

THE RISE AND DECLINE OF THE  
ICELANDIC COMMONWEALTH

by

Fridrik Fridriksson

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APPROVED:

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Gordon Tullock, Chairman

---

Dwight R. Lee

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Nicolaus Tideman

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Abstract	

## I. Introduction

"Iceland is known to most men as a land of volcanoes, geysers and glaciers. But it ought to be no less interesting to the student of history as the birthplace of a brilliant literature in poetry and prose, and as the home of a people who maintained for many centuries a high level of intellectual cultivation. It is an almost unique instance of a community whose culture and creative power flourished independently of any favouring material conditions, and indeed under conditions in the highest degree unfavourable. Nor ought it to be less interesting to the student of politics and laws as having produced a Constitution unlike any other whereof records remain, and a body of law so elaborate and complex that it is hard to believe that it existed among men whose chief occupation was to kill one another".

James Bryce: Studies in  
History and Jurisprudence,  
p. 263 [1901]

According to these remarks made by Lord Bryce, it is evident that the early Icelandic Republic, the Icelandic Commonwealth, which existed from 930-1262 A.D. was somewhat different. It was different in many ways. The settlers of the island were different, so were their relationships as well as the institutions they established in the new country. To explore and explain the main characteristics of the Icelandic Commonwealth is thus

worthwhile and it is also of theoretical interest for a number of reasons. First of all the sagas are relatively well documented; they were written by people who lived in the Commonwealth era. Accordingly they provide first-hand information and an inside view of the working of these institutions created or formed by the people of the Commonwealth. In that respect, the legal institutions are of greatest interest, since the laws played an enormous role in preserving the Commonwealth mainly because they were so respected by the common man. Some contemporary comments confirm this, where e.g., Adam from Bremen once said that the law was the king of the Icelanders,<sup>1</sup> but, of course, there was no king over Iceland at that time, much to the dislike of number of European dignitaries.<sup>2</sup>

Secondly, all laws were common law, or customary law. Killing was a civil offense like breaking a contract, with a price paid to the victim or to his survivors. Laws were made by a parliament, in which seats were a marketable commodity. Enforcement of law was entirely a private affair.<sup>3</sup>

The Icelandic Commonwealth was in fact a government developed only upon its judicial and legislative side, omitting altogether the executive and inter-national sides, which were in the Greek and Roman world, and have again in the modern world, become so important.<sup>4</sup>

As is well known, some modern law theorists derive law from the State and cannot think of a law existing without a state. But in Iceland we had law, and indeed a complex and highly developed legal system, existing without the institutions that make a state. Of Iceland, one may say, that so far from the state creating the law, the law created the state - that is to say, such state organization as existed came into being for the sake of deciding lawsuits. There it ended. When the decision had been given, the action of the Commonwealth, or the Republic, ended. To carry it out was left to the plaintiff.

In addition, there were other institutions of great interest, e.g., the so-called hreppar, which were communal units or municipals. Those hreppar (sl. hreppur) had geographic boundaries, participation was obligatory and their main function was on the one hand to be some kind of social security system and an insurance system on the other hand. These institutions, their functions and limits, will be an issue in this thesis. Furthermore, from the time Iceland first was colonized about 870 A.D. until nearly the end of its independence 1262 A.D., the country had a commerce that was usually able to satisfy the island's considerable foreign needs. This trade took place despite hundreds of miles of often tempestuous waters that separated Iceland from the rest of Europe and despite a general poverty of natural resources.<sup>5</sup> The importance of this trade will be

looked at in the thesis. Finally, it is of great interest to look in general at this society, in which its institutions survived for over 300 years, a society that was in many ways an attractive one. Its citizens were, by medieval standards, free; difference in status based on race and sex were relatively small and its literary output in relation to its size may be compared to that of Athens.

What I have already said so far provides material for many interesting thesis and in this one I will make an effort to explain the characteristics of the Commonwealth. I intend to survey different theories on many aspects of the Commonwealth as well as to provide critical analysis of these theories.

Before I proceed any further it is worthwhile looking at the reliability of the sagas, as a truthful source, since they constitute the factual basis for this thesis. Landnamabók<sup>6</sup> (The Book of Settlements) is the main source of information on the colonization of Iceland. Landnamabók survives in three medieval versions. The oldest, Sturlubók, a version produced by Sturla Thordarson the lawman (d.1284), is the only version which has been preserved in its entirety. The second version, Hauksbók (where bók means book), compiled by Haukr Erlendson the lawman (d. 1334), is almost complete. The third version is Melabók which only fragments have been preserved, some of them as a part of a 17th century



composite version of Landnámabók called Thórdarbók. All these works, which are intended to be historically accurate are written well after most of the events described, so it was an oral tradition that kept the stories of the settlement from getting lost. Clearly oral tradition becomes garbled in a shorter period than two hundred years. Although these works were meant to be above all, factual, they and other sagas are characterized by inherently credible plots, psychologically believable characters, and convincing physical environments. Like the best of modern historical novelists, authors of these sagas entertained contemporary audiences by so skillfully reconstructing the past that they often must have seemed to be narrating only what actually happened. As a literary attribute, this quality is admirable, but it is dangerous for historians because they, who should be more critical than medieval audiences, might still be tempted to accept the truthfulness of almost everything these authors say. While the actual historical content of each saga writer's work is dependent upon his methods of gaining information, all of those men provide useful evidence, nonetheless.<sup>7</sup> So Landnámabók describes the settlement of Iceland. Íslendingabók (The Book of the Icelanders) written by Ari Thorgilsson, the learned, about 1130 A.D., traces the history of the Icelandic people from the beginning of the settlement down to the year 1120.<sup>8</sup> The third source, and the most important one, is

Grágás (greygoose) which was the lawbook of the Icelandic Commonwealth.<sup>9</sup> These are the three main sources of the Commonwealth, but one point concerning the reliability and oral tradition is worth mentioning. The laws of the old Commonwealth were constructed in such a manner that they provided a strong motivation for people to commit genealogies to memory so that they would know all their kinsmen, fourth cousin and closer. Within this circle of relatives, individuals were mutually affected by laws dealing with such matters as inheritance, maintenance of the poor, and payment of wergild. The law prohibited e.g., marriage between a man and a woman who were even more distantly related than fourth cousins, unless they first paid a special dispensation fee. Most of the contemporaries of the author (or authors) of the original version of Landnámabók were fifth generation Icelanders. The fact that the author (or authors) of the earliest Landnámabók grew up in a society where it was particularly important to know one's ancestry makes it highly probable that the book contained reliable information on other matters as well. Thus it is safe to assume that the original text of Landnámabók gave a coherent overall picture of the settlement, even though it may have been erroneous in detail and may have been lacking in certain features which would clarify the picture.

There are a couple of points I would like to clarify in order for this thesis to be more accessible and readable to "foreigners". First of all concerning the language. Icelandic has a number of symbols and letters not used in English, some of which I will use, namely the ones that can be typewritten, but others will be modified. In Icelandic we have the letter þ, for þing (assembly), I will change that to th, which is nearest in sound. We also have ð, which will be modified to d. The symbols which I will use and are not common to an American are given below as well as the approximate modern Icelandic sound values of each symbol: á (like ow in English cow); é (like ye in yes); í (like ee in green); ó (like o in note); ú (like oo in school); ý (the same as Iceland i); ae (ae together like i (gh) in high); ö (like ö in German hören); au (a diphthong like eu in French feuille); ei and ey (a diphthong like a in hate). Secondly, concerning family names. In a thesis of this nature it is unavoidable that names of persons will appear and for clarification I attach a number of genealogical tables, showing the major families in the latter part of the Commonwealth era. A word of caution is though needed. Through Iceland's history, there have been no family names but, instead a son simply takes as his second name his father's first name and adds a son (or a dottir for a girl) to the

end. Take the name of the present writer as an example.

My last name Fridriksson means simply that my fathers first name is also Fridrik; his last name is Kristjánsson, indicating that his fathers first name was Kristján. And my sisters last names are all Fridriksdóttir.

This clarification and the tables make it easier for readers to relate one person to another. Finally, I want to provide the reader with glossary of frequently used Icelandic words and terms, with special emphasis on terms related to "money", currency, or value measures. The main currency of the commonwealth was silver and Vathmál, where Vathmál was a coarse woolen cloth, resembling tweed. "Öln (pl. alnir) was a basic unit of measurement, at least by c. 1100 the "long öln" was about 22" (56 cm), the "short öln" was 18" (c.46 cm). Eyrir, (pl. aurar) "Ounce", was a term of weight and of value; its weight was slightly less than an ounce, equalling about 27g. The value of a "Lögeyrir (pl. Lögaurar) "legal eyrir" usually consisted of six alnir of Vathmál. Mörk, (pl. Merkur) was a term of weight and of value; its weight was 217 g. or about  $\frac{1}{2}$  pound, eight times the weight of an eyrir. It also was eight times the worth of an eyrir. Kugildi was the value of a "standard" cow, 3-10 years of age that could bear calves and give milk; was to be horned and faultless; was no worse than the average and could give enough milk for one calf. Its value varied, although

at least between c. 1100 and 1300 its value was 2-2.5 aurar of pure silver. Landaaurar "landing fees"; during the commonwealth, a toll paid by Icelanders (and by Norwegians engaged in the Icelandic trade except c. 1022 - c. 1030) when entering Norway (before c. 1022 when leaving Norway); after ca. 1022 payable instead in the Shetlands or Orkneys if visited prior to arrival in Norway. It consisted of either six 'álnir of Vathmál or  $\frac{1}{2}$  "mörk of impure silver.

We are now equipped to start the discussion of the emergence of the Icelandic Commonwealth and following this introduction I submit two charts; one showing Iceland and the second showing distribution of the population of the year 1703. Although that is, of course, much later than the Commonwealth era it gives a rough idea of how Iceland is and was populated.

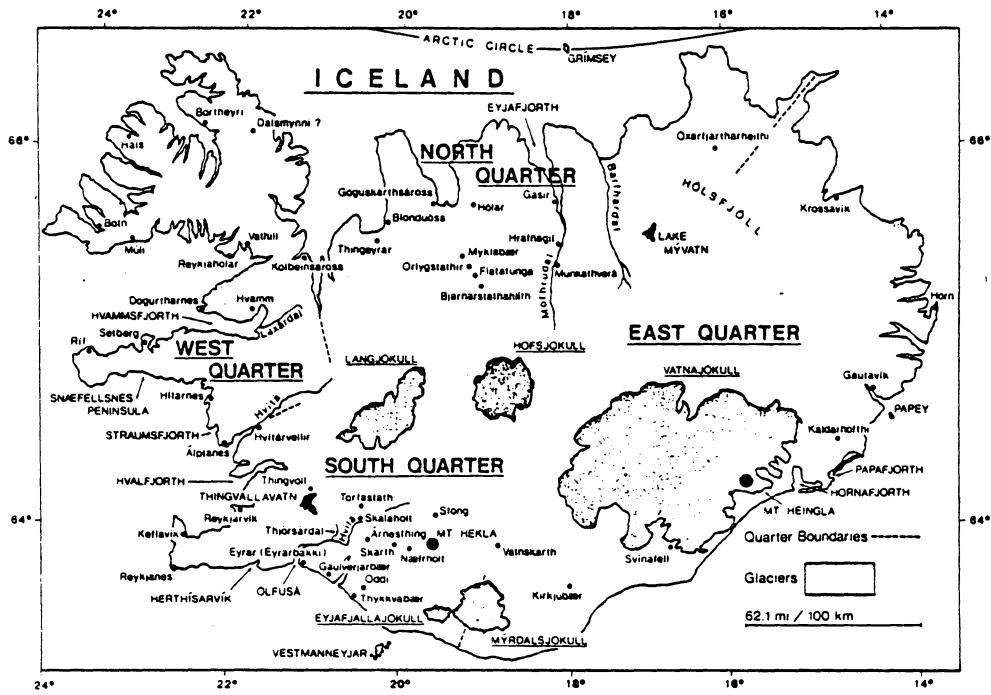
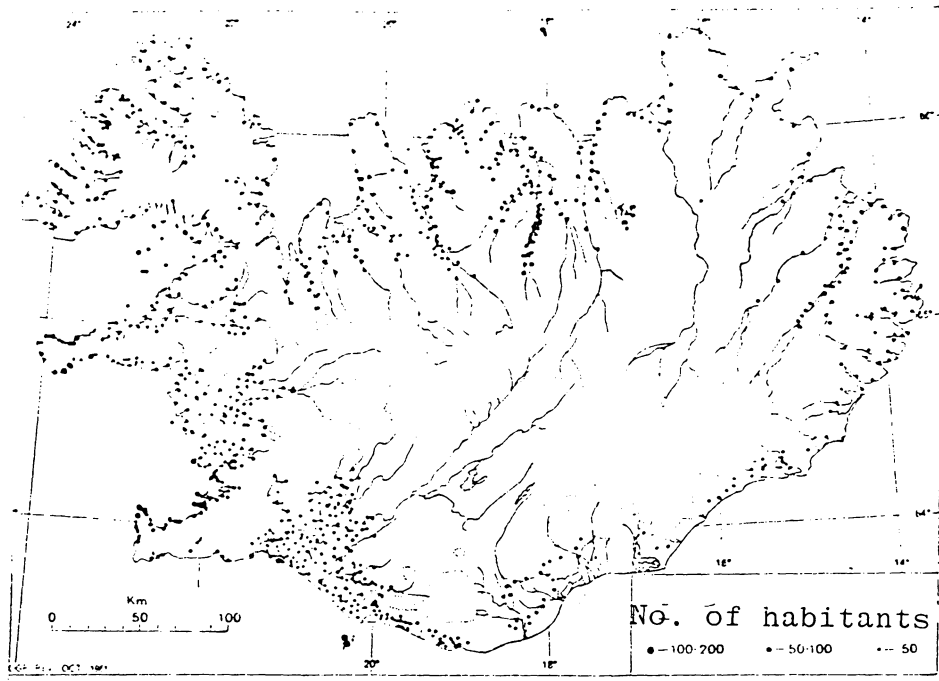


Chart 1



Population Distribution 1703

Chart 2

Notes

1. Adam from Bremen wrote the History of the Archbishops of Hamburg-Bremen.
2. Cardinal William from Sabina was, for example, outraged by the fact that the Icelanders had no king.
3. In David Friedman's paper, "Private Creation and Enforcement of Law", the main concern is with the question of whether private enforcement of laws is efficient. Journal of Legal Studies, Vol. III, March 1979.
4. In his 1901 Studies in History and Jurisprudence I. pp. 263 and on, Lord Bryce explains this difference. Books for Libraries press, New York, 1968 (reprint). A thorough analysis of the distinct common law tradition can be found in Bruno Leoni's: Freedom and the Law. D. Van Nostrand Company, Inc. Canada 1961.
5. Bruce E. Gelsinger deals with Iceland as a trading nation in a new book, The Icelandic Enterprise, University of South Carolina press, 1981.
6. Landnám means taking of the land. Landnámabók was translated into English in 1972 and published by University of Manitoba Press.



7. The best overall work about the Icelandic Commonwealth is Jón Jóhannesson's: A History of the Old Icelandic Commonwealth, published/translated by University of Manitoba Press 1974. In that book is, e.g., a list of all the sagas translated into English.
8. Ari Thorgilsson, the learned, has sometimes been called the master of the art of writing. His book, The Book of the Icelanders, was translated/published by University of Manitoba Press, 1972.
9. Why they called the lawbook Grágás has never been fully known. At the time of this writing, only about half of Grágás is available in English translation, published by the University of Manitoba Press, 1980. The rest is forthcoming in 1983/4.

