwise the sale of individual plots of land shall be conducted in accordance with the regulations contained in paragraphs 2-7. Commutation of the lease's right of winter grazing may take place either directly after alienation or later; with reference to commutation and compensation for the same the rules in paragraph 3 will apply.
11. The renting of plots of the lease's outfield for cultivation by the leaseholder, which has hitherto been in operation, shall be in the future limited to parcels of the size named in the preceding paragraph and may take place only with the consent of the estates management. These future rented traðir may then be transferred to freehold ownership in similar manner to all other traðir enclosed.
12. This Law embraces also the leasehold farms whose use is reserved for the holders of offices or appointments. Of the purchase or commutation prices which shall in future accrue to the state treasury for these properties, the 4 per cent which according to paragraphs 3, 4 and 10 is allowed the relinquishing leaseholder and his wife for the period of their tenancy, shall be deducted from the rent of the leasehold farm concerned for as long as it is reserved to the office or appointment. 13. The power of the Ministry of Justice to alienate plots of the outfield of leasehold estates given in the Orders in Council of 24 May and 10 June 1876 shall continue.[x]

Translated from the original text as printed in Bang & Bærentsen, op. cit., by JFW.

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[x] These orders (see Bang & Bærentsen, op. cit., pp. 408-9) concern principally two particular alienations, one near Tórshavn, the other in Suðuroy, though they do give general powers. I cannot, however, find that these powers have elsewhere been used, and I have therefore omitted them from consideration in the body of this thesis.

APPENDIX "G"

LAW WHEREBY IT IS INTENDED THAT FRAGMENTATION OF PRIVATE ESTATES IN THE FAROE ISLANDS SHALL BE LIMITED

OF 4 MARCH 1857

1. Any person who owns a landed estate of from 1 to 6 marks in size, infield and outfield, united in one village, though not less than 4 gylden in each hagi or hagapartur, shall be empowered to decide that this property, with the buildings which are or shall be erected on the land of the said property, shall be and shall continue a united estate, that may be divided only in accordance with the rules of paragraph 5. 2. The owner concerned shall, when he wishes to take such a decision with reference to his property, apply to the sorenskriver, and before him, in the presence of witnesses, declare his decision, which shall by the sorenskriver at once be entered in the judicial record book in consideration of a fee according to the Public Fees Regulations of 30 March 1836 paragraph 11. The sorenskriver shall thereafter at the next court sessions, at the expense of the owner concerned, publicly register (tinglæse) a copy of the decision entered in the judicial record book. Such a decision once proclaimed shall be and remain irrevocable and immoveable; though the Ministry of Justice, where circumstances are favourable, may permit deviation from the same, when the application of the owner concerned is supported by two-thirds of the members present at a meeting of the Lagting at which there is a quorum. 3. If a portion of the estate concerned is burdened with a registered mortgage debt, the sorenskriver shall not record the desired decision until the owner has produced the written declaration of the mortgagee that he has no objection to the proposed decision being taken. 4. If a portion of the estate concerned is burdened with a registered mortgage debt and the mortgagee has given his consent to the decision, the mortgage debt from the date of the tinglæsning of the declaration shall be regarded as secured on the whole of the united estate. When several portions of the estate are secured to different mortgagees, the declaration of these shall likewise contain what

is necessary about what priority their claims shall have on the united estate, in which case the declarations of the mortgagees shall be tinglast. Land which is granted to a creditor as a pledge in use cannot be included in a united estate unless the creditor according to the above-prescribed rules gives his consent to the mortgage being changed from a pledge in use to a simple mortgage. 5. If the estate concerned is less than 6 marks of land, the owner, when he later acquires more land in the same village, by following the same procedure as is given in paragraph 2, and under the observation of the provisions fixed in paragraphs 3 and 4, may decide that also this later acquired land shall belong to the estate, and he may thus enlarge the size of the estate until in all it comprises 6 marks of land, infield and outfield, though in every hagi or hagapartur there shall be not less than 4 gylden. On the other hand, under the same conditions as are now laid down, it shall be permissible for an owner to divide such an estate united in accordance with the forementioned provisions, though not into smaller portions than 2 marks of land, and to exchange even smaller portions of his property with other land when thereby he can increase or unite the land he may already own in a hagi or hagapartur. 6. The person who owns a united estate subjected to the provisions contained in paragraphs 1-5 shall be entitled by a declaration given by him before the court to determine what action shall be taken over the estate after his death, to which of his heirs the same shall fall, what stock, inventory, equipment and buildings of all kinds shall accompany the farm, and what sum this shall be taken for. Further there may be expected, according to circumstances, confirmation of testaments by which it is determined that the farm with its accessories at that same fixed valuation, and moreover by the observance of the further provisions of this Law shall, if the child to whom it is intended to transfer it, shall die before the testator, pass to the forementioned child's surviving spouse, for which confirmation in no case will be paid a higher fee than the present minimum authorised confirmation fee. When the other heirs, or if they are minors, their guardians, consider the sum fixed for the estate too low, they are entitled to require, before it is occupied by

