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THE SPIRIT AND THE LETTER:  
LITERARY EMBELLISHMENT IN OLD FRISIAN LEGAL

TEXTS

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AMONG THE REWARDS of studying early Frisian law are those moments in which it seems as if the obscurities of terminology and process fall away and we are left with what it is tempting to believe are depictions of the real people, behaviour, and situations for whom and which the laws and formulae were originally composed. These moments are not restricted to any particular type of law or legal collection, but can be found both in what we might now call criminal and civil laws, as well as in oaths and procedural formulae. They most commonly take the form of direct speech and naturalistic detail, but can also involve formal and highly stylised set-pieces such as the famous account in the second *Lomrikeri* ('Land-Law') of the three *metha* ('needs') or conditions under which a mother may sell her child's inheritance.

What these 'dramatic' laws all share, however, is a strong emphasis on the details of specific situations to which the abstract legal principle or procedure at hand pertain, an emphasis which reveals itself in the prominent rhetorical position they give to what can often seem to modern readers to be accidental or even gratuitous details of time, space, and person. Indeed, sometimes the details seem to replace the general principle of law or procedure in question altogether. Thus, the seventh *Urkerre* ('Superior Statute') describes the procedure that is to be followed in the event that a man seizes a woman and flees with her through three houses and a church – but not what is to happen if he should simply run directly to the church, through only two houses, or jump into a boat and set off down the drainage canal between the fields.<sup>1</sup>

This *sogenda kere*: lef ther en mon en wif nede nome end hi themna to ene othere huse flechrecht urde, fon tha othere to tha dredda, fon tha threda to

<sup>1</sup>Wybren Jan Buma and Wilhelm Ebel, eds., *Das Hunsinger Recht*. Altfrisische Rechtsquellen 4 (Göttingen, 1969), XI 7. Translations and punctuation are my own.

there kerka, tha thriu hus al til bemane end tha szuurka te brekane en hia therrut it nimane.

[‘The seventh *Kere*: If a man takes a woman by force and flees (with the woman) from there to a second house, and from the second to a third, from the third to the church, then all three houses are to be burned and the church is to be broken into and she is to be fetched out of it.’]

Similarly, the fifth *Londriucht* addresses itself at a literal level to the almost certainly unusual situation in which a family is required to defend its title to a piece of land bought from a pilgrim heading to Rome who has since died or is otherwise unable to return to attest to the sale – but not what is to happen if the pilgrim was bound for Santiago de Compostela, or was lost at sea.<sup>2</sup>

Thet isiet fiffe londriucht: Tho huamsa ma lond askath, forth steppet ther alder, ther anda huse heldest se, ande quethe: ‘Thet lond, ther thu mi umbe to [f]ingje lahast and to mi ascast, thet capade ic et ene runnfara; and hi ferde inur berch fel and flesc and thet fa themithe.’ Sa hi efter ach te farane, binna fiffena wikum te biffdane, ania lude aghen him the deything te ievane. Hi ach wither te cumane mith tuam runferum a luidawaruc, te bethingiane, hi hebbe thet Godes bod efullad, hi se mith boke anda mith stola thore erthe befeien. Hia tuene mith him te suerane thre ethar anda mithen to lunda londriuchte. Sether ach hi sine caplonde te bisitane; ac ieuert thi other reme nelle, sa ach hi te fellane wed and scolenga bi sextege mercum.

[‘This is the fifth *Londriucht*: If one demands land from somebody, let the elder (parent), who is the eldest in the house, step forward and say: ‘That land for which you bring me before the *Thing* and demand from me, I bought it from a pilgrim going to Rome; and he took skin and bone across the mountain (i.e. the Alps) along with the money.’ Then he has to go after him to find him within fifteen weeks, and the people have to give him the prescribed period. He has to come back to the place of assembly with two pilgrims from Rome, to certify (that) he (the seller of the land) has fulfilled God’s command, (that) he is buried in the earth with book and stole (i.e. has been given a proper Christian burial). The two (have) to swear three oaths on the relics with him (the purchaser) according to the people’s *Londriucht*. Afterwards he has to (be able to) occupy the land he bought; but if the other will not vacate, then he has to lodge a complaint of penalty and breach of promise to the amount of sixty marks.’]