## CHAPTER II

### The Emergence of the Commonwealth

#### 1. A Short History.

##### a. The Settlement

Ari the learned's *Íslendingabók* (The book of the Icelanders) is the oldest reliable source for the voyages of the Irish priests to Iceland and their temporary stay in the country. *Íslendingabók* states that at that time when the Norwegians began to settle in Iceland in the latter part of the 9th century, there were some Christians in the country whom the Norwegians called *papar* (priests). Because they would not live among heathens, they went away from Iceland, leaving only behind some books, which goes to show that these men must have been Irish. In addition to written sources there are several place names in Iceland which remind one of the Irish hermits. The settlement of Iceland is dated back to the Viking age, but the Scandinavian Vikings, mostly Norwegians, are thought to have started their piracy by first attacking England in 793 A.D., then Ireland in 795, as well as the Shetland and Orkney islands, to name only a few. People came consequently from Norway and settled as well as pushing on further to the Hebrides, Scotland, The

Isle of Man, and the western coast of England. In all these countries they founded colonies in the 9th and 10th centuries. (See chart no:3 at the end of this chapter showing the medieval world of the Scandinavians). During the same period the Danes were following a more southernly course, concentrating their attacks on England, France and Germany, as well as Ireland, but the Swedes turned to the east and attacked the Baltic regions. From there the Swedes pressed along the rivers of Russia all the way to the Black Sea. Like the Norwegians, they established a number of colonies.

Reaching still further North and West, the Norwegians came to the Faroe islands in early 9th century, drove away the Irish monks who lived there and colonized the islands. The first Norse viking to reach Iceland was named Naddod, who is believed to have been driven to the isle by a storm in the latter part of the 9th century. He called it Snaeland, or Snowland. A Swede named Gardar sailed around it and a Norseman named Floki landed and gave it the name it still bears. Floki neglected to make any hay for his livestock in the summer so after a severe winter he was forced to leave. Next, two blood-brothers from Norway, Ingólfur and Hjörleifur, went to explore the country. They stayed for a while and later the two returned to Iceland to settle there. This first permanent settlement in the country, around 870 A.D., may be said to mark the beginning of the history of the Icelanders and Ingólfur Arnarson is

considered to be the first settler. He settled south in Reykjavík (later capital city). The ethnic origin of the Icelanders, as well as their position in Scandinavian societies, still remains somewhat of a mystery, even though the basic facts are not disputed. Landnamabók implies that people who settled Iceland came either from Norway or the Norwegian colonies in the British Isles. In his Íslendingabók, Ari the learned mentions only those settlers who came from Norway. His account is as follows: "And then (i.e., when Ingólfur Arnarson had settled in Iceland) a very great immigration started out hither from Norway until King Harald forbade it, because he thought that Norway would be depopulated. Then they came to this agreement: that every man<sup>1</sup> who was not exempted and went from there to Iceland should pay the king five ounces (i.e., of silver)...Those are the origins of that tax which is now called landfees". In spite of this account, research indicates that the settlers were of mixed origin, but still in much greater proportion Scandinavians than Celts. Clearly there were some intermingling with the Celts, when the vikings came to live in close proximity to them on the British Isles. It is thus quite obvious that many of those who immigrated from the Viking colonies to Iceland were of mixed Norse and Celtic origin, and some were full-blooded Celts. Among the latter were wives of Norsemen, and slaves. Some of the

settlers brought Celtic slaves with them to Iceland, but the exact number of those slaves is a matter of speculation, the reason being that slaves are never mentioned in the sagas, unless there is a special reason for it. That could, e.g., happen when they were granted freedom or when they took possession of land or accepted such property as a gift (I will, late in this chapter, discuss slavery). So the bulk of the settlers came directly from Norway, they put out their boats from the south-west of Norway, particularly Sogn and "Hordaland. A number of the immigrants came from the north of Norway but very few from the east (see chart no:4 at the end of this chapter; medieval Norway). Accordingly, with the passage of time, Norse language and culture dominated in Iceland.

It would be quite difficult to guess the number of settlers from each district in Norway, but at least the descendants of Bjorn Buna, the noblest family to immigrate to Iceland from the Norse settlements in the west, came from Sogn. There are other indicators, as well, that the Icelanders came mostly from the south-west part of Norway. Thus, the early Icelandic laws were based on those of the Gulathing, which comprised "Hordaland, Sogn and the Fjord Provinces. In addition economic and environmental conditions in that part of Norway were the least suitable for a growing population.

As was implied earlier, many of the settlers who came to Iceland directly from Norway had previously had contacts

with the western settlements. At this time Norway was a completely rural society, with not a single town, and it was considered an essential part of the education of every free man to go on viking expeditions, not only to acquire fame and fortune, but also to widen his outlook. Those who stayed behind were referred to as heimskir.<sup>2</sup> Some spent only one summer as vikings, but others would go again and again and make raiding their way of life. Several of these professional vikings are listed among the settlers of Iceland.

When the pioneers arrived, they found a harsh land. Glaciers and lava fields prevented most of the interior of Iceland from being used,<sup>3</sup> and even where conditions were suitable for human habitation life was far from easy. Long after the settlement period, about 1355, Abott Arngrimur of Thingeyrar monastery wrote a biography of a thirteenth-century bishop of Hólar, Gudmund Arason, in which he gives a graphic picture of the island's natural environment, conditions that probably were much the same as those experienced by the original settlers: "Readily at God's service was the bishop in this land which books call Thule but Scandinavians call Iceland. It must be said that the name of this island is appropriate because ice is there in abundance, both on land and on sea. In its immense extent, it fills the northern harbors; and on the high mountains of the country there are unmeltable glaciers with such surpassing height

and width that their size might be thought unbelievable. Sometimes calamitous torrents flow from these glaciers with overwhelming currents and with a stench so foul that birds in the air and men or beasts on land die from it. There are other mountains in this land which emit terrible fire with the fiercest casting-up of stones. The horror can bring so great a darkness that with the wind at midday at midsummer one cannot see his own hand [before him]".

Although given this description, the hard conditions didn't seem to have discouraged the settlers. But what kind of people were those settlers?

Iceland was settled during the reign of King Harald the Finehair who, first of all kings, gained control over the whole of Norway. Norway used to be divided into many independent districts, or Fylki, controlled by noble families who fought hard against the aggression from King Harald. After the final victory in the battle at Havsford, Harald became a monarch, and many of his enemies felt compelled to leave Norway; some of whom sailed to Iceland. It has been argued that contrary to most immigrants, the Icelandic settlers were Norway's upper class, the chieftains, and their families who could not, or would not, live under the new rule in Norway. This argument, that the settlers were an élite, the cream of the Norwegian people, has often been offered as an explanation of the fact that the

civilization of early Iceland was so different from that of Norway. This explanation sounds good to me, but it must be noted that some scholars have argued that even though many settlers were undoubtedly descendants from war lords, earls or even kings, the pioneers were mostly a cross section of the Norwegian people;<sup>4</sup> some chieftains, others farmers or younger sons whose hopes of inheritance back home were small. Among the settlers there were as well slaves who had been given freedom. They were called freedmen.

The Sturlubók version of Landnámabók singles out 38 settlers as being of the noblest descent and although the settlers whose names were included represent only a small fraction of all the immigrants, these men were evidently the outstanding members of the community, whatever their social background. Many of them owned the ship, or a share in the ship, in which they had come, and many had been the leaders of men. Both courage and daring were needed to have charge of a ship and its crew on a long voyage across wide distances of unexplored seas, and then to get established in an almost unhabitated country where force was the only recognized law. These were the men who for centuries owned most of the land in Iceland. In the beginning the rules as to how much each could claim were not complicated, each chieftain, or head of a household, would simply claim the land he wanted, but those who came



later, when the pastures had already been occupied, were obliged to buy land or fight for it. So rapid was the immigration, that in sixty years the main settlement was over and the population had risen to 50.000-60.000, a number which seems not to have been exceeded for centuries to come.

Even though there were no unclaimed areas left in Iceland in early 10th century, the number of farmsteads steadily increased throughout the 10th and 11th centuries, indicating that transactions took place; more of the settlers were able to buy and build their own farms or they were given to them. Needless to say the Icelanders were scattered around in isolated farmsteads as in Norway and there were no cities.

Two interesting phenomena of medieval history are worth mentioning, the habit of joint worship at a temple, and the habit of holding an assembly of all freemen to discuss and dispatch matters of common interest, especially lawsuits. When the Norwegians arrived in Iceland one of their first tasks was to erect a temple, which soon became a place of resort. Usually it was the chieftain, a man of property, that erected the temple on his land, providing facilities not only for his immediate dependents, but also for those settlers in the district who might not have the means to build their own. Of this temple the chieftain, who was also called Godi, and his descendants were the priests, and as the meetings of the local thing were held in it the

Godi became the natural person to preside over such meetings.

As the influence of heathenism was vanishing at that time, the Godi became more of a secular than ecclesiastical figure; a chieftain rather than a priest. By presiding over the thing, he was the most appropriate person to see to the regularity of its judicial proceedings, to preserve order, and to provide for the carrying out of any measures of common concern on which it might determine. When any danger or difficulty arose, he was looked at to give advice or take action; the members of his thing expected aid and protection from him, while he expected support and loyalty from them. But he had no legal powers of coercion and anyone could oppose him in the thing or out of it. Furthermore, any thing - man (a member of a thing) could join some other Godi and become a member of some other thing. So there were no geographic boundaries in that respect, although later, when Iceland became unified, everyone had to belong to a thing within his Quarter. Still later, when concentration of power became a fact this freedom of choice between Godar became ineffective, and indeed all along individuals chose, mostly for practical purposes, their next Godi. In short, land had nothing to do with the position held by the Godi to the thingmen which is, of course, different in a feudal system. Nor was the post of a Godi a place from

which much remuneration could be drawn, at least not in the beginning. In fact, the thingmen were required to pay a sort of tax, called the temple toll (hoftollur), but this did no more than keep up with expenses related to the temple and its services. Accordingly, the Godord (the district that a Godi presided over) was regarded as implying power rather than property. Another peculiarity was that the Godord was looked upon as a private property, a marketable good which could be transferred by way of sale or gift and could be vested in several persons jointly. It seems to be very likely that the high-born individuals who came to Iceland, must have tried to establish the same kind of authority in the new land as their forefathers had in the old. But a rural society with a scattered population in a country with a rugged natural environment made communications difficult as well as the development of power and tight social organization. The needs of the people in Iceland were also different from those in Norway and other countries. The geographic position of Iceland made a military attack from abroad highly unlikely and this explains why the law code of the Old Icelandic Commonwealth did not provide for a special section on defense nor did the constitution even take such matters into account. The Icelanders had consequently no need of a king or an earl, since the main duty of these was providing leadership during armed conflicts between states.

In the years immediately following the immigration, there sprang up around the coasts of Iceland a great number of petty, unconnected and loosely aggregated groups of settlers. These "states" or districts were formed originally around the temple. Later they were formed to secure stability and justice, but with no settled plan of government; no political ties whatsoever. No written law existed, no defined territory between districts and a relatively weak cohesion among their own members, the thingmen. The only really effective tie was the tie of kindred and in most cases the Godi and his thingmen were not kinsfolk. The ties were strong though enough to involve a whole district in the blood-feud of a single man. For when any member of a family was killed, it was the duty of his nearest relatives to avenge his death, either by obtaining a full compensation in money, for which, if the offender refused to pay it, a lawsuit was brought in the thing, or else by slaying the murderer or some member of his family. This feud might go on from generation to generation, each act of revenge drawing others into the feud, because when fights took place, the friends of each party often joined, and if some of them were killed, their relatives had a new blood claim to prosecute.

To sum up, we can say that in the beginning there did not exist any Icelandic nation, much less any common

Icelandic state of which all the communities felt themselves members. Each was an independent body; and if a dispute arose between the members of two different things, there was no way of solving the conflict except by voluntary submission to the award of some other thing or else by open war. It has earlier been said that the leading men who owned the temples were the chief founders of the district assemblies and, later on, of the Althing (The General Assembly). The structure of the Quarter courts, the Fifth court and the Court of Legislature, which will be discussed later, shows that the ancient chieftaincies (Godord) must have been thirty six in number.

This matter must have been decided at the time of the founding of the Althing, since the number of chieftaincies was raised to thirty-nine when the Quarter division was instituted. Before I proceed to the establishment of the Althing I want to discuss the class division in Iceland.

In the early part of the Commonwealth period Icelandic society was divided into two classes: freemen and slaves. All freemen had equal right to an identity of forty-eight ounces for injury or trespass against, but compensation to freedmen (who had been given freedom) was lower as well as wergild allotted to them. Besides Godar and clergy, who were earlier very financially dependent on the Godi, free-holding farmers constituted the core of Icelandic society.

During the Age of Settlement all farmers were owner-occupants, so tenants did not constitute a populous class. But as population grew and the country became more settled, price of farmland must have risen. Then freeholders could no longer give away portions of their land, and liberated slaves and farm hands wishing to establish their own households could seldom afford to buy land. This left them with no alternative but to rent, provided that property was available. In addition, the price of farmland rose as wealthy individuals and certain institutions, like the church (after Christianity 1000 A.D.), became anxious to obtain possession of it. It provided the most secure asset obtainable, and because of the high rent it was also profitable. Besides free farmers, Icelanders did have slaves, which was a common practice in Scandinavia, but their number is uncertain.

The status of slaves, who were born in bondage, was to some extent defined in the law but it did not give them much protection. The owner could trade and treat him/her as he wished to, but it didn't make great sense to treat ones slave (supplier of labor) badly; my suggestion is thus that they were reasonably well treated. It should also be mentioned that it was a common practice to grant freedom to slaves which was a private arrangement between the slave and his owner. Although slavery was never banned by law, various factors led to the end of it in Iceland in

the 11th century. One big factor was, of course, that Scandinavians became Christianized. It may be added that slavery in Denmark did not come to an end until well into the 13th century; in Norway in the late 12th century and Sweden it existed as late as the 14th century. In addition to the common kind of slavery, there existed so-called 'bondage resulting from debts'. People could become bondsmen and bondwomen of their freewill, or indeed against their will if they failed to support their dependents or pay compensation for the crime of seduction. The bondage would last until the bondsman (or bondswoman) had worked off his debt. The status of people under that condition was somewhere between a freeman and a slave. In some cases people might free themselves from bondage by committing their children in their place, the latter given the opportunity to work off their debts.

One final point about the settlement; the fact that Iceland was uninhabited when the settlers came. One can therefore make the claim that Icelanders owned their country by more right than many nations, since there were no natives to be exterminated or intermingled with. This fact, undoubtedly made the settlement easier and contributed to the peculiarities of the Icelandic system.

#### b. The Establishment of the Althing

Earlier we saw that the Icelandic districts were scattered independent entities, which caused various problems,

e.g., when the question of legal matters arose. Accordingly it makes sense that it became generally felt among the natives that some remedy, some political or rather judicial institution was needed for the whole of Iceland. It seems to be that the chieftaincies of Thorsteinn Ingólfsson (son of the first settler Ingólfur Arnarson) and his colleagues from the south-west part of Iceland were the principal instigators behind the founding of the Althing. Some preparatory steps for this event were taken at the Kjalarnes assembly, where, perhaps, some kind of general assembly was held under the leadership of Thorsteinn and his allies. It would have been quite a natural development if, on the Norwegian model, many local assemblies had been founded, each serving its own district and following its own laws. That would also have been analogous to the other Scandinavian countries, where throughout the commonwealth era neither the Norwegians, nor the Swedes, nor the Danes succeeded in creating a uniform code of laws for their nations.