the heir determined for it, that it shall be valued by 3 impartial men nominated by the court, and the child shall then be entitled to take over the same for three-quarters of the valuation figure. 7. If the owner is married and lives in the customary community of goods with his wife, he shall, if he wishes to use the privilege given him in the previous paragraph, obtain his wife's consent to this. 8. By the testamentary disposition which the parents thus make of their farm, it may also be determined that the longer-lived of them shall under the further conditions contained in paragraph 10 below be permitted to retain the farm and its accessories against a compensation corresponding to the value at which the farm in accordance with the provisions in paragraph 6 shall be transferred to one of the children, which compensation shall be secured on the estate and paid out in the case in which the children's paternal or maternal heritage would otherwise be paid out to them. The survivor is not empowered to sell the farm without its being first offered to the son or daughter who in due course would inherit it, and who shall then be entitled to take the same for the value set down in the testament or for the sum which, in the case of objection from the other heirs shall be determined by the manner prescribed in paragraph 6, and for the raising of the sum shall have a respite until the second June settling-day following. If the heir in question is a minor, the case shall, before a decision is taken about the taking-over of the farm, be submitted for the judgement of the Ministry of Justice. It also naturally follows, that by the joint testament of spouses may also be determined further restrictions on the disposition of the survivor over the farm, and especially he may be prohibited from mortgaging it, and the survivor may in no case give any mortgage priority over the inheritance shares which fall to the children from their previously dead father or mother, which inheritance shares as previously mentioned shall be secured in the farm, until in some other way they are given satisfaction for the same. 9. It is likewise a matter of course that the survivor cannot after his spouse's death make any alteration in the joint final testament given by the two of them in favour of one of the children, but should the child in question die or not wish to

accept the estate, the survivor may by a new testamentary disposition decide which of the other children shall take his place, provided their joint testament does not contain any provision on this subject. 10. The right to retain the farm, which according to the married couple's joint testament can be accorded to the survivor of the two, shall with reference to the husband not be restricted to the time he remains unmarried, and the farm also, when the widow contracts a fresh marriage, can remain with her and her second husband, until the son to whom the farm according to their testament shall pass, comes of age, which in accordance with N.L. 3-19-34 shall be understood 18 years of age, or until the daughter on whom it is bestowed, contracts marriage. 11. In place of such a disposition which paragraphs 8 and 10 entitle an owner of land and his wife to establish for each other's benefit, it shall also, though they have issue, be free for them by reciprocal testament to decide that the survivor shall retain the farm and its accessories in full ownership against payment, according to an assessment undertaken on oath, to the heirs of the first to die, one-third of the true value of the farm and its accessories, this however being only reckoned after deduction of the debt resting on the latter, with which they shall in every respect rest content, and on the condition that the survivor's right in accordance with paragraph 15 in the Ordinance of 21 May 1845 to take inheritance from the first-deceased, shall expire. 12. When an owner in accordance with this Law has given his real estate to one of his children against a reasonable compensation, he shall not be authorised in any other manner to dispose over more than an eighth of the fortune he leaves, such as this amounts to according to the value at which the farm according to the provisions in paragraph 6 is to be taken over by the child concerned, which same shall apply, when an owner and his wife who have issue wish to exercise the right paragraph 11 grants them to leave each other the farm in ownership. 13. Just as the person who owns several united farms may not by testament bestow on one child several of these, when he leaves several children, neither may the surviving partner of the marriage retain several farms; the latter may however retain the farm bestowed on a son or

daughter who is a minor, until either he comes of age or she marries, whereby in accordance with paragraph 19 it is to be noted that in the case where the widow remarries, not full legal majority but only simple majority is required for the son concerned to be placed in occupation of the farm. Neither can the forementioned be a hindrance to the surviving partner's retaining the several properties that may fall to him as share of the estate according to law. 14. A widow who owns a united farm can in all matters exercise the right of testation which is granted in this Law. However, the widow or widower who retains an undivided estate after a deceased partner without, whilst the latter lived, there having been made any testamentary disposition of the farm, may not use the forementioned right of testation other than that the heirs of the deceased shall retain the paternal or maternal inheritance that has already fallen to them inviolate. 15. It shall also be free for an owner, under the customary testamentary forms, to make a will with the content for which this law gives the right. If the will is made between a married couple such that it gives one of these the right, after the other's death, to retain possession of the farm with the restrictions contained in this Law's paragraphs 8 and 10, if it is made according to the form prescribed in paragraph 6, there shall be entered in the mortgage record book a copy of the declaration of will before the court and for this the customary registration and record fees shall be payable, and when the will is made by other means it shall be tinglæst. 16. If the person who owns an estate subjected to the provisions contained in paragraphs 1-5 does not during his life take a decision on how the estate shall pass after his death, and the estate is included in the deceased's affairs being wound up, it shall then be allocated to one of the children or heirs for the sum for which the heirs at the winding-up can agree. If no agreement can be attained in this respect between the heirs, the property shall be sold by public auction and the proceeds divided according to the provisions of law. 17. It shall not in the future be permissible for land to be divided, by purchase or sale, by division on inheritance or by other mode of conveyance to individual ownership, in smaller portions than one gylden, united as well in böur as in hagi or

hagapartur. If all the land which at the winding-up of an estate is available for division cannot be allocated to the heirs without a portion of the land being divided into smaller parcels than a whole gylden, united as well in bõur as in hagi or hagapartur, and the heirs cannot agree which of them shall take over such parcels of land, these shall be sold by public auction and their product divided between the heirs concerned. 18. It shall further be forbidden, by purchase or sale or in any other manner to separate the appurtenances united to the land by the legal provisions in force. 19. For a sale or exchange or other conveyance of any land that has taken place to have any legal validity there shall be drawn up and tinglæst a written document, which shall contain full details of in what the transfer consists. With reference to the time of registration N.L. 5-3-39, 40, 41 will be observed. 20. The allodial redemption right accorded by N.L. Book 5 Chapter 3, and the Ordinances of 14 January 1771 and 14 January 1829 shall cease, such that after 1 July 1857 it shall no longer be enforceable.