It is very tempting for us as modern readers to see this emphasis on the specific over the abstract in artistic terms – as evidence of a peculiarly Frisian, Germanic, or even ‘primitive’ genius for summarising abstract principles of law and procedure through simple, concrete, well-chosen

<sup>2</sup>W.J. Buma and W. Ebel, eds., *Das Emsiger Recht*. Altfrisische Rechtsquellen 3 (Göttingen, 1967), A IV 5.

examples.<sup>3</sup> Certainly, as they appear in the surviving legal manuscripts, these dramatic laws and procedures give plenty of indication that they were intended by the scribes who collected them at least to be read far more generally than their detail would otherwise suggest. Thus, despite the singular nature of the situation with which it is ostensibly concerned, the opening lines of the fifth *Londriucht* announce both that the procedure being described is a *Londriucht* – that is to say part of a limited body of twenty-four laws common (with some variation) to all major Frisian law manuscripts – and through the use of the subjunctive mood and indefinite pronouns *huamsa* and *ma* – that it is intended to be applied whenever one party demands the title to a piece of land from someone else.

But the vividness and *Lebenshaftigkeit* we find so attractive in these and other ‘dramatic’ Old Frisian laws and procedures are in most cases more likely the result of historical accident than deliberate invention. Unlike most modern legal systems – or even the earlier-attested laws of Anglo-Saxon England – in which a relatively consistent legal code is collected in and promulgated from a single authoritative source, the majority of the most important Old Frisian legal manuscripts are or have their origins in private compilations of laws and formulae.<sup>4</sup>

The laws making up these collections appear to come from a variety of different jurisdictions and periods, and could not all have been in force in the period or at the location in which the manuscripts were first compiled. Moreover, it seems likely that the majority of the most ‘dramatic’ Old Frisian laws and formulae consist of what N.E. Algra has described as *dingtaal* – laws and procedures based on actual cases but generalised and interpreted in the subsequent tradition as representing more abstract legal principles.<sup>5</sup> Rather than the result of a particular rhetorical genius, the dramatic elements in laws like the seventh *Urkerre* and the fifth *Lond*

<sup>3</sup>Conrad Borchling, *Poesie und Humor im friesischen Recht*. Abhandlungen und Vorträge zur Geschichte Ostfrieslands (Aurich, 1908), esp. 3–4 and 42–3. See also Pieter Gerbenzon, *Friese rechtsaal en vreemd recht*. Inaugural lecture (Groningen, 1958), 9–10. Gerbenzon takes the second *Londriucht* as his principal example in explaining how concrete detail is used in the place of more abstract constructions in many early Frisian laws. While I agree with this argument when applied to laws like the fifth *Londriucht* and the seventh *Urkerre*, I disagree with Gerbenzon’s interpretation of his specific example for reasons given below.

<sup>4</sup>Bo Sjolin, *Einführung in das Friesische*. Realienbücher für Germanisten, Sammlung Metzler 86 (Stuttgart, 1969), 15–16.

<sup>5</sup>N.E. Algra, *De tekstfiliale van de 17 Keuren en de 24 Landrechten: een voorbereidend onderzoek*. Estrikken 9 (Groningen), 1966), 12–13; cf. N.E. Algra, *Zeventien Keuren en Vierentwintig Landrechten*, 2nd edn (Doom, 1991), 454.

*riucht* appear to owe most of their abstract weight to the interpretative efforts of subsequent scribes and readers.<sup>6</sup>

That this was not always the case, however, is demonstrated by a second group of laws in which the vivid concreteness characteristic of the examples discussed above is combined with a clearly stated law or legal formula. In these cases, the detail serves less as material from which a formal principle or law must be inferred than as an artistic embellishment used to suggest the spirit in which the abstract law or procedure is intended to be enforced or performed. In their combination of the concrete and the abstract, these laws make the jump from legal document to literary text.