Ari the learned informs us in his Íslendingabók that it was an Icelander, a lawman called Úlfljótur, who first brought a code of laws to Iceland, from Norway. It is believed that Úlfljótur, sent by the consent of the leading Godar, spent three years in Norway composing the new law code for Iceland. Since Thorsteinn Ingólfsson



and the majority of the settlers had come from the Gulathing province in Norway, it was expected that the new laws for Iceland would be based on the Gulathing law. This code appears to have extended to Hordaland, Sogn, and the Firdir province. It may be noted here that some scholars find it hard to believe that a single person was trusted for the composition of the law and bringing home a law code for the whole country.<sup>5</sup> But in any case after Úlflijótur returns to Iceland with the law code, the first Althing (General Assembly) met in 930 A.D., at a place called Thingvellir, and there it continued to meet, year after year for approximately two weeks in the latter half of June, until 1798. In 1799 its meeting place was moved to Reykjavík. Thingvellir, the meeting place, is in the southwest part of Iceland, about eight hours riding from where Reykjavík (half an hour in modern times by car) the present capital stands. Thingvellir was within the district of the first temple that had been founded by Ingólfur Arnarson, a beautifully located site and suited well for most people, even those who came riding over the highland.

All sorts of people would go to Althing, some had their own booths at Thingvellir, but others lived in tents. The most important business of the Althing was transacted at two different locations, Lögberg (Law Rock) and Lögretta (The Court of Legislature). Lögberg constituted the very

centre of Althing, from this rock the laws were proclaimed and it was also from here that members of the Court of Legislature and the Courts of Justice went to carry out there business. The hallowing of the Althing was performed at Lögberg, and here also its annual sessions were formally prorogued. Lögberg was the place where public announcements were made, summonses delivered, and speeches addressed to the general assembly. Lögretta (The Court of Legislature) was the most important institution; its role will be discussed in Chapter III.

In general the outline of Iceland's institutions were as follows: the total number of regular things, and Godords were thirty-nine, nine for each Quarter, except the North-Quarter, which, in order to allay certain local sensitivity was allowed twelve. Each of these local things was presided over by its Godi. Then, three of these things were united to form a larger thing-district (thingsökñ), of which there were thirteen in all, i.e., three for each Quarter except North-Quarter which had four. Those were called Várthing. There was also one still larger thing for each Quarter, named Fjordungsting (Quarterthing), but they tended to lose their importance as time passed. Ordinary lawsuit and questions of local interest were determined in these minor things, while grave suits, or those in which parties belonged to different things, were brought before the Quarter things or

even Althing. In fact, lawsuits could always be taken to Althing (see chart no. 5, about things and quarter boundaries).

It is now about time to introduce the sole official of the Commonwealth, the Lawspeaker; the living voice of the law. For almost two centuries the laws of Iceland were preserved in memory, a function of the lawspeaker and the legislative court, but in the winter of 1117-18 their codification began. Besides knowing the laws, it was the duty of the lawspeaker to make them known to the public by proclaiming them officially. The office of the lawspeaker was created by the Althing, it elected him, and the office remained to 1271 A.D. The lawspeaker arrived at the Althing on the first Friday of its annual meeting, where he proclaimed the lawful procedures for the session to ensure that those who participated in the Althing knew how the business was to be conducted. He proclaimed other sections of the code in three consecutive summers, which constituted his term of office. It was also his duty at the Althing to advise people and clarify the laws for them. The lawspeaker was the president of the Althing and he presided as well over the meetings of the Court of Legislature where he had a vote. Úlfjljótur, who brought the law code, was the first lawspeaker, but the total list of the other 42 follows in chart number six.

But Althing was more than an assembly for the dispatch of business; it was the great annual gathering of the nation. To it chieftains rode with their wives and daughters as well as their thingmen; people came to trade, to dance and have fun, artists showed their works and games were played. It was a great opportunity not only for renewing of friendships between those who lived in distant parts of the country, but for arranging such institutions as marriage. The meeting of the Althing was, in fact, the centre of the Republic and it was only then that the Republic became visible before men's eyes or acted as a collective whole. Finally, in this introduction to the Althing I want to discuss a bit further the relationship between Godi and his thingmen. It was the duty of all farmers and landowners to either attend the district assemblies themselves, or to send their representatives. While in attendance at a district assembly, each chieftain was at liberty to make the request from the assembly that every ninth farmer of those within his jurisdiction should accompany him to the annual meeting of the Althing. Farmers and landowners, had to declare their allegiance to a certain Godi at one of the three regular thing, i.e., the District thing, the Vārthing or the Althing.

The thingmen who were chosen, by the farmers, to accompany the Godi had to provide their own horses and their food for the journey, but the Godi had to provide his

men with living quarters during the session of the Althing. He also had to pay their fee, (thing-tax) thingfararkaup; the same term was used for payments made by farmers who owned a minimum amount of property but did not accompany their Godi to the Althing. The amount of the thingfee was a matter of negotiation. Once at the Althing, the thingmen supported their Godi and their presence, when the Godi spoke, added weight to his words. The greater the number of thingmen the better. In conclusion, the relationship between a Godi and his thingmen was different from e.g. a king and his retainers. Thingmen were not bodyguards of the Godi, their support was confined to the political realm of his activities and their relationship was more of a mutual loyalty rather than oath-takings.

### c. Christianity

Although the majority of the colonists of Iceland were heathen, their religious beliefs were of two different kinds. On the one hand there was a belief in landvaettir (guardian spirits of the country); on the other, there was godatru<sup>1</sup> or asatru<sup>1</sup> (the faith in the gods). On the one hand we had spirits and on the other we had gods. In the case of the spirits it was considered more expedient to propitiate them than frighten them away. On the other hand the gods were worshipped. Even though most of the settlers are

considered to have been heathens, the veneration of heathen gods was already on the wane. This decline resulted from the increased exposure of Scandinavians, both at home and abroad, to Christians and Christian culture traditions. Some of the early settlers were already Christians. As could be expected, the Christianity which reached Iceland in the Age of Settlements gained only limited ground, it nearly disappeared and was then introduced with greater vigor in the late 10th century. The reason for the vigorous attempts just before the year 1000 was that King Olaf Tryggvason, came to the Norwegian throne 995. King Olaf started to force Christianity upon his own countrymen, but he also used every means, at his disposal, to bring Christianity to countries whose inhabitants were of Norwegian origin, including Iceland. He sent missions to Iceland, the earlier ones failed but finally the effort paid and many of the Godar got baptized. Consequently Christianity became a matter of political concern, it reached the Althing and got a hard debate started, between proponents and opponents. For a while it even looked like Iceland would be separated into two states, one Christian and another heathen, but that was never realized. The legislation of Christianity in the year 1000 was an event which had a strong impact and far-reaching effects on the history of the Icelandics. In most countries the introduction of Christianity

was a slow and painful process but in Iceland, relatively peaceful.

The first Icelandic bishop Ísleifur Gissurarson was elected by the Althing and served from 1056-1080. His son Gissur succeeded in introducing the tithe legislation which made the church financially independent and laid the foundation for its wealth. Before that, every church in the country was a private property of a farmer. The chieftains and other wealthy families who owned or controlled the churches used to hire priests, often for very low wages. These owners of the churches got in fact, half of the tithes (both the church-tithe and the priest-tithe). The tithe-legislation created a substantial source of revenue for them, so that one could hardly have expected them to oppose this new arrangement; ordinary people had little say in such matters. The tithe-legislation is very important, since it constituted the first all out tax levied, if the temple-toll is excluded. The tithe was in fact a 1% property tax levied on all individuals owning 10 six-ell ounces (half a hundred ells) unencumbered or more; garments for every day wear were not included in this assessment. Some property was not titheable; charitable donations; priests were not required to tithe on property consisting of books, chieftains were exempted from tithing, etc. The tithe was then distributed in four directions. One fourth was to be distributed among needy people, another

half went to the bishop and the remaining portions were appointed to churches and priests. It may be repeated, that the tithe represented one of the most far-reaching enactments introduced during the commonwealth period.

This code contained the first laws in which economic circumstances were the basis for public taxation. Before this, poll taxes were the only known form of taxation. The tithe, donations and other smaller revenue sources laid the foundation for the new power element in the country – the church. From the time of the settlement no other establishment could compare with the church with respect to the amount of property which it had received from individuals. This transfer of property was bound to cause a gradual loss of economic equilibrium in the country. Political equilibrium diminished as well and one root of the decline of the commonwealth, which will be discussed later, lies without any doubt here.

After this general introduction to the Age of Settlements, I now return to some basic questions about the settlement and the establishment of the Althing.

## 2. The Causes of the Settlement.

It is easy to come up with a number of plausible explanations for the settlement, but one thing should be clear; the settlers were undoubtedly motivated by the hope that they would make a better living in the new land. In



many ways Iceland must have been very attractive in those days, when it was still practically a virgin country untouched by people or domestic animals. When the Norse settlers came to Iceland many kinds of fish and vegetation were in greater abundance than later on and there were no hostile natives. For one thing, that was much different in the other settlements, e.g., in the British Isles. Hot springs are unknown in Norway, but it didn't take long for the settlers to learn how to make use of them. The hot water was used both for bathing and for washing clothes. What was most important was that every settler could claim as much land as he wanted, or buy it at a very low price. Overpopulation during viking times existed to some extent in all Scandinavia, but nowhere more than in mountainous Norway where good farmland was scarcer than in either Sweden or Denmark. Since Iceland offered land free for the taking (in the beginning), economic reasons must have been among the most important for sacrificing an old home in Norway in order to make a new one in Iceland. It is also possible that Iceland enjoyed a milder climate during the Age of Settlements. Furthermore, some of the settlers may have been moved by the spirit of adventure; the human nature of challenging the unknown surely was as strong as it ever has been. Clearly the unexplored seas of the North Atlantic, in addition to the vast, unexplored, country far out in the open ocean, provided a proper challenge. Lastly, the

inheritance rules were such that younger sons, maybe of a wealthy chief, really didn't have much to anticipate in terms of property; consequently they didn't leave much behind by taking off. Many of these younger sons became viking leaders, some of whom ended up in Iceland.

Nevertheless, all these reasons are not sufficient to explain why Iceland became fully settled in a period of approximately sixty years. To look at the political arena in Norway is essential in order to close the picture. Iceland was settled during the reign of King Harald Finehair, who gained control over the whole of Norway, by political revolution. Before King Harald Finehair's time, Norway consisted of a number of petty states. Of these, his own hereditary state in eastern Norway had been the most powerful.<sup>6</sup> It was probably through the example of other european monarchs that he resolved to conquer the whole, and the conditions in the country were in his favor. At that same time, the viking strongholds in the southwest posed a grave threat to commerce and peaceful seafaring along the southern coast of Norway. It was therefore in the interest of many chiefs to assist King Harald in suppressing all acts of violence within Norway. The personal ambition of King Harald, to extend his authority, and the interests of the inhabitants of some of the larger trading areas coincided in this respect. As one can image, the chief opposition to the unification of the Norwegian states

came from the districts in western Norway. It is generally believed that the decisive battle, which King Harald won, took place at Havsfiord. But how did these events affect the emigration?

Many of King Harald's opponents felt compelled to leave Norway because of oppression. It goes without saying that a political revolution with such far reaching consequences, as the unification of Norway, could not have been achieved without sharp internal conflict. This conflict led to the result that among men of power the sphere of their influence now became severely restricted, even if these men did not necessarily engage in open hostilities against King Harald. As a result of this turmoil, there is a close connection between the West-Norwegian opposition to King Harald and the fact that most of the settlers of Iceland came from the western part of Norway. King Harald undoubtedly banned any kind of warfare in his land and by doing so he deprived a number of men of a lucrative occupation, and gave them no choice but to leave Norway. Moreover, he levied taxes, which appears to have been a complete innovation and history shows that among primitive people taxes always met opposition; they clashed with the freedom of the individual. When massive emigration started, first the king banned emigration, but after that effort failed, he levied a tax on the emigrants, the landfees; if people

really wanted to leave he should at least make some money out of it. Although very important, the political reasons shouldn't be overstated, at this time period there was a vast Scandinavian expansion, not only emigration but also expansion domestically. Research on farm names in Norway has shown e.g., that new areas inside the country were broken and cultivated, especially in the east and the north. In the western regions of Norway the prospects of further expansion were less favorable, which in turn partly explains why proportionately greater numbers of people emigrated from that part of Norway.

A final question might be what causes in general the establishment of new societies? We might answer with another question. Why it is that the Icelanders produced incomparable literature at that time; how come that England was always the stronghold in economics; why do relatively more Jews get the Nobel prize than any other race; why it is that the Italians produce outstanding physicists? A coincidence? — maybe.

### 3. Some Explanations of the Establishment of the Althing.

In the ninth century there existed three Nordic nations; the Danes, the Swedes and the Norwegians — whose territories were much the same as they are today. Each was divided into many small kingdoms, and centralized political authority on a national scale was unknown.<sup>7</sup> The assembly is evidently

the most ancient Nordic political institution, not only did it exist in the Nordic countries themselves, but as well in the Nordic settlements. It appears that there were small district assemblies of various types and higher regional assemblies whose authority covered several districts. In Iceland, again, the only nationwide assembly, the Althing was established 930. A. D.; but two district assemblies were already functioning there in the settlement period 870-930 A.D. The function of the Nordic assemblies included the arbitration of disputes, condemnation of law breakers, selection and deposition of kings, as well as legislation. Legislation was the most important one, and in general it was understood to be responsible for explaining the pre-existing customary law in the course of applying them to particular cases. This might be called law finding, as opposed to law making. In theory, made law, as opposed to ancient law, was binding only upon those who had agreed to it. In practice this meant that made laws were accepted as binding throughout a given community once they had been ratified by a large majority of the chieftains, a result which was principally affected through the rule of compromise. The majority rule was a later innovation. All freemen entitled to bear arms were entitled to participate in the assemblies, but it is nearly certain that even in oldest times Nordic assemblies were to a great extent manipulated by the chieftains. Indeed, in Norway and Iceland, elite control

of the assemblies was formally recognized.

To be able to understand why Icelandic assemblies developed differently, one must look at the king's role in these early societies. His role was twofold: he was an intermediary between the people and their gods, and their leader in war. In the settlements, like Iceland, no kings were ever residents, although all were eventually brought under the Norwegian crown. In the political organizations of the Nordic people, a king's power depended primarily upon two factors: the method by which he was selected, and the extent to which he could influence the proceedings and decisions of the assemblies. Nordic kings had important but limited influence upon legislation, but were bound by law to the same extent as other men. Their special functions were to initiate legislation and to superintend the judicial work of the assemblies. But the assemblies themselves had the last word. If a king exceeded his legal authority, his subjects had the right to rebel and there are many examples of Nordic kings being killed or deposed in the name of the right of rebellion. The growth of royal power came hand in hand with the emergence of the modern state. During the 12th and 13th centuries, most of the nations of Western Europe, included the Nordic nations, were made over into strong monarchies. The increased power of kings was especially evident in their expanded role as keepers of domestic peace

and overseers of the courts, and in their growing expenditures and military might. The centralization of government through a system of court-appointed officials consolidated their position. It also contributed to their expanded power that Christianity reintroduced the idea that royal office was divinely established.

We can state the following: Monarch's power increased over the centuries and accordingly that of the assemblies dwindled; centralization replaced decentralization. The same goes for Iceland, even though we had never had a residing monarch. Concerning centralization versus decentralization, there is one point to be made. Earlier we saw that in the Icelandic commonwealth central executive power was absent, but it is probably an overstatement that it didn't exist whatsoever on any level.<sup>8</sup> There is no doubt, than even though the relationship between farmers and chieftains was rather casual, the latter wielded great power in the administration of local affairs. How much this power was depended probably upon circumstances as well as the chieftain's character, where if a local chieftain was greedy, cruel and tyrannical – as must often have been the case – the common man was likely to suffer injustices, from which he had little or no genuine recourse.