Translated from the text as printed in Bang & Bærentsen, op. cit., by JFW.

APPENDIX "H"

PILOT-WHALE HUNTING[x]

The Faroemen are the descendants of the ancient Vikings. But in few places in Scandinavia has the old wild character vanished to such a degree as amongst this sober and peaceful population. Amongst Faroemen, it is not considered good form to be violent. Fights are extremely rare, murder is unknown. In daily life people try to be dignified and gentle, and the hothead runs the risk of becoming a laughing-stock. However, there are occasions when it is considered improper to be calm and quiet, and when it is even a duty to become wild and murderous. This is when a school of pilot-whales is reported in nearby waters.

It happens at times that a crew of a boat will, while they are out fishing, discover whales. Sometimes they are great whales, passing by singly or in small groups. In such a case they have no interest for the fishermen. They can do nothing against these gigantic creatures that are many times larger than the boats. It is the business of the professional whalers to attend to the biggest animals in this world.

But they can also be grindahvalir, pilot-whales. These are a species of dolphin (globicephalus melas) that move across the Atlantic in schools of up to 1,000, sometimes more. And these whales the Faroemen are in a position to catch. The pilot-whale hunt is an ancient national sport, a magnificent, stimulating popular pastime. But it cannot be denied that it is carried on in a manner that is often barbaric in its operation. If this hunt were not at the same time an occupation of economic importance, one would be justified in classing it with the bullfighting of the southern countries.

Schools of pilot-whales are not always discovered from the sea. They are often first seen from the land. They can appear at all times of the year, but are commonest in July and August.

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[x] As mentioned on page 245, many accounts of pilot-whale hunting exist in English. However, none of the more easily accessible ones is as concise, authoritative and readable as this account by a Faroese author.

About this time it often happens that aged pilot-whale enthusiasts undertake mysterious trips into the mountains, especially at night or in the early hours of the morning. There they walk alone - by chance of course - and look out over the sea. But everyone knows what they are thinking about. They would like to have the honour of being the first to discover a school of pilot-whales. This gives not only honour, but also a solid profit - if the finder can likewise be the first to reach the whales in a boat. Then as his reward he receives the largest whale, the finningarhvalur.

As soon as the school is observed, it is necessary as quickly as possible to raise the alarm with all villages and boats' crews in the neighbourhood. If the whales are seen from a boat, a mast is immediately raised with a flag or a garment on the top. Everyone knows what that means, and the news spreads like wildfire.

Nowadays, when telephone and radio are used, the news travels almost by itself. But in former times a system was used that was nearly as good. Beacons were fired. The whole thing was precisely organised. Beacons were lit in particular places and had time-honoured meanings. A fire south of the houses in a village meant that the school was in one place, a fire north of the houses meant it was in another place. As soon as they saw the signal in the neighbouring village or the village across the fjord, they would light a fire to show that they had understood the signal, and to send it onwards. Thus the message would race from village to village in the form of festive pillars of smoke.

The beacons were generally lit by the women. The male population, right from the 80-year-old to the 3-year-old had something else to think about than firing a bundle of hay. The boys leapt wildly around shouting grindaboð, grindaboð! This means whale-alarm. The men dropped whatever they were doing, hurried home for their whale-spears and put out the boats. If they were attending a service in church, they would fling down their hymn-books and leave the minister to it. If a man was lying in his bed he would simply snatch up his trousers and put them on on his way down to the boat. It is a breathless haste-psychosis that seizes the population. It has happened that a boat's motor has been started without the anchor being raised, so

that the boat went round in a circle like a mad cow on its tether. In an incredibly short time the boats are off. 3-4 minutes after grindaboð has been heard, one may see the first boats with fierce-looking whale-spears in the bow, foaming away from the landing-place.

A whale-hunt is an absolute military operation, a veritable call to arms. Everything is organised beforehand, the individual boats are fighting units that have to dispose themselves according to orders given them by the previously appointed hunt foremen.

The first boats which reach the place in question confinee themselves as a rule merely to following the school and seeing that it does not disappear again. As soom as a goodly fleet has assembled, the hunt can begin, and now it is necessary to drive the luckless whales into a fjord or a creek where the killing can take place.

In the islands are to be found a series of time-honoured whaling-bays, that are nearly always preferred. The hunt foremen decide in each individual case, with suitable attention to the weather and the current, where the school shall be driven.

The hunt takes place in this way: by shouting, stone-throwing and other commotion the hunters try to disturb the harmless and indolent whales just so much that they will start moving in the desired direction. One must proceed with a certain degree of caution. The school must be disturbed only a little, not frightened into panic, for then the game is lost. If the whales pick up speed, the boats simply cannot keep up. Motor-boats have shown themselves to be excellent participants in this ancient sport. They make a good speed and produce the necessary noise purely automatically.

Yet the pilot-whale hunt often miscarries. The whales are good-natured and stupid, and do not at all understand what is going on. But if they once get the idea that they want to make for the sea, there is no human power that can stop them.