The first and most famous example of such a law is the second *Londriucht*, in which are set out the conditions under which a mother is allowed to sell the inheritance of a child who has not yet reached the age of majority. As with most Old Frisian laws found in more than one manuscript, the text of the second *Londriucht* varies from witness to witness. I have reproduced the Fivelgo version below:<sup>7</sup>

The other londriucht: Hwersa thio moder hire kindes erue forkapat ieffa vrvixlat mith hire frunda rede er thet kind ierich is, alsa hit ierich is, likegere him thi kap, sa halde hine; ne ilkigere him nou, sa fare hi on sin ain erue uter strid and vier lindscheide. Sa hwasas thet kind bifuichte ieffa birawie vp sine ana erue, sa brecht [hi] X lundmerc with tha lude and thra pund with there frana, thet sen xxi schillinga, and alle tha lude achen him to hilpane and ti frana, thet hit vp sine erue bisitte, ther hit er bi riuchta achte, hit ne se alsa fir, thet thio moder hit set ieffa seld hebbe ieffa vrvixlat thruch thera thra haudnetha hwelic, thet hiu him thes liewes machte mithe hilpa.

This furme ned: Sa hwersa thet kind iung is fieraat and fensen nord vr hef ieffa suther vr berch, sa mot thio moder hire kindis erue setta an sella an hire kind lesa and thes liewes hilpa.

This other ned is: Jether erga ter wert and thi beta hunger vr thet lond fareth and thet kind hunger stera wel, sa mot thio moder hire kindis erue setta an sella an kapia hire kind kv and corn, ther ma him thet lif mithe behelpe

This thredde ned is: Sa thet kind is stoockend ieffa huslas and thenna ti thuster niwel- and nedcalda winter and thio longe thusstre nacht on tha tunan hliet; sa faret allera monna hwelic on sin hof an on sin hus an on sine warme winclen and thet wilde diar secht thera birga hli and then hola barn, alther hit sin lif one bihalde; sa waynat an skriet thet vnierich kind and wepet thenne sine nakene lithe and sin husase an sinne feder, ther him reda scholde with then hunger and then niwelkalda winter, thet hi sa diape [and] alsa dimme

<sup>6</sup>See Algra, *Tekstfiliate*, 12–13; Algra, *Zevenien Keuren en Vierentwintig Landrechen*, 454.

<sup>7</sup>W. J. Buma and W. Ebel, eds., *Das Fivelgoer Recht*. Altfrisische Rechtsquellen 5 (Göttingen, 1972), IV 2.

mith fior neilum is vnder eke and ther molda bisieten and bithacht – sa mot thio moder hire kindis erue setta and sella, therwme thet hiu ach ple and plich, alsa lange sa hit vngerich is, thet hit noder frost ne hunger ne in fangenschip vrfare.

[‘The second *Londriucht*: If the mother sells or trades her child’s inheritance with the permission of her kindred before the child is of age, then, if the sale pleases him when he comes of age, let him hold to it; if it does not please him, then he may go into his own inheritance without dispute and without civic penalty. If someone attacks that child or deprives him of his own inheritance, then he (the attacker) forfeits ten marks to the people and three pounds to the *Frana* (‘judge, executive with royal ban’), that is twenty-one shillings, and all the people and the *Frana* ought to help him (the child) so that he may possess his own inheritance, which he ought to have had earlier, unless the mother has sold or traded it on account of one of three great needs, so that she might save his life for him with it.

The first need: If that child is bound and taken away at an early age north over the ocean or south over the mountains, then the mother may mortgage and sell the inheritance of her child and free her child and save his life.

The second need is: If it becomes a terrible year and burning hunger travels over the land and the child will die from hunger, then the mother may mortgage and sell her child’s inheritance and buy cow and corn for her child, with which his life can be saved.