But lets now turn to the Icelandic case and discuss theories as to why the Icelanders found a need for a unified law code and a general assembly. Was it basically

a common consent that one law was needed, maybe because the settlers came from districts with different laws. Or was it just a means for the ruling chieftains to consolidate power in the hands of the noblest families. In general, it is, of course, of interest to discuss explanation as to how legal institutions do emerge; why do primitive nations find need for law at all? I will list several theories on this issue and later make some judgements upon their validity.

a. The traditional theory<sup>9</sup>

There are without doubt a number of reasons why the founding of the Althing became a necessity, none tell us the whole truth, but together they provide a satisfactory answer. After the emigration to Iceland families became separated, and relatives and in-laws were no longer neighbors, but were scattered all over Iceland. The establishment of one national assembly enabled these people to pursue matters of common interest. Although the social conditions that prevailed during the Viking Age, particularly in the Norse colonies, may have weakened traditional bonds of kinship, family ties remained strong. Additionally, how powerful a chieftain became was dependent largely on the number of his kinsfolk, his clan, and how well they supported him. Given that these people were scattered around, the chieftain couldn't exercise, or display, his full power without some



general meeting, where everyone participated – the general assembly. We have also seen earlier that bonds of kinship extending as far as fourth cousins entailed certain rights and duties regarding such matters as vengeance, inheritance, maintenance of the poor and payments of wergild. These legal customs would have lost their significance if the Icelanders had not been able to agree on one code of laws for the entire country. Furthermore, in Iceland people who had come from various law provinces in Norway, as well as some individuals from other countries, became neighbors. This created confusion in the administration of justice, and it was natural that the Icelanders should seek to solve this problem by introducing a new law code to the entire nation. Finally, it is conceivable that King Harald Finehair's decision regarding the extent of individual settlements played some part in the establishment of the Althing.<sup>10</sup> His decree had a particularly adverse effect on those chieftains who had claimed the largest areas of land. It would therefore be logical to conclude that these chieftains and their descendants unanimously supported the idea of a national assembly in order to prevent the referral of important matters to the arbitration of a foreign power.

Hardly anyone could have been in a better position to play a leading role in the founding of the Althing than Thorsteinn Ingólfsson. He was one of the most powerful men in

the country, the son of Iceland's first settler and he had already taken part in founding an earlier assembly, Kjalarnesthing. Thorsteinn was of noble ancestry, and among his relatives and in-laws were members of the largest and most influential family in Iceland the descendants of Grimur frá Sogn. These people were in turn related to other powerful families among whom were Björn Buna. It was thus logical that these people should join forces in promoting the idea of a national assembly. A big powerful family must have had special interests in the establishment of the Althing. It was maybe the most effective way in which they could secure peace and safeguard their position against intervention by the King of Norway, which was always looming over, and against the unrestrained spirit of freedom and independence which was bound to prevail as long as new immigrants to Iceland continued to extend their power and influence. This also explains why Thorsteinn Ingólfsson and his followers sought the support of other influential clans even though they did not have any kindred ties with them. To form a closed coalition was therefore plausible; they also must have realized that such support was essential if a national assembly was to be successfully founded.

b. The Sigurdar Nordal's theory.<sup>11</sup>

Sigurdur Nordal argues that the most motivative factor behind the establishment of the Althing was the effort on the

behalf of the most powerful chieftains to secure their position, with respect to power and dominance. The most effective way, as implied before, was to form a coalition, establish an assembly they could manipulate, given the fact that no single one of the chieftains had the strength to monopolize power. To split the market, so to say, was second best to total dominance by one. An interesting point has been observed, namely that descendants of one chieftain were distinctly visible at the first meeting of the Althing. This man was Björn Buna, from Sogn Province in Norway, and his family was believed to be the noblest family to emigrate from Norway to Iceland.

Nordal's theory goes that the Althing was first and foremost established to secure and consolidate power in the hand of this family. And they seem to have been quite successful. Again, Thorsteinn Ingólfsson was related to this family, and he was clearly a dominant figure at the first Althing. In addition, the Althing was sited inside his district, the settlement he inherited from his father. Nordal claims that the family of Björn Buna was so powerful at the time of the establishment that it could easily have chosen a sole king over the country. Two explanations can be given as to why that arrangement wasn't realized. Firstly, they could not agree upon who should become the king. Secondly it might have shown some foresight and cleverness

on the behalf of the chieftains, since they realized that never would there be any agreement on a sole king. The risk of aggression, by any chieftain to obtain dominance, was minimized by successfully dividing the country into numbers of small power centres - the districts.

How close to the truth this theory comes is arguable, but one thing is absolutely clear; that there must have been a vigorous power struggle, behind the scene when the Althing was established, even though the sagas imply that the process was peaceful and spontaneous. Power struggle is part of human nature, be it today or 1,000 years ago, not least when such a dramatic issue was at stake as to decide upon who should control what and whom.

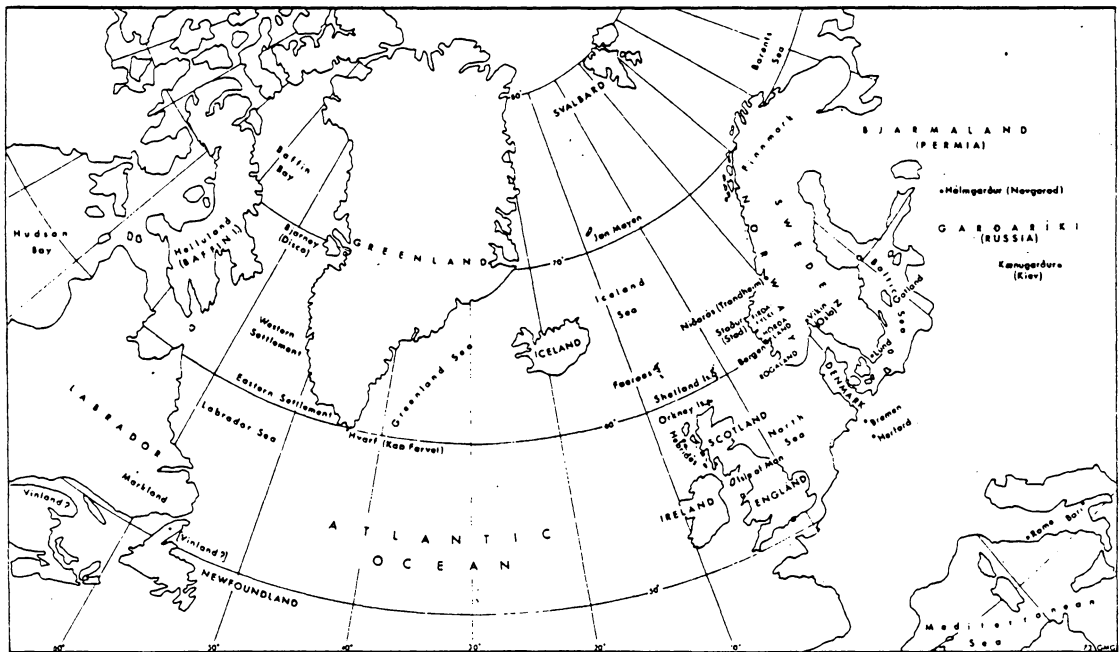
c. The Jón Thorláksson's theory<sup>12</sup>

During the Commonwealth Period there existed mainly two types of currency: the coarse woolen cloth, called Vadmál and silver. In chapter four we will discuss in detail this aspect. When the settlers moved from Norway to Iceland they were unable to carry with them a lot of values or live-stock; the ships were too small to carry such loads. Nevertheless, many of the settlers were affluent men who either had to sell the belongings they left behind, or simply give them up. For the part they sold they acquired silver in exchange and consequently there was a substantial amount of

silver floating into the country and circulating inside, in the early settlement at least. The odds are, that the value-ratio of silver against goods was quite small in the beginning, implying that the value of goods in terms of silver was high. As the Age of Settlement passed this situation changed, population of livestock expanded, the 'good base' got larger, silver was traded for imports, and got somewhat scarcer. The value-ratio got bigger as the circulation of silver was reduced compared to goods, resulting in higher value. As the silver was getting more expensive there emerged all kinds of difficulty concerning trade as many people got tempted to blend the silver with lesser metals. This was referred to as impure silver. Finally the Althing passed a legislation, in order to set some standards on value, which acknowledged impure silver, but declared that the purity of the silver had to be no less than fifty percent. This legislation was aimed to set up a fixed exchange ratio between silver and other forms of currency, to restore order in the economy which had been upset as the uncertainty increased over what was a legal currency and how values were determined Thorláksson argues that it was maybe because of this disorder and uncertainty over value measures and exchange, which undoubtedly hurt the economy, that initially motivated the forefathers to establish the Althing and unify the law code.

In sum, I must admit that all these theories seem to provide plausible answers as to what were the motivating factors behind the establishment of the Althing. To summarize what already has been said, there is clear indication from history that the Nordic people had a long tradition for law-abiding behavior, which, of course, they carried over with them. Since the settlers came from different provinces, using different law codes, unification was a sensible move. The main reason for the Icelanders to build their law code on the laws of the Gula-things was twofold: probably the majority of the settlers came from the Gula-thing district and certainly the most influential figures at the time in Iceland were originated from there. There should, however, be no doubt that it was the chieftains in Iceland that had the most to win, or lose, by getting some control over the country's affairs. They had carried over with them a power structure they wanted to preserve. By establishing the Althing they could limit the uncertainty which always exists among different people in new settlements as to what are the rights and rules. By limiting uncertainty and anarchy they strengthened their powerbase. Clearly the chieftains had the highest stakes, which makes no wonder why they had the keenest interest in seeing this institution emerge.

In chapter three, to which we proceed there will be a discussion about the Customary law tradition, which illustrates the beginning of legislation and the emergence of political institutions in general.



*The Medieval World of the Scandinavians.*

Chart 3



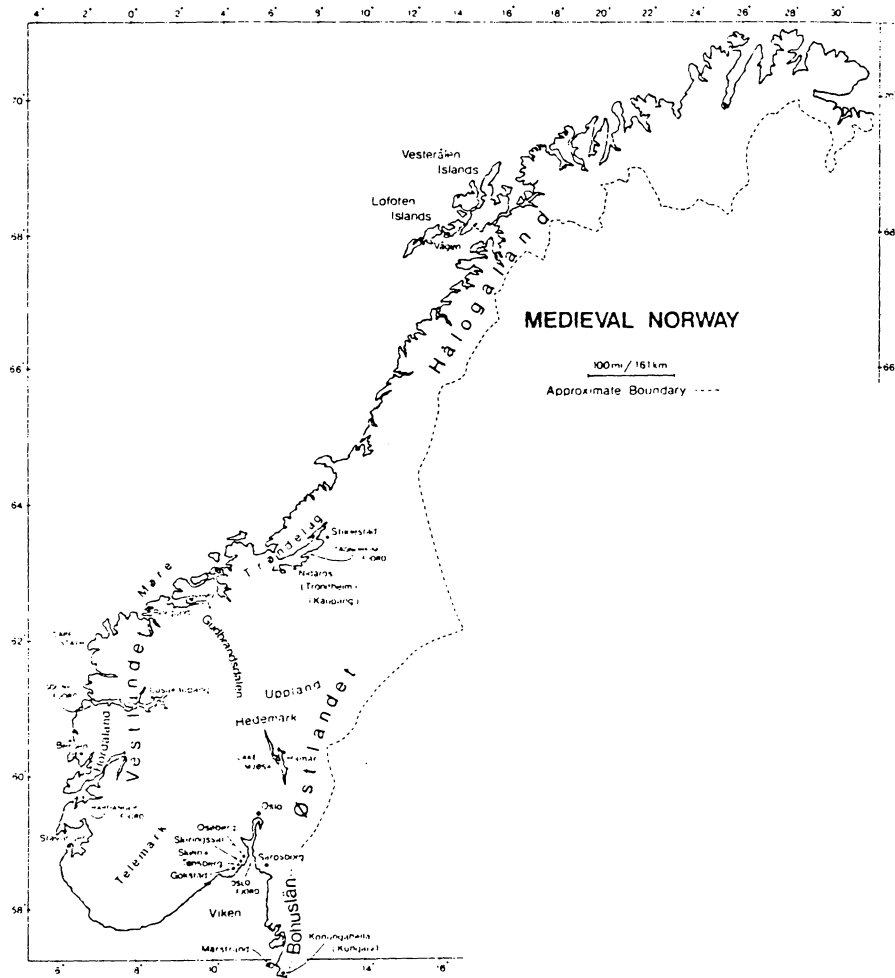
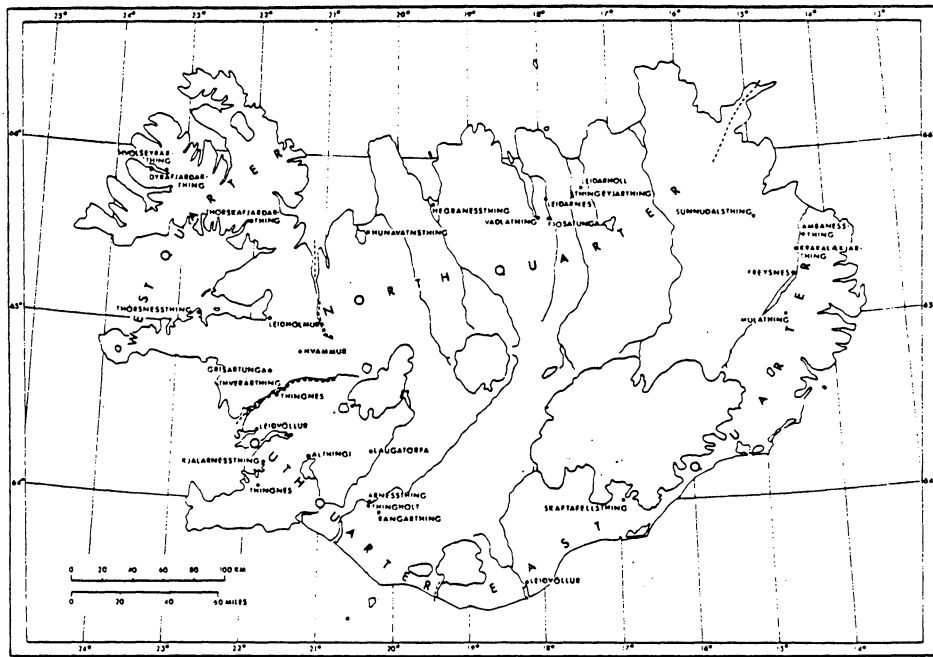