Even if one has at length got the school driven into the bay where the killing is to take place it can still happen that it escapes. When the whales enter the narrow waters, they are easily scared and turn to fly. Therefore it is customary to seal

off the bay with several lines of boats. If the school now attempts to come out again, it is met with a hail of stones, cries and din. The great creatures, that could easily smash the boats in the space of a few second, nearly always turn back in the face of the unaccustomed noise and swim into the bay again.

The ideal whaling-bay has always a flat beach at its innermost end. If one is lucky, one can drive the whales right up on to the shore. The creatures are usually going so fast that they cannot turn before it is too late, and suddenly they lie helpless on the dry land. Then the people swarm round, and withim a short space of time all the whales have been killed with a stab in the neck vertebræ.

This is the simplest and most desirable kind of whale-killing, and at the same time the most merciful death for the luckless creatures. But a school of pilot-whales is often so large that one cannot get all the whales beached. In many whaling-bays, too, the shore is so disposed that a beaching cannot take place at all. Then the whales have to be killed in the water, and this is the bloodiest and most violent form of whale-killing.

It is indeed nothing less than a regular sea-battle between boats and whales. Whilst some of the boats remain outside to seal off the bay, the rest - yet always only the rowing-boats - go into action. The whales ought really always to be the victors in this struggle. A pilot-whale can be over 20 feet long, and can easily crush a Faroese boat. To his ill fortune he has simply not enough intelligence to defend himself, and if he does cause his assailants any damage, it is rather by accident than design.

The pilot-whales are attacked with the help of special whale-spears, long shafts with a sharp blade at the end. At the front of every boat stand one or two men stabbing away at the whales. As they are wounded more and more they become quite desperate from pain and terror. They rush hither and thither whipping up the ever bloodier water into a turmoil. Soon the whole bay is a confused melée of boats and whales in a furious struggle, a magnificent and gruesome massacre.

It is singular that the Faroemen, to whom war and murder are unknown, should love pilot-whale killing. They simply cannot

resist this drama. It must be a kind of atavism. The Viking spirit suddenly comes to life again. If one has seen such a killing, one has also gained some impression of how the battle of Hjörungavåg must have looked.[x] It is a happy, passionate struggle. They do not merely strike with their spears. In ancient Viking fashion they also use their mouths. Classical sentences, well-turned, pithy sayings, are shouted from boat to boat. The people on the shore dance about like cats on hot bricks, scarcely able to control themselves. What can one think of this sober population when one sees a peaceful man in a light summer suit with a walking-stick and a straw hat suddenly take a knife between his teeth, jump out into the bloody sea, and swim around stabbing to right and to left!

Why pilot-whale killings so seldom cost human life is a complete mystery. No-one takes any heed of the danger, caution is unknown in this situation. Boats are crushed and go down to the bottom. But the crew simply do not have time to drown - not in such a sublime moment!

When the killing has once got fairly started, it seldom happens that the whales escape. Individual whales straying away nearly always turn back, unaccountably enough, to the bloody battlefield. The creatures which are struck down, sink to the bottom. But as the water is not as a rule very deep, it is an easy matter after the killing to fish them up and haul them ashore, and then the whole catch, often as many as 1,000 large whales, lies round the beach waiting to be allocated and divided.

Now it is the turn of the authorities to intervene. The district sheriff comes, accompanied by his assessors, valuing each whale in turn. There is no question of weighing these creatures. They are assessed by estimate.

Whilst this is going on, the huntsmen relax. Not in beds and on sofas, but in a mighty dance of victory. Never are the old ballads selected for their heroic qualities as they are the evening after a whale-killing. Away with the erotic, the poetic, the

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[x] The battle of Hjörungavåg, near Stadt in western Norway, was fought in 985, and was the most celebrated of Viking sea-battles.

effeminate! Now the men are dancing! The women are at home cooking a first meal from the catch.

This whale-hunting frenzy can also affect foreigners, as many examples will show. The much-loved governor Plöyen, who held office in the Faroe Islands in the middle of the last century, wrote an enormous ballad in Danish about whale-killing. Its chorus runs: "Brisk and thriving, blackfish-driving is all our joy". This Pilot-Whale Ballad is sung with great gusto at every whale-dance.

When the district sheriff has finished his work the tickets are issued. By these every boat gets an advice of their share of the catch, and the crew can now begin cutting up the whales which have been assigned to them. The whole process is conducted according to ancient rules. No person within the district in which the whaling-bay is situated, misses his share of the catch. When the men turn for home they have a part for every single inhabitant of the village, even the tiniest child. No-one is passed over. It is a primitive communism,[x] bearing high witness to the feelings of solidarity within the old society. It is amazing that guests in a village where a killing has taken place also get their share, regardless of whether they have been active participants or not. If the man was not there for the killing, it was anyway he that was the chief sufferer!

The most important whaling-bays in the Faroe Islands are Miðvágur on Vágar, Vestmanna on Streymoy, The Sound between Streymoy and Eysturoy, Klaksvík in the Northern Islands, and Vágur, Trongisvágur, Fámjin and Hvalböur on Suðuroy. But pilot-whales are also killed in many other places, for example Sandur on Sandoy and on Tindhólmur.

There is naturally rivalry between whaling-bays. At times disagreement arises where the whales shall be driven. It once happened that the whales, during such a quarrel, took the rational course of making off. Afterwards there was a lawsuit between the contending parties.