The third need is: If the child is stark naked or homeless and the dark, hazy, and desperately cold winter and the long dark night blanket the yard; if every person goes into his courtyard and into his house and into his warm room, and the wild animal seeks the protection of the mountain and the hollow tree where it can preserve its life; if the minor-aged child weeps and wails and bemoans his naked limbs and his homelessness and his father, who ought to protect him against hunger and misty-cold winter, [except] that he is shut in so deep and dark with four nails under the oak and covered under the earth – then the mother may mortgage and sell her child’s inheritance, because she has the responsibility and duty in this matter, that the child not die for frost nor for hunger nor in captivity as long as it is not of age.]

Given the beauty of this passage, it seems churlish to point out that the ‘needs’ themselves are about as vague and open to abuse as a tax deadline set by the groundhog. While the general sense of the law is obvious enough – and indeed is stated quite clearly in the very last sentence – the specific details of the circumstances under which the mother may alienate her children’s property make it unenforceable at a literal level. The first two ‘needs’ – if the child is seized and taken north or south, or if there is a bad year and he is about to die from hunger – are clear enough, even if they do not quite match the hermeneutic standards of our own legal writing. The third, however, raises a number of problems for anyone who might want to understand it literally. Even if we accept that angry in-laws contesting the mother’s right to have sold her child’s inheritance could

agree on whether or not the 'dark, hazy, and desperately cold winter and the long dark night' really *had* 'blanketed the yard', one can nevertheless imagine some of the other points of contention which might arise: Does the child really have to be 'stark naked and homeless'? What if he is only homeless? What if he is only naked? What if he weeps and wails and bemoans his naked limbs but does not ask for his father? Or vice versa? And what *kind* of animal are we to look for in trying to figure out if it was cold enough that the 'wild animal seeks the protection of the mountain and the hollow tree'? A wolf? A squirrel? A rabbit?

So far, this is not very different from the problem faced by the literal-minded interpreter of the fifth *Londriucht* or seventh *Urkere*. The second *Londriucht* differs from the laws discussed above, however, in that its dramatic specificity is not an essential part of the law itself, but a more-or-less extraneous embellishment to an otherwise relatively clearly stated principle: that a child has the right to approve the actions of his mother as trustee when he comes of age, except in cases where the mother was forced to act in the interest of the child *alsa longa sa hit vingerich is, thet hit noder frost ne hunger ne in fangenschip vryfare* ['that it not die for frost nor for hunger nor in captivity as long as it is not of age']. Rather than giving us a practical example of how the law is supposed to work, or even giving us an example of how it once worked on some noteworthy occasion, the 'needs' of the second *Londriucht* let us see why the law they accompany exists. On the one hand, like many Old Frisian laws, the second *Londriucht* is concerned with preventing property from being sold outside of the family<sup>8</sup> – in this case by a mother who is holding it in trust for her minor-aged child. On the other hand, the law is also intended to ensure that mothers can sell or mortgage their children's property when this is necessary for the preservation of their lives or freedom. By emphasizing the pathetic nature of the conditions under which the mother may sell her charge's property, the three 'needs' provide us with what is essentially an ode to the rights and duties of mothers, one that suggests both the lengths to which they must go in preserving their children's inheritances on the one hand and the freedom they are to be allowed in saving their lives and liberty on the other.

That the function of the three 'needs' in this recension of the *Londriucht* is emphatic rather than forensic – and was seen more or less in this light by contemporary audiences (or at least those represented by the relatively late medieval scribes responsible for preserving the surviving versions of the text) – can be demonstrated by additions and omissions made to the law in other witnesses. On the one hand, the ability of the 'needs' to awake sympathy for the situation of the mother and child is

confirmed by a Middle Low German translation, in which the second need – that concerning the mother's obligation to save her child's life in the event that he threatens to starve to death – is concluded with the editorial comment: *wente de hunger ys aller swerde scharpest* ('because hunger is the sharpest sword of all').<sup>9</sup> On the other, the fact that the 'needs' themselves are not essential to the principle of the law being discussed is indicated by the ease with which they can be omitted. As mentioned above, even the longest and most poetic version of the second *Londriucht* includes a clear statement of the principle at issue in the three 'needs'. In its shorter form, as in the versions of the Hunisigo and first Emsigo manuscripts, the long description of the 'needs' is cut out altogether in favour of a much more businesslike presentation of the (slightly different) conditions under which the mother may sell the property.<sup>10</sup>