Chart 4



*Assemblies and Quarter boundaries.*

Chart 5

*LAWSPEAKERS DURING THE COMMONWEALTH PERIOD*

1. Úlfjótr .....	
2. Hrafn Hængsson .....	ca. 930-949
3. Thórarinn Ragabróðir Óleifsson .....	ca. 950-969
4. Thorkell máni (Moon) Thorsteinsson .....	970-984
5. Thorgeirr Ljósvetningagoði (the Chieftain of the Ljósvetnings) Thorkelsson .....	985-1001
6. Grímr Svertingsson .....	1002-1003
7. Skapti Thóroddsson .....	1004-1030
8. Steinn Thorgestsson .....	1031-1033
9. Thorkell Tjörvason .....	1034-1053
10. Gellir Bölverksson .....	1054-1062
11. Gunnarr hinn spaki (the Wise) Thorgrímsson .....	1063-1065
12. Kolbeinn Flosason .....	1066-1071
13. Gellir Bölverksson (second time) .....	1072-1074
14. Gunnarr hinn spaki Thorgrímsson (second time) .....	1075
15. Sighvatr Surtsson .....	1076-1083
16. Markús Skeggjason .....	1084-1107
17. Úlfhéðinn Gunnarsson .....	1108-1116
18. Bergthórr Hrafnsson .....	1117-1122
19. Guðmundr Thorgeirsson .....	1123-1134
20. Hrafn Úlfhéðinsson .....	1135-1138
21. Finnur Hallsson the priest .....	1139-1145
22. Gunnarr Úlfhéðinsson .....	1146-1155
23. Snorri Húnbogason the priest .....	1156-1170
24. Styrkárr Oddason .....	1171-1180
25. Gizurr Hallsson .....	1181-1202
26. Hallr Gizurarson the priest .....	1203-1209
27. Styrmir hinn fróði (the Learned) Kárason the priest .....	1210-1214
28. Snorri Sturluson .....	1215-1218
29. Teitr Thorvaldsson the priest .....	1219-1221
30. Snorri Sturluson (second time) .....	1222-1231
31. Styrmir hinn fróði Kárason (second time) .....	1232-1235
32. Teitr Thorvaldsson (second time) .....	1236-1247
33. Ólafr hvítaskáld Thórðarson .....	1248-1250
34. Sturla Thórðarson .....	1251
35. Ólafr hvítaskáld Thórðarson (second time) .....	1252
36. Teitr Einarsson .....	1253-1258
37. Ketill Thorláksson the priest .....	1259-1262
38. Thorleifr hreimr Ketilsson .....	1263-1265
39. Sigurðr Thorvaldsson .....	1266
40. Jón Einarsson .....	1267
41. Thorleifr hreimr Ketilsson (second time) .....	1268
42. Jón Einarsson (second time) .....	1269-1270
43. Thorleifr hreimr Ketilsson (third time) .....	1271

Notes

1. Probably every free man.
2. Heimskur means dull-witted or simple.
3. The scholarly literature on the Icelandic saga is abundant. Several interesting volumes recently published in English that bear at least in part upon the problem of historical reliability may be cited here: Richard M. Allen, Fire and Iron: Critical Approaches to Njálssaga; Peter Halberg, The Icelandic Saga; Lars Lönnroth, Njálssaga.
4. Jón Jóhannesson: A History of the Icelandic Commonwealth, University of Manitoba Press, 1974; pp. 22.
5. Sigurdur Lindal: "Sendiför Úlfljóts", Skirnir, Reykjavík, 1969, pp. 5-27.
6. Jón Jóhannesson; Supra 4, pp. 24-27.
7. Sigurdur Lindal: "Early Democratic Traditions", in Nordic Democracy, Copenhagen 1981, pp. 18-21.
8. David Friedman: "Private Enforcement and Creation of Law", Journal of Legal Studies VIII (March 1979) pp. 405.
9. Jón Jóhannesson: Supra 4, pp. 37-41.
10. The Icelanders who came later to settle felt that others had taken too much land, and by an agreement King Harald Finehair became an arbitrator. His ruling

was that no man could claim more land than he and his men could mark off in a single day by means of signal fires.

11. Sigurdur Nordal; Íslensk Menning (Icelandic Culture); Reykjavik 1942, pp. 106-112.
12. Jón Thorláksson; "Kodrán's Silver", Vaka 1927, pp. 146-158, Jón Thorláksson was the first chairman of Iceland's largest party, the Independence party, and he became minister of finance.

## CHAPTER III

### The Legal and Political Institutions

#### 1. Description.

The main task of the first Althing was, of course, to reach an agreement on the establishment of the Icelandic state, the Republic. Earlier we discussed the site of the Althing, its role as The meeting place of the nation, as well as the role of the Lögberg (The rock of Law). In this section we return to the other institutions operating at the Althing, which were the most important, the Court of Legislature and the Courts of Justice; they were indeed the heart and soul of the early Republic.

##### a. The Court of Legislature; (Lögretta)

The earliest information about the Court of Legislature, dates back to the time of the Quarter division; at that time thirty-nine chieftains held seats there. But in order to keep the power of the North Quarter proportional to the others,<sup>1</sup> each of the remaining Quarters Chieftains', sharing the same district assembly, should bring with them, to the Court of Legislature, one man who would be granted a seat

there with a position equal to that of a chieftain. These additional appointees were nine in number, which raised the total membership of the court to forty-eight. Then, each of the forty-eight members was to select from the rank of his own liegemen two men to sit with him in the court as his counsellors. The law-speaker held a seat in the Court of Legislature from its beginning, later on, after the founding of the two episcopal sees in Iceland, the two bishops were granted seat there as well, but without the privilege of appointing counsellors. Thus, the total membership reached the maximum number of one hundred and forty-seven.<sup>2</sup> At a meeting place of the Court of Legislature there were three circular benches or platforms in concentric arrangement. The middle platform was occupied by chieftains, the law-speaker and later the two bishops. While the two remaining platforms provided seats for the counsellors. Thus each chieftain and supplementary member would have one of his counsellors sitting in front of him, and the other right behind him. Only the occupants of the middle platform possessed what was referred to as 'the right of full participation' in the affairs of the Court of Legislature.

The functions of the Court of Legislature are believed to have been numerous, including the following:

- i) To interpret the laws and determine their correct application was an important role of the court, particularly

during the period in which the laws were either memorized or incompletely recorded on scrolls. It was only natural that different interpretations would arise; parties might quarrel over whether there were any laws at all on the issue, whether this or that law code was applicable to the case in question, parties understood the law differently etc. Consequently, it was the Court of Legislature's role to declare right or wrong concerning disputes of that nature. The procedure seem to have been such that the parties involved would present their case, then would those, who occupied the middle platform, forty-eight at most, vote. All questions were settled by majority voting. In an even decision the lawspeaker had the deciding vote. Great importance was attached to resolving cases of this kind. But what did it really mean in practice to get a resolution like that from the Lögretta (The Court of Legislature)? In fact, it turned out to be very important, since if these conflicts went any further, i.e., to a court, then the judges would look at the ruling made by the Lögretta 'as it was a general law'. Still, a resolution from Lögretta didn't constitute a right to pursue a case, as if it were a verdict; for that purpose one would have to have a court verdict.

ii) To control the law proclamation, or to ensure that nothing was added or deleted to the law, by the law-speaker. This shows that there were many lawyers, in addition to the lawspeakers at the Althing, who knew the law code by heart.<sup>3</sup>



iii) The Lögretta was to make new laws, i.e., passing of new laws, opposed to law finding and its role was as well the emendation of existing laws. It is not clear by which method changes in law were effected, but presumably the same procedure was employed as for the resolutions of legal disputes. The odds are, that the literature underestimates the extent of lawmaking at the Althing the reason being the fact that resolutions of legal disputes, made by the Lögretta, were indeed looked at as a general law. The actual quantity of 'made' laws was therefore more extensive than is observed by simply looking at the direct lawmaking.

iv) The Lögretta granted exemptions from the law. The peculiarity of these exemptions was that anyone, present at the Althing, could in theory, at least, interdict the exemption. In this way it was possible to guarantee that a particular exemption would not infringe upon the rights of individuals.

v) Lögretta elected the lawspeakers, supervised the proclamation of the laws and decided when the judicial courts should convene.

vi) Finally, the Lögretta may be said to have acted for the nation in foreign affairs, in the case of the treaty with St. Ólafr of Norway and the one with King Hakon the Old.

b. The Quarter Courts

At the Althing there were held four Quarter Courts, one for each respective Quarter of the country. The number of judges assigned to each Quarter Court is disputed, but many scholars believe there were thirty-six for each Court. The owner of each of the chieftaincies appointed a member to every court, and it seems likely that the order in which these assignments were made was determined by the casting of lots. This method served to ensure the highest degree of impartiality on the part of the judges and made them less subject to the influence of the chieftains. Nevertheless, it is evident that the chieftains did run the whole show at the Althing and they were recognized as such. To ensure equality, the three 'new chieftains' from the North Quarter did not appoint judges to the Quarter Courts. Each chieftain was to appoint as judge a man from his own assembly district, unless otherwise permitted, the judge had to be a male 12 years or older. Parties to a lawsuit were naturally disqualified from court appointments. Before convening, a session was held, dealing with the qualifications of the judges. Blood, marriage or spiritual ties to either litigant was a disqualification reason. The Quarter Courts could give verdict in all matters as courts of first instance except in cases punishable by a fine of only three ounces of silver. As a rule, such cases were heard at district assemblies if the litigants belonged to the same assembly district. Then,

all cases from district assemblies where the juries were deadlocked could be referred to the Althing, where the Quarter Courts would serve as courts of appeal. A case would be tried in the court representing the Quarter to which the defendant belonged. In the Commonwealth Period all litigation was an involved matter, and great importance was attached to correctness of procedure. Deviations from this procedure usually ended in mistrial.

A special 'jury of neighbors' served the important function of deciding whether there was a case to answer. The members of this jury were nominated by the prosecutor and consisted of farmers who lived closest to the place where the offence which occasioned the lawsuit had been committed, and who owned enough property to pay the thing-tax. The defendant had the right to exclude from the jury any member who did not have this qualifications in addition to ties of some sort on the same grounds as applied for judges in the Quarter Courts. Major lawsuits required nine members on the jury of neighbors, but less significant ones required only five. If the defendant had a lawful defense he could ask a special jury to give an opinion on his submission. In certain important lawsuits a chieftain from the defendant's district would, on the request of a plaintiff, appoint what was called 'a jury of twelve' or a 'chieftains jury', in which the chieftain himself participated as the twelfth

member. Witnesses stated what they had heard or seen, while the members of the jury stated whether or not, according to the knowledge of the case, the defendant was innocent or guilty. Therefore the statements of the jury and witnesses served the same function. However, the latter were rarely called to give evidence in a lawsuit. The decisions of a jury were reached by majority vote; in the event of a tie the side supported by the chieftain had the deciding vote. When both the prosecution and the defense had completed the presentation of their cases one of the judges was to recapitulate the arguments of the prosecution and another that of the defense, whereupon the sentence would be passed. If the judges did not agree on a verdict, they were required to 'dismiss' the case, provided that the dissenting minority consisted of a minimum of six judges. Otherwise a verdict would be regarded as unanimous. The cases that were 'dismissed' had to be referred to the Fifth Court.

### c. The Fifth Court

By the initiative of Skapti, the lawspeaker, the establishment of the Fifth Court was realized just after 1,000. In his *Íslendingabók* Ari the learned has this to say about Skapti: "He established the law of the Fifth Court, and also brought about a law forbidding a slayer to announce a killing committed by anyone but himself...".

It appears that chieftains and other important people who had committed manslaughter would announce that some inferior man had committed the deed in order that they themselves would escape being outlawed and ostracized. The formal structure of the Fifth Court was such that the judges, thirty-six total, were to be appointed at the same time as their colleagues in the Quarter Courts.

Two kinds of cases were brought before the Fifth Court. Firstly, in cases of dismissal from the Quarter Courts the Fifth Court would act as a court of appeal and hand down a final judgement. Secondly, in some cases the Fifth Court had the two-fold function of serving as both a primary and a final court. Cases thus heard arose mainly from charges of malfeasance in the Quarter Courts: false testimony, bribery, as well as charges of unlawful sheltering of outlaws, the harbouring of debtors in bondage, and the sheltering of slaves and priests who had run away from their masters. The difference between the Quarter Courts and the Fifth Court (the highest court) was, of course, that there had to be a decision in either direction in the case of the Fifth Court. After the founding of the Fifth Court no major changes were made in the Icelandic Constitution for the remainder of the Commonwealth period, except that the two bishops of Iceland were granted a seat on the middle platform of the Court of Legislature.

#### d. District and Midsummer Assemblies

Earlier we talked about the district assemblies, they were held in the beginning of May, i.e., approximately one month prior to the annual meeting at the Althing. Accordingly the mid-summer assemblies were held later in the summer and their main function was to provide information about what had happened at the preceding Althing, that could affect the common man. Chieftains sharing the same district assembly also had to share the same midsummer assembly. The Chieftain who hallowed the assembly was to proclaim new laws and announce vital items of the calendar. Many other matters were dealt with at midsummer assemblies, but these gatherings never served in either a judicial or legislative capacity.

The preceding description has served the purpose of exposing the institutions that made up the Icelandic state, on a national level. Laws were declared and made, lawsuits were decided, but to carry out the decisions was left to the successful plaintiff; and the only effect a decision had, so far as the courts were concerned, was to expose the person resisting it to the penalty of outlawry – that is to say anyone might slay him, without incurring in respect to his death any liability on the footing of which his relatives could sue the slayer. But let us now look further at the characteristics of the Icelandic system – the

separation of legislative and judicial power – the customary law opposed to the statute law – the social security and insurance system, the hreppur – the private enforcement of law.

## 2. Some Characteristics.

### a. The Separation of Legislative and Judicial Power

The fact that the early Icelandic laws tried hard to keep apart the legislative and judicial power can on one hand be related to the strong sense of independence in Iceland and on the other hand the jealousy the chieftains had of one another. This made it necessary to devise a means for securing equality and for preventing the influence of any group or district from attaining predominance. In this relation the spirit of the Icelandic Constitution is unlike that of Roman; there, the intense realization of the unity of the city and the need for giving its government, the king or dictator, vast power to concentrate against neighboring enemies. That need of national defense was not existing in Iceland.<sup>4</sup>

In spite of this separation of power, the Althing was an unique body with respect to representation – it was indeed an aristocratic body, though there was no formal distinction of rank nor any titled nobility. The Althing was not a Primary Assembly, for though all free men, who wanted to, were present, only limited number of persons were entitled to exercise either judicial or legislative functions.

Neither was it a Representative Assembly, for no one was elected to sit in it as a delegate from others. Neither again was it a sort of King's Counsel, consisting of magnates and official advisers summoned by a monarch. So the Althing was an odd institution, with respect to representation, ruled by chieftains, who most probably didn't bother too much to look after the common man's interest, except, of course, if those interests were reconcilable with their own. A clear example of the former was the legislation of the tithe, which marked the beginning of a general taxation, provided the chieftains with substantial source of revenue, through their ownership of churches, and exempted themselves from taxation. Here the interests of the chieftains and the bishops were the same; what the views of the common man were, who paid the tithe, was not an issue. Additionally, there is no need to glamorize the working of the legal system too much, since it didn't run smoothly at all times. Even though the Icelanders paid a great deal of respect for the law they were a people of warriors, little accustomed to restrain their passions, and holding revenge for a sacred duty. Although it was strictly forbidden to carry arms while the meetings of the Althing lasted, many times an unsuccessful party in a lawsuit fought out the issue in a bloody battle, from which sprang again new blood-feuds and new lawsuits. A further question of importance concerns the sphere of



influence of both the law and the assemblies. Even though few of the particulars are known, there is little doubt that the chieftains wielded great power in the administration of local affairs; not unlikely did this have much more effect on the daily lives of the common man than did the doings of the assemblies. For the assemblies – at least the larger ones – left many of their decisions to be executed by the chieftains. Whether the chieftains heeded these decisions in general; whether they took the law seriously in practice; and whether they wielded their power despotically, or took counsel with those under their dominion: all of this is almost entirely unknown.<sup>5</sup>

#### b. The Common Law Tradition

Both the Romans and the English shared the idea that the law is something to be discovered more than to be enacted and that nobody is so powerful in the society as to be in a position to identify his own will with the law of the land. The task of discovering the law was in the hand of jurists and judges; or the people whom we call scientific experts of today.<sup>6</sup> The process by which the law of Iceland grew, illustrates the origin of the customary law. Law springs out of usage. The gathering of the neighbors develops into the thing, or assembly, where matters of common concern are treated. The usages become recognized customs, prescribing

the cases in which redress may be claimed and the defences by which the claims may be repelled. The forms of words grow more elaborate and come to be considered so essential that a variation from them invalidates the claim. But customs were numerous, different people brought with them different customs to Iceland, which was bound to cause conflicts and controversy.<sup>7</sup> The Icelanders dealt with this problem, of determining whether a custom was valid and binding, through the office of the lawspeaker. He provided a means for the ascertainment and publicity of the law. Furthermore, the lawspeaker is an elegant complement to a system of customary law and his function was well designed to meet and cure the two main defects in such a system, the uncertainty which existed as to what the rules accepted as law were and the difficulty which an individual desiring to take or defend legal proceedings found in discovering what the rule applicable to his case really was.

c. The Communal Unit, Hreppur

One of the most remarkable sections of the Old Icelandic law code provided for the division of the entire country into communal units or municipalities called hreppar. Unless otherwise permitted, by the Court of Legislature, each of these units had to have a minimum of twenty residents, each of them owning sufficient property to be required to pay the thing-tax. The hreppar had geographic boundaries and, as

far as can be determined, they were completely independent of the authority of the chieftains. The number of hreppar in Iceland during the commonwealth period is uncertain, but 150-170 is not an unlikely number.<sup>8</sup>

The essential function of a hreppur was to provide relief for the poor as well as to prevent people from reaching the state of such poverty. Care of the poor was primarily the responsibility of relatives, sometimes to the degree of fourth cousin, but in some instances, however, the responsibility of providing maintenance lay beyond the circle of kinship; also in order to obtain subsistence, some people had to sacrifice their personal freedom. In the event that no individual could be held responsible for the care of a pauper, and if the pauper was unable to obtain help by submitting to bondage, the necessary relief had to come from the people of his hreppur or those of his assembly district, his Quarter, or even the entire country. In this regard, however, the hreppur would be the most likely source of help. An indigent could claim relief from a hreppur if he had no relatives closer than second cousins living there. Every farmer of the district prosperous enough to have to pay the thing-tax was to provide care in direct proportion to the amount of his property. Thus, the person receiving help may well have had to move from one home to another in order to obtain maintenance. After the legislation of the tithe, 1097 A.D., the hreppur gradually built up various

sources of revenue, since a quarter of the tithe went to support the needy, but the needy apparently included all those who did not qualify as payers of the thing-tax. This category then included heads of households in the district who could not provide for their families unaided. It should be mentioned, that various precautionary measures were designed to protect the source of revenue in each hreppur against unwarranted claims for support, and any farmer who wished to move from one hreppur to another, would have to obtain a special permission from members of his new community.