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[x] This phrase is more idealistic than strictly accurate. See page 230, and elsewhere in Chapter 11.

Pilot-whale meat is eaten fresh, salt or dried. The same is the case with the blubber, which is eaten with the meat.

Pilot-whale meat is not properly speaking an article of trade. The bulk of it is shared out free, and thus plays no part in commerce. All the same the pilot-whale hunt has some importance for the Faroese economy. A good pilot-whale year fills the larders, and in this way folk get nourishing and tasty food for many a winter's lunch. But pilot-whale hunting is not an occupation like agriculture or fishing. The reason it has been so fully described here is that it is a primitive kind of sport that in our own days is not known in places other than the Faroe Islands.

Translated from Jörgen-Frantz Jacobsen, Færöerne, natur og folk, third edition (Tórshavn, 1970), revised by William Heinesen, pages 57-62, by JFW.

GLOSSARY

aagave (Dan.) A trienmial rent on crown farms.

aktimg (Far.) The expulsion of intruding sheep from the infield.

aktingarmaður (Far.) Man responsible for akting. Plural aktingarmenn.

alen (Dan.) A measure of about 2 feet.

alþing (Old Norse) An assembly of all freemen for judicial business. (Icelandic) The provincial assembly founded im 1843, today the Icelandic parliament.

almenningur (Far.) The area within a village held in common by all landowners.

Amt (Dan.) Province.

amtmand (Dan.) Provincial governor. Plural amtmænd.

amtsrepartitionsfond (Dan.) A provincial fund supplied by a rate levied on land.

amtsrepartitionsskat (Dan.) The land tax levied for the above.

áttamannafar (Far.) Boat rowed by eight men, of the type normally used for the winter fishery. Plural áttamannaför.

aurar (Old Norse) See eyrir.

blóðmörur (Far.) A blood sausage, somewhat like a black pudding.

ból (Far.) A sheep shelter im the form of a semicircular windbreak. Also called stöður.

borgmester (Dan.) Mayor, burgomaster.

boul (Dan.) See ból.

býlingur (Far.) One of the several hamlets commonly making up a Faroese village. Plural býlingar.

böur (Far.) Cultivated infield.

Cancelli (Dan.) Chancellory.

dráttur (Far.) The method of hunting puffims by pulling them from their holes by hand or hook.

dýlur (Far.) Ember-baked barleymeal loaf.

döglingur (Far.) Bottlenose whale.

eyrir (Old Norse) An ounce of silver, an eighth part of a mørk. Plural aurar.

faarleje (Dan.) Sheep rent, the rent paid for the inventory flock on a crown farm.

feitilendi (Far.) A specially rich stretch of pasture, manured by the droppings of sea-birds. Plural feitilendi or feitilendir.

feli (Far.) The system of holding common flocks on common land.

finningarhvalur (Far.) Whale given as a reward to the boat which finds a school of pilot-whales. Danish findingshval.

fleyging (Far.) The netting of sea-fowl, particularly puffins.

fleygistong (Far.) Fowling-net.

fliða (Far.) Limpet.

Folketing (Dan.) The lower house of the Danish parliament.

forligelseskommission (Dan.) Arbitration commission, a body which from 1797 had first to be consulted before litigants could proceed with a civil action.

formand (Dan.) Foreman, in particular a boat foreman.

fuglahundur (Far.) Dog used in hunting seafowl. Plural fuglahundar.

fýramannafar (Far.) Boat rowed by four men. Plural fýramannaför.

gamal böur (Far.) Ancient infield, i.e. that appearing in the old assessment into marks gylden and skind.

geil (Far.) Drift-way, i.e. a walled cattle-track along which beasts were driven during the periods in spring and autumn when they grazed out by day but were kept in stall at night. Plural geilar.

grannastevna (Far.) Annual meeting of landowners, crown leaseholders and other householders, held in the presence of the sysselmand, to take decisions about joint village affairs. Plural grannastevnur. Danish grandestævne.

grannastevnaprotokol (Far.) Minute book of the grannastevna.

grindaboð (Far.) The alarm given when a school of pilot-whales has been sighted.

grindadráp (Far.) The killing of a school of pilot-whales.

grindahvalur (Far.) Pilot-whale. Plural grindahvalir.

Grindélov (Dan.) Pilot-Whale Law.

Grindereglement (Dan.) Pilot-whale Regulations.

grundir (Far.) Building-sites within the almenningur. Singular grind.

gylden (Dan.) Originally (presumably) the Rhine guilder. In Faroese usage, a unit of land assessment according to the old valuation. The term is also employed for 20 skind of whale-meat and blubber after a grindadráp, and until 1790 was the unit of account of the Monopoly. Faroese gyllin.

hagapartur (Far.) A common, a subdivision of a hagi. Plural hagapartar.

hagastevna (Far.) Annual meeting of the owners of a hagi or of a hagapartur. Plural hagastevnur.

hagastýri (Far.) Governing committee of a hagi or hagapartur.

hagi (Far.) Outfield, the uncultivated grazing belonging to a village. Plural hagar. Danish hauge.

haki (Far.) Faroese wooden spade with small metal blade.