Thit islet other lonriucht: tethen nen moder ne ach te sella hire birnes erue, er thet bern ierich wirthe, hit ne se thetter hire binime theta thrira thinga huelec: hera ieffa hunger ieffa sinra friunda strid ....<sup>11</sup> Sa husera thiou moder hire bernes erue vrecapath ieffa vrvixleth bi hira friunda rede, er thet bern ierich se, alsa thet bern ierich is, likie him thi cap ieffa thet wixle, sa halda hitiene: likere him nawel, sa fare hit vppa sin ein erue vter strid and vter wald and vter ethar and vier lundscelde and frana bon. Sa hua thet kind bifuuche ieffa wende ieffa rawege oppa sine eine erue, sa brecht hi tian ludmere witha liude and thrifun] punt withene frana, thet is en and twintech schillinga thes keninges bonnes; and thi frana and alle tha liude agen him te helpane, thet hit oppa tha erue bisitte, thet hit er mith riuche achte.

[This is the second *Londriucht*: that no mother may sell the inheritance of her child before that child is of age, unless one of three things compels her: war or hunger or strife in his family .... If the mother sells or trades the inheritance of her child with the consent of her kindred before that child is of age, then if the sale or trade pleases him when the child is of age, he shall hold by it; if it does not please him, then may he go into his own inheritance without strife and without might and without oath and without civic penalty and the command of the *Frana*. If someone should attack or hinder or rob that child from his own inheritance, then he forfeits ten marks to the people, and three pounds to the *Frana*, that is twenty-one shillings for the King's Peace; and the *Frana* and all the people have to help him so that he may possess that inheritance, which he should with justice.]

<sup>9</sup> See Conrad Borchling, ed., *Die niederdeutschen Rechtsquellen Ostfrieslands I* (Aurich, 1908), 157. Text cited from W.J. Buma and W. Ebel, eds., *Das Rastriinger Recht*, Altfrisische Rechtsquellen I (Göttingen, 1963), IV 2.

<sup>10</sup> Buma and Ebel, eds., *Das Emsiger Recht*, A IV 2.

<sup>11</sup> A sentence from the sixteenth *Londriucht* is interpolated at this point.

<sup>8</sup> N.E. Algra, *Ein. Enkele rechtshistorische aspecten van de grondwetgeving in Westerlauwers Friesland*, Ph.D. Diss. Groningen (Groningen, 1966), esp. 52.

In contrast to the fifth *Londriucht* and the seventh *Urkerre* discussed above – where it would be impossible to omit the dramatic detail without rewriting the law itself – the omission of this material from the shorter version of the second *Londriucht* has no effect on our understanding of the law as a whole. Apart from a slight rearrangement in the order in which the elements of the law are given and some differences in the precise conditions under which the mother may sell her child's inheritance, the Emsigo text corresponds more or less exactly to the first paragraph of the longer Fivelgo version and establishes exactly the same point – that a mother may not alienate her child's property except under conditions of great distress.