Furthermore, the residents of a hreppur maintained a rather remarkable insurance system: they were jointly responsible for compensating individuals in their community for two kinds of losses. On the one hand, a farmer was entitled to compensation if he lost one-fourth of his herd of cattle from murrain. On the other, insurance would be paid to a man whose hall, kitchen or larder had been destroyed by fire. He would also receive compensation for the loss of a church or a chapel if either of these was a part of his property. Various articles in either farmhouses or houses of worship were also included. If there was enough money in the insurance fund, the compensation for each building could amount to half its estimated value. But no farmer was to contribute more than so that his contribution would not exceed  $\frac{5}{6}$  of one percent of the assessed price of the

property in question. Additionally, the same individual could not lawfully claim insurance for more than three consecutive accidents.

It seems quite likely that the insurance system was designed as an economical complement to the 'social security' system, where compensations for losses were meant to prevent those who sustained major losses from becoming paupers themselves, and accordingly becoming a burden upon the community.

The inhabitants of a hreppur conducted their own community affairs, they held three meetings annually, where at one of them they elected their district counsel. The members of the district counsel, five in number, were called prosecutors as it was their duty to prosecute individuals whose conduct of the affairs of the community was found to be in variance with its rules and regulations. The prosecutors' only compensation was a portion of the fines that accrued from cases successfully prosecuted.

Another likely role of this counsel might have been to investigate whether each farmer of the community did make account of all his tithable property. Means of tax-evasion must have been much more difficult in those days. With regard to the tithe, it may be safely assumed that if the hreppur wouldn't had received one fourth of it, the Icelanders would have followed the example of other nations in letting the church administer the tithe for the needy.

If the hreppur is compared to the guilds, which were common in the Middle Ages among most of the Germanic peoples, then it stands out that the guilds were more designed as religious brotherhoods designed to promote the common interests of their members.

Let's now restate some distinct features of the 'social security' system. Firstly, the spirit of the whole idea seems to be in somewhat contrast with the reported nature of the settlers, their independence, their opposition to any kind of oppression by a head of state, or by the state itself, e.g., in the form of taxation, and their individualistic behavior. To accept a proportional tax, as was the case, was not far from accepting the idea, promoted by socialists 'from one according to one's ability ....'. Secondly, the system seemed to have prevented some of the flaws of our present-day system; namely the problem of creating incentives for breaking out of poverty. Presently, there is no criteria as to who really is needy, but the Icelanders dealt with this problem in three ways. For one thing, the family was responsible; it should take care of its members. If no such relation existed, paupers could have to sacrifice their personal freedom by submitting to bondage, which was not a very attractive choice and must have prevented people from staying in their present level of living, if they possibly

could break out. Finally if one didn't have a family, nor couldn't help, by working in bondage, the necessary relief came from the hreppur.

A final thought on this matter is whether the Icelanders realized that, in spite of their individualistic nature, they could not rely on purely voluntary scheme to provide for the really poor. Consequently they accepted some form of local government to carry out this role. From the libertarian point of view, this question might be of interest.

#### d. Private Enforcement of Law

To carry out a court decision was left to the successful plaintiff, there existed no public responsibility for enforcement. If the defendant didn't obey the decision, he could be declared an outlaw. The person who was subject to an unlawful act could choose to do a number of things: do nothing at all; settle the case outside the courts; go ahead and prosecute. In order to understand the factors which motivated a potential prosecutor it is essential to explore the nature of the law and further the different kind of punishments that were applied.

We can say that the main purpose of the law was three-fold. Firstly, to deter people from engaging in unlawful activity. The Icelanders used maybe the most

effective way to do so, namely, by making it an involved matter; the responsibility of the whole family or ancestry. The purpose is clear; to inform the potential aggressor that an aggression against any member of the family, or a well defined group, will become a common concern and be costly to him. A modern day example might be the neighborhood watch programs, which reportedly have reduced the rate of burglaries in these neighborhoods. The point is, that expected gain is reduced, or cost raised, so there will be less criminal activity. In both cases the deterrent is increased by clearly defining territories, who is protected by whom and indicating that there will be a lot of people that take interest in seeing the criminal offender being brought to justice.

Secondly, the defendant had to defend his honor by making the offender pay the price of his action. Reputation and honor was one's most precious property and one way to 'clean' one's reputation, or to defend it, was to make sure that punishment against an aggressor was carried out. It also served a protection purpose for possible offences in the future. Thirdly, it was considered appropriate and the purpose of the law to make sure that compensations or remedies were paid if one's rights were violated.

If it so happened that an unlawful act didn't violate any person's rights directly, it was sometimes considered to be the duty of a certain man, e.g., a chieftain to pro-



secute. What has been said so far serves to suggest that there were sufficiently strong motives to carry out lawsuits. That raises immediately another question, namely whether everyone had the same chance of engaging successfully in lawsuits, i.e., to defend their rights. Although the law applied to everyone equally it is quite probable that it was nearly impossible to defend your rights against a powerful family, especially after concentration of power in the hands of few became reality. Up to that point one might suggest that people had equal chance of defending their honor and carrying out lawsuits. It should be noted that the right to prosecute was transferable, so that e.g., a poor fellow could sell the right to prosecute to the highest bidder. In all probability this was not an important code, in practice, in the Icelandic laws. It may well be that at times a successful prosecution brought with it some monetary gain, nevertheless, I would suggest that private enforcement of law would have been relatively ineffective, if it was not for the fact that people had their reputation and honor to defend, at all cost.

The bulk of laws related to punishment for unlawful activity is vast; complicated rules existed as to how a person or persons should be punished and who should receive the compensations. The details are outside the scope of this thesis, but I want to list the major categories of

punishments. To start with, the oldest punishment among men, the revenge, was permitted in certain cases, either to revenge instantly after the unlawful action or to revenge when it became clear that the guilty party, or his family, did not intend to settle the case. The instinct of revenge is, of course, the most primitive step to respond to aggression. In order for revenge to be strictly lawful one generally had to get permission from the Court of Legislature.<sup>9</sup>

Secondly, another primitive punishment was in the hands of the head of the household, since he had the power to take away the right to inheritance and to submit women to bondage for actions that violated 'moral standards'.

Thirdly, we have so called 'guilt-punishments', which were the main punishments at that time. The most severe punishment was outlawry; an outlaw was a 'persona non grata', all his belongings were confiscated, he himself was a rightful subject of being killed at any time and no one was allowed to render him any assist or shelter. Another less severe punishment was a temporary exile, three years, in addition to confiscation of his belongings. This may be called lesser outlawry. Outlawry resulted from slaying, injury, of any kind, injected upon others, rape, adultery, etc. To try to conceal a slaying was looked at as a murder which also resulted in outlawry. The less severe punishment, mentioned earlier was applied if one was e.g., found guilty

of intentions of slaying or inflicting injuries as well as attempts to disturb proceedings at the Althing. Other but less severe punishments of this nature were applied as well.

Additionally, an important punishment was remedies of monetary nature, fines, including wergeld, tort remedies, remedies for breaking a contract and other monetary outlays. One was supposed to pay wergeld, if one caused someones death by unlawful means. So outlawry and payments of wergeld where quasi-substitutes, depending on intent and whether one immediately announced the killing or not. Wergeld varied according to status, the amount depending upon factors like the importance of the person, whether he or she was a free man, freed man or a slave. A wergeld for a slave was naturally corresponding to a price of a slave and the manumission price of a slave. David Friedman estimated, somewhat ambiguously, the amount of wergeld relative to average wages. His findings, which perhaps gives a rough idea, show that a wergeld for a slave was 1.5 years wages, for a freeman 12.5 years wages and for an important man 100 years wages.<sup>10</sup> If these numbers are good indication of the true figures, it seems reasonable to suggest that if an average person had to pay a wergeld, e.g., for a free man, without substantial assistance from his family, or a clan he belonged to, a submission to bondage might have been the only way out. Another type of

fine was a fixed amount paid to the subject, who suffered from the unlawful act, or his survivors. This remedy was complementary to the main punishment, e.g., outlawry or exile.

Furthermore, a punishment could be levied in form of submission either to bondage or slavery.

Finally, it may have been, in some cases, the most efficient way to close a case by settlement, not least if the other party was a rich and powerful chieftain.

From this general description of the Icelandic law code, concerning punishments, it should be clear that the Icelanders had a very complex law code and they were genuinely concerned with one's right to defend his and his family's honor. The law code, supplemented by common beliefs, did motivate people to defend their rights, but whether this generated efficient law, is the subject of next section.

### 3. Was The System Efficient?

The Icelandic legal and judicial system, which was essentially a private system, seems to have been an efficient system, at least in the early part of the period. Whether laws are efficient or not, clearly depends on whether the results they generate are the same as intended by the lawmakers, assuming that the legal institutions can generate efficient law. In the Icelandic system such law had to

contain two qualities; to provide adequate deterrent and appropriate compensations. Earlier we saw that a strong deterrent is to define clearly who was protected by whom.

In fact, we had such well defined groups on two levels; first the family, or the ancestry and secondly coalitions between districts. The coalitions, or clans, between districts could exist due to relativeness, but not necessarily. Both served the same purpose as to signal the potential aggressor what he could expect if he broke the rights of any member of the coalition even though that member was poor. The other deterrent was the punishment, levied by the courts and enforced by the plaintiff. There were categorically two types of punishments, fines on the one hand and outlawry, exile etc., on the other. The superiority of fines, as a punishment is that the cost to the payer is balanced by a benefit to the recipient; the other type imposes only cost, but no benefits, at least not in direct terms. The same is true for imprisonment.<sup>11</sup>

An obvious difficulty related to a fine is that some might not have the means to pay it and there is evidence to support the belief that the fines were substantially high. The Icelanders dealt with this problem in two ways: firstly, the coalition mentioned above did help a member in case of paying fines and secondly, if that didn't do it or the guilty party wasn't a member of any such coalition, he could submit himself to a temporary bondage in order to pay

the fine. Related to this efficiency criteria was the clear distinction that was made between an unlawful act being of civil or criminal nature as well as on nature of intent. An intended criminal act, which the criminal tried to conceal was dealt with by deciding upon maximum punishment.

Whether the legal institutions did generate efficient law is questionable. It seems plausible that the structure of the institutions allowed for that, where beneficial laws could be legislated by enough number of marketable seats, or Godords; whether in practice it turned out to be so is ambiguous.

It, however, seems likely that the Icelandic system did operate reasonably well as long as power was dispersed and the Icelanders kept their respect for law and order. These conditions were met in the early part of the Commonwealth Period, when the cost of breaking the peace, for each party, was considerable. Later these considerations changed, balance was disrupted and social and economic turmoil began to shape. Property and wealth got concentrated in hands of few families and the church. At the same time, tenancy among farmers grew, their sense of independence disappeared and accordingly the incentive, for them, to preserve law and order diminished. The eventual decline of the Commonwealth is the subject of a separate chapter, but one cause of the decline was to my belief increasing tenancy among farmers. A prosperous class of independent farmers has at all times been one of the

cornerstones in preserving freedom and creating respect for the law in every society.

#### 4. Comparison With the Norwegian and the Irish Systems.

##### a. Norway and other Scandinavian Countries

In contrast to Norway, Iceland was not a Fylki (province). It was not an old natural growth, but rather a group of families whose tie was at first only that of local proximity and thereafter also of worship at a common temple. The Godi, though he became the centre of this group, was not a chieftain with a hereditary claim to leadership, and was not necessarily of any higher lineage than some of his thingmen. Such eminent and high-born men as Njáll (Njálssaga) and Egill Skallagrímsson (Egilssaga) for instance were not Godar. Various sources show that all of the Nordic countries, Denmark, Norway and Sweden, did operate some kind of assemblies, for all free men, in the Middle Ages. It appears that there were small district assemblies of various types and with various names, and higher regional assemblies, whose authority covered several districts.<sup>12</sup> In Denmark those districts assemblies were called land and the regional assembly landsting. In Sweden, the regional assemblies were likewise called landsting, but the regions lagsaga or 'jurisdiction'. Norwegian regional assemblies were named "logthing, and their jurisdiction logdaemi. The chief official

of the Icelandic Althing, the lawspeaker, functioned under different name and role in Sweden. He was called lagman, elected by the farmers who attended the assembly and his role was mainly to be the farmers' spokesman in dealing with the king, and also recited the law. In Denmark there was no office corresponding to that of lagman. It appears that there were no appointed assemblymen in Sweden and Denmark, as in Norway and Iceland. Neither is there any evidence of a body corresponding to the Court of Legislature (Lögretta). Legislative courts are known to have existed at Norwegian assemblies, but shared only the function of interpreting the laws with the Icelandic Legislature. The Norwegian legislative courts were different in composition and served also as a court of appeal. Although the main features of the Icelandic and the Norwegian constitutions are not far apart, the Norwegians had no general assembly nor a unified law code. Neither did the Swedes or the Danes.

In the political organization of the Nordic people, a King's power depended primarily upon two factors: the method by which he was selected, and the extent to which he could influence the proceedings and decisions of the assemblies. A king had to belong to a certain lineage, and, in addition, his accession had to be confirmed by the assembly. If there were several hereditary pretenders, then the assembly could choose among them, or could confer kingship upon all of them.



In Denmark, kings were selected at the regional assemblies. In Sweden, they were chosen at an assembly representing the people in Central Sweden and thereafter made a circuit of the regional assemblies, which confirmed their appointment. Norwegian kings were elected at assemblies especially convened for that purpose. Nordic kings had important functions, but their influence in the area of legislation was limited and they were bound by the law to the same extent as other men. But as the expanded role of kings was later realized, the independence of the legislative bodies diminished, although they retained some legislative functions for several centuries.