Haugelov (Dan.) The Outfield Law of 23 February 1866.

heimabeiti (Far.) Stretch of pasture in the almenningur reserved for cattle. Plural heimabeiti.

heimrustir (Far.) Parts of the village almenningur available for use as building sites or heimabeiti. Singular heimrust.

hjallur (Far.) An outhouse constructed of slatted walls, in which mutton carcasses or fish are dried. Plural hjallar.

hjáseyður (Far.) Privately-owned sheep. Plural hjáseyðir.

homluband (Far.) A strap, formerly of pilot-whale skin, with which the oar was attached to the rowlock.

hovedbölle (Norw.) Entailed home farm (see page 162).

hoveri (Dan.) Villeinage, corvée work.

hoyrúgva (Far.) Pile of hay, made to prevent spoilage by rain. Plural hoyrúgvur.

Hundabrævið (Far.) The Dog Letter, a law of the early fifteenth century regulating sheep-dog numbers throughout the Faroe Islands.

húshagi (Far.) That part of the outfield, usually nearest to the village, reserved for the summer grazing of cattle. Plural húshagar.

Höjesteret (Dan.) The Supreme Court in Copenhagen.

indfæstningsafgift (Dan.) Entry fine paid by a leaseholder on first taking over a crown tenancy.

inventarieleje (Dan.) Inventory rent, paid on miscellaneous items notionally taken over with a crown tenancy.

Jordebogskasse (Dan.) Literally, the rent-roll chest. The principal account kept by the landfoged.

jordehval (Dan.) That portion of a school of pilot-whales allocated to the owners or lessees of the shore on which it was killed. Faroese jarðarhvalur.

jordeleje (Dan.) Land rent, in particular on crown farms.

jordfortegning (Dan.) Land register; a short name for the Conveyance and Mortgage Register, Skjöde- og pante-register, q.v.

kaldsmand (Dan.) One of the two assistants accompanying the sysselmand on his errands. Plural kaldsmænd.

kenning (Far.) The system whereby individually-owned sheep are grazed on common pastures. Danish kending or kjending.

knetti (Far.) Type of large fish-ball. Plural knettir.

kojord (Dan.) Cow-land, one of the land categories formerly distinguished on crown farms.

kommune (Dan.) Civil parish or municipality. Faroese kommuna.

kongsbonde (Dan.) Crown leaseholder. Plural kongsbönder. Faroese kongsbóndi, kongsböndur.

kongsskat (Dan.) King's tax, an ancient Faroese land tax.

korki (Far.) A lichen used in dyeing.

kræklingur (Far.) Common mussel.

lagmandstold (Dan.) A small poll-tax formerly paid annually to the lawman.

lagretsmand, lagrettesmand (Dan.) Member of the pre-1816 Lagting. Plural lagretsmænd, lagrettesmænd. Faroese lögrettumaður, lögrettumenn.

Lagting (Dan.) (i) Before 1816, a provincial high court consisting of the lagmand or lawman, and 36 lagrettesmænd nominated by the landfoged. (ii) After 1852, the elected provincial assembly of the Faroe Islands. Faroese Lögting.

Lagtingsmand (Dan.) Member of the post-1852 Lagting. Plural lagtingsmænd. Faroese lögtingsmaður, lögtingsmenn.

Landbrugsråd (Dan.) Agricultural Council.

landfoged (Dan.) The king's bailiff, an official with the duties of provincial treasurer and crown prosecutor. Faroese fúti.

landskyldbod (Dan.) A warehouse kept by the landfoged for the receipt of rents and taxes paid in kind.

Landslov (Norw.) The National Law, in particular the code issued in 1274 by King Magnus Lagaböte.

Landsting (Dan.) The upper house of the Danish parliament.

landvæsenskommission (Dan.) Agricultural tribunal. Plural landvæsenskommissioner.

látur (Far.) Cavern in which seals breed. Plural látur.

lejejord (Dan.) Rented land. One of the land categories formerly distinguished on crown farms.

lejetröer (Dan.) Smallholdings rented out to the cultivator by a crown leaseholder. Singular lejetrö.

leypur (Far.) A slatted wooden creel used by the Faroese for the transport of peat or dung.

lodseddel (Dan.) Inheritance certificate.

lunnindir (Far.) Rights or appurtenances accompanying ownership or lease of land.

löst bytte (Dan.) An informal, legally unrecorded exchange of land.

madhval (Dan.) The portion of a school of pilot-whales which after a killing is allocated to the villagers who entertain huntsmen from other places. Faroese matarhvalur.

marbakke (Dan.) The point at which the sea-bed begins to drop sharply away from the shore. Faroese marbakki.

mark (Dan.) The largest unit of land measurement according to the ancient Faroese assessment. Faroese mörk.

markatal (Far.) The aggregate of assessed land in a village, hagi or hagapartur, as measured in marks. Danish marketal.

matrikulskat (Dan.) A land tax raised by a rate on the markatal, originally for the defence of the islands.

meis (Far.) A kind of sieve in which ears of barley were dried over a peat fire.

merkr (Old Norse) See mørk.

mørk (Old Norse) A sum of eight ounces of silver. Plural merkr.

mörk (Far.) Plural merkur. See mark.

norðanfjörðs (Far.) Belonging to the islands to the north of Skopunarfjörður. Danish nordenfjords.

næbbetold (Dan.) Beak tax. The duty to hand over the beak of a bird of prey annually, or to pay a small tax in lieu.

odelsmand (Dan.) Owner of allodial land.