A second example of the use of dramatic detail to embellish rather than exemplify a legal principle is to be found in the Fivelgo manuscript in a formula apparently intended to be used at the beginning of a *Thing*. In a series of scripted exchanges, an *Asega* ('law finder') is asked for instructions by the *Skella*'s<sup>12</sup> – and replies with answers establishing everything from the functions of the *Skella* ('legal officer', originally 'the count's legal executive') to the best schedule for maintaining the village infrastructure:<sup>13</sup>

- 'Asega, ist thingtd?
- 'Alsa hit is. Alsafort deis, sa j bi londriuchte hio thing heia and halda ur alle iwwe berieldan, alsa fyr sat him iwwe bonnere keth heth, sa ach hi him to vbonnane thingsliene, demsonse, sundracht an vnhlest, thetter en mon dwe bihalda iwwe orleue, sa hwether sa hi hir nu a warue se sa hi forth to ware kume.
- 'Thes grewa bon bonnie ic vr alle mine berieldan, alsaden to lastene, sa thi asega heth to riuchte deled. And hebbe allera monna ek mene with sine sele, thet hi riuchte tichian to ware brenge and thet vnhelande se, thet on tha liude falle an on thene frana.'
- 'Asega, hot age wi to dwane on thisse nie jera?'
- 'J agen frethe to bonnane tham erst, ther is allerharist: alle godishussum end alle goddismonnum and thes godeshuseserne then alrahagista frethe, thet hit nen mon ne binere the biteszie tefla bitune, biere tefla bischere. Thet agen tha liude to lowiane and J agen iwwe bon theron to ledzane.
- 'Wellat J thet lowia mitha hondum?'
- 'Ge, God, wi.'
- 'Sa fa J vp alle menlike. Sa biad ic iv thes grewa bon alsadene to lastane, sa thi asega delet heth and J lowat hebbat.'

<sup>12</sup>The 'casting' of the dialogue followed here is that implied by Burma and Ebel (*Das Fivelgoer Recht*). I have also silently adopted Burma and Ebel's textual emendations. A different interpretation of the number and order of the speakers is offered by Bo Stölin in his edition, *Die 'Fivelgoer' Handschrift I* (The Hague, 1970), XIX.

<sup>13</sup>Burma and Ebel, *Das Fivelgoer Recht*, XVIII.

- 'Asega, hwet agen wi fort to dwane?'
- 'J agen frethe to ledzane alle widum, alle wesclinem and walberum and vnewaxena kindum bi x liudmerkum ende hira twifalide bote.'
- 'Hwet agen wi mar?'
- 'J agen frethe to ledzane alle riuclhta hwsliudum, allera monna hwelkum binna durum bi ther handlesene, buta durum bi x liudmerkum, an alsadena hewm and alsaderna werum to bisitane, sar biseten and bineten hede siker and sanlas, hwether sar den on kemen were mith cape sa mith wixle sa mith riuclhta herwerum, hit ne se thet ti hera seche thet lond sella an cap iefla an wixile; sa is alle londa ec an kap frei. Bitigheter him thet, thetter hebbe miserti, misscherit, misdommat, misdiset iefla hera misguiden, sa scel hine alhir onspreka. Sa is hi thach niar thet to betriane and sines hera hild to winnane than eng mon him is of to driwane, sa fir saret alle beteria welle; thet age hi to duane.'
- 'Hwet age wi mar to dwane?'
- 'Slian tho hildiane and thorpemaran to remane, herewegan and hemeswegan to sifiane, dikan and domman and grundiete to slane, bi euennachte euen haech erthe, bi summerenacht a fulla riue riwat and buta vppe lizet, bi middesumera an fulla wirke wrocht, hit ne se thet hit tha liude er kiase. Sa ist thera liuda kere ther bifara thes asega dome. Thit agen tha liude to lowiane and J jv bon theron to ledzane.
- 'Asega, is it time for the *Thing*?'
- 'It is. Provided it is the day that you raise and hold the *Thing* over all your subjects according to the *Londriucht*, provided your messenger has announced it to them, then you ought to forbid the disturbing of the *Thing*, secret compacts, extra-legal deliberations and [any] disorderly conduct that a man might do without your permission, whether he is now here in the place of assembly or should come to the place of assembly.
- 'I offer the ban of the Count to all my subjects, that they follow it as the *Asega* has deemed just. And may each have the resolution of spirit, that he may bring just complaints to the place of assembly, and that what concerns the people and the *Fryna* be not concealed.'
- 'Asega, what do we have to do in this new year?'
- 'First of all you have to proclaim peace, that is the most important: to all the houses of God, and to all the men of God, and in the lands of the Church that most important peace, that no man should harass it, lay claim to it or fence it, plough it under or cut it up. The people ought to promise that and you ought to proclaim your ban on the subject.
- Will you promise that with your hands?'
- 'Yes, by God, we [will].'
- 'Lift your hands then together. I ask you to follow the pronouncement of the Count thus, as the *Asega* has judged and as you have promised.'
- 'Asega, what else do we have to do?'
- 'You should offer peace to all widows, to all orphans and pilgrims and ungrown children, by a penalty of ten marks and a two-fold fine.'
- 'What more should we do?'