The question as to how democratic the Nordic assemblies were has already been answered partly. Although we know that all free men were entitled to take part, we don't know who, and how many were excluded by this rule, nor the extent to which the assemblymen acted as representatives of non-participants. As a matter of judgment there is strong reasons to believe that the assemblies were manipulated by particular persons or groups, able, perhaps, to use the assemblies – and through them the law – to serve themselves at the expense of others. The practice of how the Nordic people practiced their 'democracy' is still of interest although they did not follow any democratic ideology; they were not theorizers.

b. The Irish System

Ancient Ireland had also a peculiar system, that in some sense was similar to Iceland. The basic political unit in that system, which had no legislature nor public enforcement of law, was called tuath.<sup>13</sup> All freemen were entitled to come to a tuath, which was an annual assembly which decided all common policies, declared war or peace on other tuaths, and elected or disposed their kings. Tuaths had no boundaries neither because of kinship, nor geographic. It seems to be that the king's main function was to preside over religious activity, he had no right to administrate justice or legislate. Kings were elected by the tuath from within a royal kin-group, which carried the hereditary priestly function. The king was military leader as well and he presided over the tuath assemblies.

Justice was maintained through professional jurists, who passed on oral, and then later written, tradition of ancient common law. These jurists were not government officials, but were simply selected by parties to disputes. They served as the sole judges of the system. Their decisions were enforced through an elaborate, voluntarily developed system of 'insurance' where men were linked together by a variety of surety relationships by which they guaranteed one another for unlawful acts against them, and for enforcement of justice and the decisions of the judges.

In spite of similarities, to the Icelandic system, the differences are vast; both had no active central authority, but the Irish lacked the unified law code, the complex functions of the legislative as well as judicial institutions and the general assembly. Clearly these two systems are from different roots, their development was different under different conditions. It seems implausible to suggest that the establishment of the Icelandic Althing was the result of influences from Irish settlers or the Irish system, given the fact that their cultural as well as political influences were negligible.

#### 5. Why Was The Icelandic System Different?

What has already been said about the causes for the settlement of Iceland as well as the establishment of the Althing provides some plausible answers to the question why the Icelandic system did develop differently from that of the rest of Scandinavia. Another question can be posed: why didn't the Icelandic Republic develop into an united state, whether republican or monarchical, as did most of medieval Europe?<sup>14</sup>

First of all, we should mention the common law tradition; no person could be above the law, which provided strong sense of independence among the people. That's one reason why the early kings of Scandinavia had limited power, they were

severely constrained by the law of the land, and because of geographic location their role in Iceland would have been even more limited. Another plausible answer is also of geographic nature, namely the fact that Iceland was outside of the European mainstream; Iceland was in a way outside of the European power centre. Accordingly, the Icelanders were able to create a different system, without much interference from other nations. An experience of that sort would very likely have been interrupted somewhere along the line if Iceland would have been located in the heart of Europe. Out there, far away no one was threatened and no one cared, except the Norwegian kings, but for other reasons as we will see later.

Thirdly, there was no single great family with any hereditary claim to stand above the others, although some were more powerful than others, as we have seen. In fact, the vikings used to say that 'we are all equals' and there are reasons to believe that there was a strong sentiment of equality among the settlers. Whether there is any relation between this and the present state is not obvious, but I can inform readers that Iceland is, to my best knowledge, one of the most 'class-less' societies that exist. Basically there are no 'great' families, class division is very insignificant and all, even the prime minister, go by their first name, in public as well as private.

Finally, a strong reason can be found in the nature of the country. The island, larger than Ireland, has a vast mountainous interior, occupied by snow mountains and glaciers and lava fields as well as volcanic sand or pebbles. It was this 'desert' that most of all destroyed the chances of political unity under a Republic. Later we will see that it became the goal of the strongest families to bring Iceland under one authority.

Having introduced the Icelandic system, the settlement, the environment and the political and legal institutions that existed it should be possible to draw some lines concerning the system. In many ways it was attractive and reasonably stable to start with, but whether this system constituted something outstanding by any measures, is hard to tell. Did, for instance, some of the settlers come to Iceland explicitly to live under this 'great' order; did the word spread out in Europe that there was a far more attractive system in Iceland than elsewhere, and if so, why didn't more people come? These are interesting questions but plausible answers are hard to come by. A combination of reasons explain the settlement, maybe one of them was attractiveness, which might, however, have been cancelled by harsh environmental conditions and the fact that most of Iceland was claimed very soon. All speculations on that matter must be left to the individual reader.

Notes

1. The North Quarter was allotted three new chieftains, bringing the total in that Quarter to 12. The others had 9.
2. Jón Jóhannesson: A History of the Old Icelandic Commonwealth, University of Manitoba Press, 1974, pp. 63.
3. Einar Arnórsson: The Court History of the Althing, Reykjavik 1945, pp. 53.
4. Lord Bryce: Studies in History and Jurisprudence I, 1901, reprint 1968 by Books for Libraries Press, N. Y., pp. 285-287.
5. Sigurdur Lindal; "Early Democratic Traditions in Nordic Democracies", Nordic Democracy, Copenhagen 1981, pp. 15-16.
6. Bruno Leoni: Freedom and the Law, D. Van Nostrand Company, Inc., Canada, 1961, pp. 10.
7. Sigurdur Lindal: Supra 5, pp. 19-21.
8. Jón Jóhannesson: Supra 2, pp. 83.
9. Ludvik Ingvarsson: Punishments in Iceland - in the Commonwealth Era, Reykjavik, 1970, pp. 49.
10. David Friedman: "Private Creation and Enforcement of Law", Journal of Legal Studies, Vol. VIII, March 1979, pp. 413.
11. Outlawry or exile had the benefit of being deterrent as well as preventing repetition of the crime.

12. Sigurdur Lindal: Supra 5, pp. 17.
13. Murray Rothbard; For a New Liberty, The MacMillan Company, 1973, pp. 240-242.
14. Lord Bryce: Supra 4, pp. 298.

## CHAPTER IV

### Commerce and Economy in the Commonwealth Era

#### 1. A Short History.

From the very start agriculture was never a very rewarding industry in Iceland, a far more successful alternative to using land for agriculture was to put livestock on it. The two most important kinds of livestock were cattle and sheep. From cattle came the important foods of meat, milk, butter and cheese, as well as hides for clothing and vellum. Sheep similarly were a source of various food products, but they were especially valuable for their wool. Wool was braided into cloaks and spun and woven into a coarse cloth, the Vadmal; the fabric was used not only for clothing, but for tents and sails. Horses were the chief means of travel and transport, and were therefore essential for every farm. In pagan times people ate horse flesh, but this was prohibited after Christianity was legislated, although some compromise was reached with the heathens that the eating of horse flesh would be permitted for some time.

Other significant food products of Iceland were obtained from the waters – from the numerous rivers, fresh



water fish, especially salmon, and from the sea, not only cod and other saltwater fish but whales, important for their meat and blubber.

Iceland also possessed other natural resources that were useful to its inhabitants. Bog iron, smelted from hematite ore, was forged in Iceland. Salt played a small but vital part in the economy. It was produced by evaporating sea water. And the very soil itself, combined with grass root as sod, might be classified as a resource for Icelanders who had no trees large enough on this island for building purposes. Sod-built houses were most common in Iceland at the time. Icelanders, with utilization of their resources in this manner, might have been able to satisfy their basic requirements for food, clothing, and shelter with little if any help from overseas. But if they wanted to enjoy a more civilized life than their island alone could provide, they would have to rely on imports paid for with exports.<sup>1</sup>

## 2. Major Trading Goods.

### a. General Exports

The most important exports were the sheep products of undyed tweedlike vadmál and cloaks called röggvarfeldir and vararfeldir (feldir means furs). Marketable furs were used as overcoats, and apart from being an important commodity, they were a legal form of currency both in Iceland and in

Norway. In Norway they could be used for payment of land-fees and in Iceland they were acceptable as tithes, except for the share which was taken exclusively by the Church.<sup>2</sup> The fact that vadmál was used as a standard of payment testifies not only to its importance here, but also its acceptance abroad in exchange for other goods. Vadmál and tufted cloaks were apparently so widely exchanged in Norway, the most important foreign country with which Iceland had commercial contact, that they must have been found on virtually every ship arriving there from Iceland. While fish was not an export commodity during the Commonwealth, there is a slight possibility that some whalemeat was sent abroad.<sup>3</sup>

Apart from these essential goods, products of a luxurious or semiluxurious nature could be used as export goods. They included artic fox and seal skins, but most important were falcons. Iceland was well known during the Middle Ages as a source for these birds, in demand abroad for hunting. In these early times, and as long as falconry continued to be practiced, Icelandic falcons were considered priceless possessions in Europe's royal houses.

The only mineral that had any use in the Icelandic export trade was sulphur. In all of northern Europe only volcanic Iceland had it, and, as a product useful in alchemy and eventually warfare, the foreign demand, though limited, might have been rather advantageous to Icelanders.<sup>4</sup>

## b. General Imports

With important regular exports limited mainly to woolens, Icelanders had to rely essentially on them to trade for foreign goods they needed or desired. Since they were never able to grow adequate amounts of grain for themselves, large amounts had to be imported. With a lack of sizeable local timber and its by-products such as tar for preserving ships, they had to import these as well. Lumber was shipped in large quantities from Norway to Iceland throughout the Commonwealth Period. Icelanders also were unable to provide themselves with certain luxuries such as fine cloth and, after the legislation of Christianity in 1000, articles needed for religious services and for church decorations.

Malt for brewing of ale was imported, chiefly from Norway, other food material included honey, sugar and flour. In the latter part of the Commonwealth Period limited quantities of such beverages as wine, mead and beer were imported, mostly from Germany.

In sum, despite unfavorable living conditions, many Icelanders during most of the four hundred years following the settlement were able to support themselves surprisingly well. A few natural resources were capable of providing not only sustenance but an exportable surplus. Icelanders thereby had some means for obtaining not only supplementary

necessities from abroad, but also many of the luxury wares to be found in the rest of Europe.

### 3. Major Trading Partners.

Throughout the time of the Commonwealth, Iceland depended upon Norway as its main supplier of imports and main customer for exports. To some extent this choice can be explained in noneconomic terms, for cultural affinities between the countries were always strong, and at least during the early period of Iceland's history, so were those of kinship. But these ties provide only indirect reasons for the Iceland-Norway commerce, the direct ones are economical.

Until about 1000 Norway, like Iceland throughout the Middle Ages, could be characterized generally as a country without any real towns. The first obvious sign that this situation was changing came when King Ólafur Tryggvason (995-1000) founded Nidaros (Trondheim) about 997. What distinguished Ólaf's marketplace from others was its greater permanence. The king made it his residence, maintained a large garrison there, and urged others to build houses there. A sizeable group of administrators and soldiers, together with others such as servants and artisans would cause a number of merchants to make the place their permanent headquarters also, having to provide continually not just food

materials grown in the vicinity, but foreign needs and luxuries as well. In other words, Ólaf's marketplace would have had some of the characteristics of a small town, and there were other towns established as well. St. Ólaf founded Sarpsborg about 1016; his half-brother Harald the Harsh-Ruler, established Oslo about 1050 and Haralds' son, Ólaf III the Quiet, founded Bergen about 1075. All these towns, and more, became commercial centers.

Of all Norwegian cities, Bergen prospered most after mid-11th century mainly because of its location. It was located on the coast and yet within convenient access to the agriculturally poor interior via Hardanger Fjord to the south and Sogne Fjord to the north: it would have been at a natural point of distribution for grain grown elsewhere in Norway and a natural collection point for its own area's livestock products to offer in exchange. The new town inherited not only its district's earlier function in domestic trade, but it also became Norway's most important center for a foreign commerce that was mainly directed towards the North Atlantic islands and increasingly toward grain-rich England. These advantages could not be matched by any other Norwegian port (See chart no. 7; Major North Atlantic Trade Routes, Currents and Winds).

Norway's first regular trading partner of importance was Iceland. The trade was born of an obvious Icelandic

desire to gain such Norwegian products as grain and timber and a somewhat less obvious Norwegian willingness to accept mainly Icelandic woolens in exchange. Demand for this Icelandic export was real enough, for raising cattle was much more important than breeding sheep throughout Norway.<sup>5</sup> And Norway's significant population expansion after about 950 meant that its desire for supplementary Icelandic woolens would have increased correspondingly. But for the Iceland trade there was a less happy aspect to Norway's population growth: it also meant that Norway's ability to provide Iceland with native grain eventually decreased. Even aside from that, there was another threat to trade: Norway had only a limited capacity, after all, to absorb the increasing amounts of woolens Icelanders would be using in exchange for products they needed for their expanding numbers. Thus when Norwegian commerce with the Continent and especially with England enabled it to import supplementary grain and to open additional markets for Icelandic woolens, this danger to dual trade was avoided.<sup>6</sup>

About 1022 Norway and Iceland made what amounted to a reciprocal commercial agreement, one of the earliest between two countries not only in Scandinavia but also in all of northern Europe. To take full advantage of this profitable agreement Norwegians would have been anxious to promote their trade connections with other countries, even if they had had

no other reasons to do so, in order to obtain extra grain for Iceland in exchange for woolens from there. And the agreement would enhance Norway's position as commercial intermediary: trade by Icelanders at non-Norwegian ports was discouraged because they, as it turned out, were not able to gain similar rights at those places, and, because of the agreement, outsiders would not trade with Iceland as profitably as Norwegians.

The immediate cause of this commercial agreement, which was endorsed by the Althing, however, was probably due more to political than to economic considerations. Ever since Iceland was settled, Norwegian kings had tried to exercise at least a nominal political control over the island which could, and did later, easily lead to outright annexation. Maybe to cool the pressure, the Icelandics entered this agreement.

According to the agreement's terms, an Icelander when in Norway had the same legal standing as a free Norwegian, though if he stayed there for three years his social rank and attendant rights were then to correspond to his actual social standing. They also had some other privileges which almost all were of direct benefit to Icelandic merchants.

An important promise was the freedom to leave Norway at any time, for not long before, in 999, King Ólafur Tryggvason had forbidden Icelanders from leaving the

country in an effort to force them to accept Christianity. Though in later times other prohibitions against leaving Norway were made as well. In return for these privileges, Icelanders had two fairly heavy responsibilities; that of helping to defend Norway in wartime if they were in the country and of paying of the landaurar (land-fees).

To balance the privileges and responsibilities for Icelanders who came to Norway, the c. 1022 agreement stipulated that the king and his subjects should benefit from and honor certain rules in Iceland. If the king had a legal case raised there, it was to be judged without any special privilege. Additionally, Norwegian subjects were allowed the same rights in Iceland as Icelanders themselves.

A final point should be made on the Norway-Iceland trade. For the trade to exist, as indeed with any foreign trade Iceland had, the value of the products exchanged on each side usually had to be in fairly exact balance, for it was essentially a trade of barter. Quite apart from an Icelandic inadequacy of silver, and even more so of gold with which to make good an excess of imports over exports, there was the far more important consideration of Iceland's geographical isolation. When an Icelandic or Norwegian merchant made an infrequent, long and dangerous trip to the other's country, both legs of the journey had to count. A merchant had to acquire goods of the other land by



exchanging a like value of his own wares; he would not make the voyage abroad merely to sell his goods for silver or gold, even if the metals were always available, and return home with his ship empty of cargo.