Ólafsváka (Old Norse) The feast of St. Olaf, 29 July.

opsynsmand (Dan.) Overseer. Plural opsynsmænd.

overinstans (Dan.) Appeal court or appeal tribunal.

overlandvæsenskommission (Dan.) Agricultural appeal tribunal.

overpolitiret (Dan.) Appeal court of summary jurisdiction.

pantejord (Dan.) Mortgage land, a category of land found in crown leases, originally land mortgaged to the crown for debt and not subsequently redeemed.

panteprotokol (Dan.) Mortgage record book, also used for recording conveyances and other land transactions.

partehval (Dan.) The share of a school of pilot-whales allocated to the huntsmen and the inhabitants of the district after a killing. Faroese partahvalur.

plakat (Dan.) Proclamation.

politiprotokol (Dan.) The sysselmand's minute book, containing records of his statutory investigations, minutes of grannastevnur, and records of law-cases in which he either took evidence or exercised summary jurisdiction.

politiret (Dan.) The sysselmand's summary court of first instance.

presttal (Dan.) An annual payment made by each communicant to the priest.

Rentekammer (Dan.) The Danish Exchequer.

ridefoged (Dan.) Estate bailiff.

Rigsdag (Dan.) The Danish parliament.

rustari (Far.) Sandoy term for heimrustir, q.v.

ræning (Far.) The gathering of the eggs of sea-fowl.

röktingarseyður (Far.) A private sheep which a shepherd is permitted on the common outfield in payment for his work. Plural röktingarseyðir.

sáta (Far.) Small haycock. Plural sátur.

seimingsstykki (Far.) A disputed area between two outfields, which the owners of both use jointly.

Seyðabrævið (Far.) The Sheep Letter, a Faroese land law first promulgated in 1298.

skadehval (Dan.) The portion of a pilot-whale killing allocated for the compensation of damage to boats, loss of weapons &c. Faroese skaðahvalur.

skattagrundir (Far.) The Suðuroy term for heimrustir, q.v.

skattemark (Dan.) The standardised unit of land assessment introduced in 1899.

skerpikjøt (Far.) Wind-dried mutton.

skilp (Far.) Mortar made of sand mixed with crushed mussel-shells.

skind (Dan.) A skin, a unit one-twentieth of a gylden, used in land valuation on the old system; also the smallest accounting unit used by the Monopoly. Faroese skinn.

skind i grind (Dan.) A unit for the allocation of pilot-whale meat after a killing, roughly equivalent to 50 kg of meat and 25 kg of blubber.

skinn (Far.) See skind above. Also used as a valuation measure for lambs at the autumn round-up.

skipan (Far.) The normal authorised stock for a stretch of grazing.

Skjöde- og Pante-Register (Dan.) The Conveyance and Mortgage Register, an index to the Panteprotokol and other documents. Commonly known as the jordfortegning.

skotaseyður (Far.) A sheep or flock grazing on a foreign outfield, especially at a distance from home, or one persistently returning to a foreign outfield.

skyds (Dan.) The posting system formerly in operation, whereby travellers were forwarded by boat, or their luggage carried overland, at fixed charges.

skydsmand (Dan.) A man engaged in skyds. Plural skydsmænd.

skydsskaffer (Dan.) Village posting agent with the duty of organising skydsmænd on demand.

smörleje (Dan.) Butter rent, one of the elements in the ancient system of crown rents.

sorenskriver (Dan.) A legal official, in the nineteenth century combining the functions of judge and public notary.

sornhús (Far.) Kiln-house in which barley-ears were dried at harvest-time.

Sportelreglement (Dan.) Public Fees Regulations.

stavnsbaand (Dan.) A settlement law in metropolitan Denmark, by which peasants were once forbidden to leave their home villages.

steinamosi (Far.) A species of lichen used in dyeing.

svartafelli (Far.) A severe kind of sheep murrain.

syssel (Dan.) Civil district. Plural sysler.

sysselmand (Dan.) District sheriff. Plural sysselmænd.

sæter (Norw.) Summer mountain pasture or the farmhouse from which summer mountain grazing was conducted.

söjdeleje (Dan.) See faarleje.

teigur (Far.) A strip of böur running down the hillside, bounded on each side by a runnel or drainage ditch. Plural teigar.

tíndingartrog (Far.) Winnowing-tray.

tinglæse (Dan.) To register a legal transaction publicly. Past participle tinglæst, verbal noun tinglæsning.

traðarmaður (Far.) Smallholder cultivating a tröð Plural traðarmenn.

traðir (Far.) Plural of tröð.

tredieaarstage (Dan.) Alternative name for aagave, q.v.

treskitræ (Far.) Threshing club.

tröð (Far.) In a general sense, any stretch of outfield enclosed and cultivated as an addition to the gamal böur. In particular, stretches of outfield brought into cultivation by landless smallholders. Plural traðir. Danish trö, tröer.

Trösag (Dan.) The public controversy over the enclosure of crown outfield to provide landless men with smallholdings.

tún (Far.) Village lanes.

tönde (Dan.) A Danish barrel, 144 litres as a corn measure, 120 litres as a measure for train-oil.

udskiftning (Dan.) Enclosure and allocation of outfield, or redivision and reallocation of fragmented infield. Faroese útskifting.

udskiftningskommission (Dan.) Enclosures tribunal.

Udskiftningslov (Dan.) Enclosure Law.

vaðmál (Old Norse) Homespun cloth.

varðhundur (Far.) Dog used im akting. Plural varðhundar.

vedtægt (Dan.) Legally binding convention or resolution.

viðurbyrgi (Far.) Alternative name for tröð, in general sense.

vog (Dan.) A unit of weight equal approximately to 18 kg.

vårting (Dan.) The assize court held each spring in every syssel.