– 'You should ensure peace for all lawful householders indoors on pain of headransom, outside by ten marks to occupy such property and such land as he may possess and use, sure and without contest, whether he came to it by purchase or by trade or by legal leasehold, unless the owner shall alienate that land by sale or trade; thus is all land freely purchasable. Should he [the owner] accuse him that he has badly ploughed, badly mowed, misbuilt a dam, improperly maintained a dike, or evaded his rent, then he shall accuse him here. But he [the renter] still has more right to make compensation and win the favour of his lord than any man has to drive him away, should he want to offer compensation. You should do this.'

– 'What else should we do?'

– 'Cover the sluiceways, and clean the village drains, maintain the lord's paths and the village paths, fill in the dikes and dams and the gap behind the dikes; rake by the Spring equinox as high as the surface of the ground, by the Summer solstice to the full height and sod the top of the dike; with the entire job done by midsummer, unless the people propose it sooner. In that case the decision of the people precedes the judgement of the *Asega*. The people ought to promise this, and you should ensure it with your command.]'

In this case, the embellishment lies in the presentation of the exchange as a dramatic dialogue. While there is nothing inherently impossible about the passage as it stands in the manuscript (nor even any reason to doubt that the formula could not be repeated ritually exactly as it stands in the Fivelgo manuscript), the dramatic arrangement of the exchange gives it a literary touch that goes far beyond the bare requirements of the function for which it seems to have been written. Almost all the topics covered in the dialogue – the bans of the count, the duties of the *Skelta*, the penalties for the violation of the peace of widows and orphans, the information concerning the rights of tenants and the maintenance of dikes – can be found elsewhere in Old Frisian law in less dramatic form and usually more detail. The pledges of peace to God's House and churchmen, for example, are also found in the second *Kest* ('statute') of the *Seventeen Statutes*;<sup>14</sup> bans concerning the rights of tenants and the free alienability of property are similar to the first *Kest*, which guarantees the right of the free Frisians to enjoy and possess their own property unless forfeited.<sup>15</sup> Rules concerning the rights and responsibilities of widows for their part can be found, as we have just seen, in the second *Londriucht*, and at various places in the *Skellanariucht*.<sup>16</sup> And as one might expect, there are many examples of laws and procedural rules in Old Frisian manuscripts for

governing the maintenance of dikes, sluices and paths.<sup>17</sup> Nor is the presentation of these topics in the form of a speech by the official responsible for opening the *Thing* particularly exceptional, as speeches containing similar statements of policy and the functions of office are frequently found in Old Frisian legal texts, such as the West Lauwers *Skellabanna*.<sup>18</sup>

What is unusual about the *Asegariucht*, however, is not so much the information it contains or the fact that it is written as direct speech, as the fact that it is scripted as a dialogue. While parallels to each of the component parts of the formula can be found elsewhere in Old Frisian law, none of these parallels involve as lively an exchange as that between what can only be described as the 'characters' of the *Asegariucht*. Laws – like the fifth and twenty-first *Londriucht* – are written primarily in the third person, even when they contain first-person ritual statements. Oaths of office, procedural rules and lists of bans, while they consist almost entirely of direct speech, are with one small exception scripted as monologues: second person monologues in the case of oaths of office (where the text is presumably to be read by the person administering the oath),<sup>19</sup> first person in those of procedural rules<sup>20</sup> and bans<sup>21</sup> (where the text is apparently to be read or recited by the complainant, defendant, or office holder). Indeed, apart from the *Asegariucht*, the only formula I am aware of in which a scripted dialogue occurs is the 'Oath of the *Grietmannen* in *Wymbritseradeel*' – in which the *Grietmannen* ('judges') begin by answering 'Ye' ('aye') to an initial question (*Wylleth yemma moninghe daya?* 'Do you wish accept the exhortation?'), but are silent for the rest of the (otherwise second person plural) oath.<sup>22</sup>

But just as the three 'needs' of the second *Londriucht* went beyond the letter of the law to present us with a moving picture of the type of dilemma it was intended to address, so too the dramatic exchange of *Asega* and *Skelta*'s in the *Asegariucht* goes beyond the requirement of the opening ceremonies of a *Thing* to capture the spirit of the *Thing* itself.

<sup>17</sup>See, for example, items B IX 36–42 in the *Book of Debts* in the Second Emsingo Manuscript and V 38–41 and C 49–54 in the Third (Buma and Ebel, *Das Emsinger Recht*).

<sup>18</sup>W. J. Buma and W. Ebel, eds., *Jus Municipale Frisonum* (Westerlauwersches Recht I), unter Mitwirkung von Martina Tragter-Schubert, Altfrisische Rechtsquellen 6, 1–2 (Göttingen, 1977), XII.

<sup>19</sup>Numerous examples can be found in *Jus Municipale Frisonum* (Buma and Ebel, eds., *Westerlauwersches Recht I*). See in particular items XXXV–XXXVII.

<sup>20</sup>Examples (from the *Younger Skellanariucht*) include *Fan rawe binna dae huse*, *Fan des mannis ieffa dera frowa*, and *Fan bihaldene tohe*, among others. See Buma and Ebel, *Jus Municipale Frisonum*, XIII 8, 30, and 33.

<sup>21</sup>See, for example, the *Skellanabanna*, Buma and Ebel, *Jus Municipale Frisonum*, XII.

<sup>22</sup>Buma and Ebel, *Jus Municipale Frisonum*, XXXV.

<sup>14</sup>For a text, see Buma and Ebel, *Das Fivelgoer Recht*, III 2.

<sup>15</sup>For a text, see Buma and Ebel, *Das Fivelgoer Recht*, III 1.

<sup>16</sup>On widows, see Annemarth Sterringa's contribution elsewhere in this volume.

While the fact that the formula is scripted as dialogue does not add anything material to the text of the bans themselves – if we were to remove the questions and responses of the *Asega's* interlocutors, we would be left with something looking very much like the *Skelhabanna* – its dramatic presentation does help establish an idealised picture of the roles of and relationship between the *Asega* and *Skelta's* and – by the time we get to the schedule for maintaining the dikes and paths – of the operation of the well-run society. By having the *Asega* and his *Skelta's* recite this formula at the beginning of a *Thing*, or by copying down the opening exchange of an actual *Thing* for future ritualised repetition, the 'author' of the *Asegariucht* consciously or unconsciously uses the officials for whom he is writing as actors in a utopian political drama – one that establishes the nature of the *Thing*, its proper agenda, and procedural rules.

This paper has examined the rhetoric of 'dramatic' Old Frisian laws – a characteristic type of legal writing which, through its strong emphasis on specific details of time, space, and person, often impresses the modern reader with what appears to be an artistic preference for the specific over the abstract. In most cases, the use of specific cases and situations for abstract laws and principles appears to come from the laws' historical origins in private collections which have been generalised and adapted by subsequent readers unfamiliar with the original cases. The second *Londriucht* and the *Asegariucht*, however, are exceptions to this rule. In these texts, the dramatic elements do not replace the explicit statement of an abstract legal principle, but serve instead to embellish and interpret an already generally applicable law or formula.