ærgi (Far.) A sæter.

öður (Far.) Horse mussel.

åsæde (Norw.) Entailed home farm (see page 162).

åsædesrettem (Norw.) The right of the eldest son to inherit the hovedbölle on payment of compensation to the other heirs.

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ABBREVIATIONS

In addition to abbreviations commonly in use, the following have been employed in this thesis:

FA Skr. Færö Amts Skrivelse: letter or other document issued by the amtmand of the Faroe Islands, a copy of which is normally to be found in the Copiböger over afgaaede Breve.

FL Föroya Landsskjalasavn, the Faroe Islands Archive Department.

Færöerne See Dansk-Færösk Samfund, in the bibliography of printed sources below.

GR Grindereglement: the pilot-whale hunting enactment issued 1 November 1832.

Gråbók See Betænkning angaaende en særlig Lovgivning, &c., in the bibliography of printed sources below.

GR57 The second pilot-whale hunting enactment, issued 29 December 1857.

JFW John Frederick West.

Lagtingstidende Beretning om Lagtingssamlingen, the official account of the proceedings of the Lagting, published annually from 1880, except in 1892.

LBK Forslag See Landbokommission, Den færöske: Forslag, &c., in the bibliography of printed sources below.

LBK Tillæg See Landbokommission, Den færöske: Tillæg til Forslag, &c., in the bibliography of printed sources below.

N.L. Christian V's Norwegian Law of 1687. See Christian den Femte in the bibliography of printed sources below. The three figures following this reference denote respectively the book, chapter and clause.

PRO The Public Record Office, London.

Sandoy Politiprotokol Sandö Syssel Politiprotokoller, for which see the bibliography of manuscript sources below.

Taxationsprotokol See the entry in the bibliography of printed sources below.

1857 Udkast The printed draft of the pilot-whale hunting enactment, later issued on 29 December 1857.

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Færö Amt

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4. Indkomne Breve.
5. Journalen over indkomne Sager.
6. Overlandvæsenskommissions Protokoller, 1891-1900.
7. Overpolitirets Protokol, 1833-76.
8. Panteprotokoller, 1706-23.
9. Regnskabsbog for de Summer, som ifölge Amtets Ordre dels paaligne Byen Thorshavn, dels Færö Lands samtlige Matrikulerede Jordegods, 1832-43.
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Land Assessment Documents

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13. Jordfortegning (a fair copy of no. 11 above, sent by the sorenskriver to the Assessment Commission of 1868-71).
14. Löbners Tabeller (Löbner's statistical survey of the villages of the Faroe Islands, compiled by commandant Löbner in 1812-13).
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Sandö Syssel

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Strömö Syssel

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Suderö Syssel

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Note on Björk's Index

This item is a card index of considerable bulk, compiled by the late sorenskriver of the Faroe Islands, E.A. Björk, partly for professional and partly for research purposes. He permitted me to take a xerox copy of it in 1971, and this I have used in my research. Hr. Björk died suddenly on 18 March 1972, and I do not know the present whereabouts of his Index. It contains a vast number of references to printed and manuscript sources, and I have always found it to be accurate on the many occasions when I have referred to the authorities it cites.

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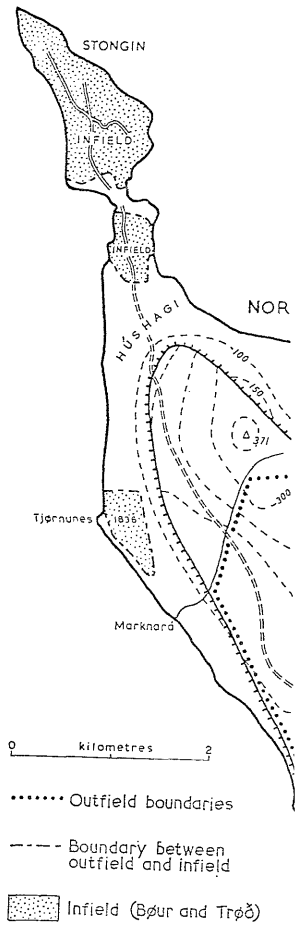
NÓLSOY, SHOWING THE HAGAPARTAR

The gamal bögr (ancient infield) is the bulk of the infield immediately to the south of the village, and about the southernmost quarter of the Stongin peninsula. The six traðir lie between the two little roads on the eastern side of Stongin and the sea. The traðir by the lighthouse were enclosed in 1892, for the benefit of the lighthouse-keepers. The húshagi comprises those portions of Norðarahelvt below the cliff-line, with the exception of Urðin, a steep, rough scree, and the portion on the west coast south of Marknará.



MAP OF THE FAROE ISLANDS

Certain villages mentioned in the text have been left unnamed on this map. They are:

Sandoy: SKARVANES is the village facing Skúvoy.

Suðuroy: Immediately to the west of Tvöroyri is TRONGISVÁGUR. Immediately to the east lies FROÐBÖUR. Öravík is the village nearest to Tvöroyri across the fjord. The next two villages along the road to the south are HOV and PORKERI, while Vágur stands at the head of the fjord. Following the east coast round, one comes respectively to LOPRA, AKRAR and VÍKARBYRGI.