During most of the Commonwealth era Icelandic woolens were sufficient to balance Iceland's need for Norwegian grain and other goods. Since grain, however, was far more of an absolute necessity than woolens, there was the lurking danger for Icelanders that if a trade balance with Norway could not be maintained, and consequently if the trade declined, they would suffer far more than Norwegians. The realization of this danger came in the thirteenth century, and it was a significant loss of Icelandic independence. Had their non-Norwegian trade been more successful, Icelanders might have been spared many of their thirteenth-century economic problems, that undoubtedly contributed considerably to the fall of the Commonwealth. That aspect will be dealt with later in this chapter and then reintroduced when we discuss the causes of the decline, and eventually loss of independence of the Icelandic people.

The Norwegian trade was clearly of greatest importance for the Icelanders, although they did exercise commerce with other nations. Firstly, the Icelanders had infrequent trade with Denmark; the reasons for the probable absence of Danish traders in Iceland must have been similiar to

those that discouraged Icelanders from trading in Denmark. Danes had easier access to most products Iceland could offer; indeed, unlike Norwegians, they probably produced all the woolens they needed themselves. If Danes had wished to engage in the trade for profit, they would have been discouraged by having to pay the Icelandic toll, which was applicable to them but not to Norwegians. This Norwegian competitive advantage would make trade with Iceland lose even any small attraction it might have held for Danes. Ordinarily Norway must have acted as the intermediary in providing any desirable Icelandic products to Denmark, or Danish products to Iceland.

Secondly, the trade between Sweden and Iceland was not significant. As in the case of Danish-Icelandic trade, the lack of commercial privileges in each other's country discouraged direct trade between Icelanders and Swedes. Norway thus would usually have to act as intermediary for any trade between them.

Thirdly, Icelandic trade with other North Atlantic Settlements should be mentioned. Sharing a common culture and similar environment the pioneers who settled in the Shetlands, Orkneys, Hebrides, Faroes, Greenland and Iceland must have had a strong sense of community. One of the early benefits of their communal sense was that it encouraged trade. Yet paradoxically the very similarity of their

living styles and natural surroundings meant that a long-lasting trade among them could hardly be maintained because they produced and required so many of the same goods. Eventually either the groups of more isolated islanders surrendered to their natural loneliness, keeping only a weakened sense of community with each other by mutual trade with Norway, or those living on islands close to Britain and Ireland broke away from most of their earlier Norse connections and adopted an identity and trade with their nearer neighbors.

Finally, Icelanders had commerce beyond Scandinavia itself and the North Atlantic Norse islands. The most important partner was England, less so Ireland. While Iceland may have had some commercial contact with certain continental countries or areas – France, Germany, the southern Baltic area and Russia – much of the evidence concerning it is highly circumstantial.

#### 4. Pricing and Participation in Trade.

During the Commonwealth period, we have seen that the Icelandic 'government' was dominated by chieftains who used paganism and Christianity to support their authority and augment their wealth. These men, together with those closely associated with them, were able to participate most actively in trade and to exercise a most decisive influence on commercial practices.

Around the beginning of the 11th century, land probably became a better investment because the shortage of free labor would have grown less extreme as the population expanded. Most increasing families would not be able to easily provide for themselves by acquiring more farmland because after 1000 it was becoming limited and expensive. As greater demand increased the price of land, resulting from greater interest in land on the behalf of wealthy individuals, some Icelanders, maybe small landowners, had to seek employment elsewhere to support themselves. And some of these poor families would deplete their already small landholdings by succumbing to the temptation of selling part of their land for high prices. Accordingly, the chieftains' desire for foreign trade was largely responsible for the volume of trade. If they saw their capital yielding greater return by buying land, trade would suffer since it was one of the most important prerequisites for trade to own a ship, which would maybe not be bought when land became more attractive. In some sense ships and land were substitutes. In fact, Icelandic ownership of ships did dwindle as the Commonwealth passed, as will be discussed in the end of this chapter.

In addition to chieftains and their close relatives, there were others who had means of their own to trade abroad. The two Icelandic bishops, though usually related personally to chieftains, had independent episcopal incomes that were quite large after the end of the 11th century,

and they did in some instances participate in trade. Episcopal estates would have produced a considerable amount of exportable surplus, and, in addition, the bishops gained substantial revenue from tenants on their land and from their share of the tithe. Since by the middle of the 12th century, these bishops, like other clergy were under strict order not to engage in trade for personal profit, their interest in buying land increased as well.

Additionally, some farmers who were not part of a chieftain's family, like those wealthier members of society, also might have had the means and desire to trade their surplus animal products abroad themselves. Without more than medium-sized parcels of land, though, they would be unlikely to accumulate enough of a surplus to make a voyage worthwhile as often as larger landowners. When these medium landowners did sail abroad, they almost never had a ship of their own, or even a partnership in one; instead, they usually would have served as crewmen, being allotted a share of a ship's cargo sufficient for their limited needs.

Finally, Medieval Iceland never had a merchant class, like Norway did, those who made their living exclusively from trade. Even members of large landowning families, who would have had more means for trading abroad than others, and who before about 1050 would have seen foreign trade as

both a necessity and good investment, would have regarded it as only a supplement to their normal farming activities. They could not have become professional merchants without neglecting supervision of the very land that made their trade possible. Also, the prolonged and continuous absences from Iceland necessary for a merchant would have helped undermine the political power of these chieftain families.

The lack of professional Icelandic merchants during the Commonwealth is reflected in an absence of towns. Domestic trade was mostly carried out at fairs or other temporary marketplaces instead. In addition to these occasional fairs, markets were more frequently held wherever and whenever at least one merchant ship cast anchor.

But what about pricing and the standard of measurements? Since the 'government' of Iceland lacked a central executive power, the trade of the country was subject to only limited and intermittent administrative control. But on various points it was necessary to introduce laws and regulations, some of which were enforced by the chieftains, who may have had some responsibilities in matters relating to trade. During this period, in question, the standardization of weights and measures posed a major problem. Although people tried to apply the standard weights correctly, the

technology of the day was too primitive to allow a high degree of precision, and this gave unscrupulous individuals the opportunity to resort to dishonest practices.<sup>7</sup>

Occasionally the rulers of the land took certain steps to fix prices, since there was always the danger that some people might attempt to charge exorbitant prices for their goods. Among the Scandinavians it appears to have been an ancient convention that chieftains had the right to control the marketing of goods, and they did exercise that right when they could. As was customary among rulers in other countries, the Icelandic chieftains claimed for themselves the right to make purchases from traders ahead of other customers. In exchange for this privilege the traders were to enjoy the protection of the chieftains. The law book, Grágás, did though contain a complex law on pricing and commerce, where the country was divided up into districts, and each district observed uniformity in the setting of prices. These districts were called 'boundaries', and in each district boundary there were three wardens, who were elected, and so named because they had the responsibility of presiding over trading in goods brought in by ships. They were to set prices on Norwegian merchandise. At the end of the 12th century, when the economic decline was becoming evident, the Icelanders tried to impose price controls on imports as one of the remedies. One of them

was to impose maximum prices on certain vital goods. A list of controlled prices was produced at the Althing and it was supposed to be applicable over the whole of Iceland. What, in fact, the Althing did was to raise the value of Vadmál, when demand of Vadmál abroad was at the same time declining. That arrangement doesn't make much sense and if enforced would only have resulted in fewer merchants coming to Iceland from abroad. It is likely that these maximum prices were, in fact, never strictly enforced, so the merchants kept on coming to Iceland, which might have prolonged the time the Icelanders kept their independence.<sup>8</sup>

Although silver was not mined anywhere in Scandinavia during the Viking Age, large quantities were brought by Vikings and traders to Iceland. Whether it was uncoined or coined, the silver had to be weighted, since the coins came in various sizes, even though they were minted under the same sovereign. As long as they consisted of reasonably pure metal, however, coins used in one country were negotiable everywhere else. Accordingly, Iceland, like most parts of Europe at the time, based its monetary values upon silver.<sup>9</sup> To a large extent this basis was only theoretical, since a great deal of Icelandic trade, both domestic and foreign, consisted of exchange by barter. But whether any silver was actually involved in an exchange or not, the value of any item traded had to bear some relationship to this



monetary standard. Vadmal<sup>1</sup> served as another monetary standard, always valued in terms of silver. Vadmal<sup>1</sup> served this purpose well. Its production was the most important industry during the Commonwealth and probably during the period of settlement as well. It was readily available and, as the mainstay of the island's foreign trade, could be easily exchanged abroad. As an important item of trade and as a monetary base, it was necessary for measurements of vadmal<sup>1</sup> to be standardized. The basic unit of measurement was the Öln<sup>''</sup> (pl. alnir), originally meaning the length of the under part of the arm from behind to the fingertips. A shorter Öln<sup>''</sup>, extending only to the end of the thumb, later became more common. About 1100, the long Öln<sup>''</sup> was set at about 22" (about 56 cm), and the short (or legal) Öln<sup>''</sup> at about 18" (about 46 cm). Although used as weights, the eyrir and mörk<sup>''</sup> were used as monetary designations as well. A piece of Vadmal<sup>1</sup> six alnir long by two alnir wide corresponded to a legal eyrir (legal ounce). Although there is no sure proof, it is likely that at least during the period of settlement one legal eyrir (pl. aurar) was worth one eyrir of impure silver, and two legal aurar were equal to one eyrir of pure silver. Probably by about 930 this ratio was changed, so that four legal aurar were worth one eyrir of impure silver, and eight legal aurar equalled one eyrir of pure silver. The reason for this change could be either that Vadmal<sup>1</sup> declined in value after

its manufacture became more common, or that silver rose in value due to an increasing need for the metal in trade and an inadequate supply. Probably it was a combination of both. The 8:1 correspondence between the number of legal aurar to one eyrir of pure silver lasted until shortly before 1200, when the ratio was set at 7.5:1, a 6 percent change to the old 8:1 ratio.

The cow or the value of a cow also served as a unit of value, and had done so since remote antiquity. Rigid specifications were set for the cow used as a standard of value, but cows could hardly be used as a means of payment except locally. Trading in more distant places depended on the more manageable medium of silver or vadmál. Prices of all domestic animals, as well as foods valued on the basis of grain-standard, and of wool and cow hides, were calculated in terms of a standard cow.

In sum, the Icelandic trader of the medieval commonwealth was most often a chieftain or a member of his family because of the wealth of his class; he was more likely to participate in trade before about 1050 than afterward; and he gave only part of his attention to trade. Unrivalled by merchant guilds, he sold his wares in Iceland either at fairs or marketplaces because towns didn't exist. And, although he was not bound by any law if he was sufficiently powerful, the Icelandic trader found it commercially

advantageous to himself and to other islanders to agree upon common standards of weight, currency, measurement, and, within limits, prices.

#### 5. Trends in Trade.

Between Iceland's settlement and its annexation by Norway, the strength of its foreign trade depended mainly upon the activity of its 'merchants', the demand for its exports abroad and the ability of foreigners to provide its necessary imports. Foreign trade during the settlement period established many traits that were to last for centuries, and the lessons learned then were largely responsible for the commercial prosperity attained during the first century of the Commonwealth, more specifically, from about 930 until about 1022. After 1022 Icelanders became less active as merchants abroad; but the foreign market for their exports expanded and their supply of imports remained adequate until almost the end of the twelfth century. From about 1180 until the end of the Commonwealth, foreign markets were less able to provide Iceland with necessities and to absorb the island's products. A solution to the resulting economic hardship may have seemed to be for Icelanders to submit to annexation by Norway.

The volume of Icelandic imports during the Age of Settlement, lasting from about 870 until about 930 was probably unusually large relative to population. During this early age, Icelanders' sheep had not yet grown numerous enough to provide all the woolens needed in exchange for numerous imports. To make up the difference between what they needed from overseas and what woolens from Iceland they could use in trade, Icelanders would have to rely upon any silver, gold, or other valuables they might have acquired. Icelanders of the time could not rely on others to bring necessities to their recently established and isolated colony. The seas were too hazardous and unexplored for many Scandinavian merchants to be willing to risk the possible loss of cargoes, ships and lives. Still less would others risk the voyage for providing only charity. Icelanders, who needed foreign goods far more than foreigners needed theirs had to assume the responsibilities of trade themselves; in a way trade was carried out more from motives of necessity than of profit. Of course, the two drives were interwoven, but the more or less direct barter methods of the time emphasized the aim of immediately fulfilling needs and desires. Thus during this early period Icelanders played the principal role in the Icelandic-Norwegian trade.

Icelanders had been fortunate in finding Norway a satisfactory trading partner during the century following

the Age of Settlement. Yet, the very success of that trade also could lead to an unfortunate dependence. If unusually bad weather greatly reduced Norway's grain harvests, Norwegians might suffer from reduced supplies, but Icelanders, if they had no other source for grain than Norway, might undergo utmost deprivation with hardly any at all. Then too, there was the danger that at times all Icelandic merchants might be forbidden from leaving Norway for reasons of state.

One of the great advantages of the trade was, of course, that Iceland's main export products, upon which it relied so greatly for Norwegian imports, was safeguarded from foreign competition during this period.

When Icelanders made the earlier mentioned trade agreement with Norway, about 1022, they might well have felt triumphant, overcoming some of the major difficulties that had marked their previous trade with Norway. Yet, even then or soon after, their participation in the trade would begin to decline and that of Norwegians to advance.

As Icelanders became less active as merchants trading abroad, in the period c.1022 – c.1180, and yielded their dominance in the trade to Norwegian merchants, they also entrusted most of the responsibility of their vital trade to these Norwegians. When Icelanders did this, not just their economic health, but also their political independence

was endangered. These threats were manifested during the final decades of the Commonwealth. One reason, mentioned earlier, Icelanders became less active in foreign trade during the 11th century was that investment opportunities at home were growing more attractive. Land investment was much safer, and trade was becoming less necessary for Icelanders because Norwegian merchants began coming to the island more regularly and in greater numbers. As Icelanders relinquished direct participation in overseas trade, higher prices would have to be paid for imports and lower ones received for exports; these were relatively small sacrifices for chieftain families who were favored by increasing wealth gained from additional land. Nevertheless, as the wealthiest and hence most important group of Icelandic customers for imports, and as the main distributors of those products at least indirectly to other islanders, chieftain families would have to try to prevent foreign merchants from demanding excessive profits. This they hoped to achieve with their customary rights and their control of legislative and judicial procedure.

Conditions for trade were ripe during the early 11th century, not only for the emergence of a Norwegian merchant class, but also as the rapid success of the exemption privilege of St. Olaf's<sup>1</sup> agreement. Indeed this helps to show why a much stronger Norwegian participation in the trade with Iceland was possible than before.

It appears that the third period in the Icelandic-Norwegian trade was from c. 1180 – c. 1264, but this period was in fact the beginning of the end. In fact it appears, that beginning about 1180, because of conditions abroad and to some extent in Iceland itself, simultaneously and mostly independently essential imports and nonwoolen domestic products were rising in price on the one hand, and, on the other, the value of vadmál and most other woolens was falling. These tendencies were to continue throughout the remaining decades of the Commonwealth, becoming ever more noticeable as time passed. Hand to hand with domestic disorder and lack of peace, the economic decline was rapid. The difficulties of finding suitable places other than Norway to trade with and, even more so, of reestablishing a sizeable trade of their own with any country, were very great for Icelanders of the period and perhaps, in the long run, insurmountable. Even if they had been able to enjoy the same commercial privileges abroad as Norwegians, and even if they had been able to find good sources for grain and markets for their woolens, problems of more domestic nature would greatly hinder a revival of trade on their part. The major difficulty was their lack of ocean-going ships; only two Icelanders are known to have owned ships between 1200 and 1264. Because Norwegians had come to dominate their commerce during the middle period of their foreign trade, Icelanders had allowed their ocean-going ships to

fall into disrepair, and they had had little reason to acquire new ones. If they wished to start trading abroad again in considerable numbers they would have had to do so on Norwegian ships.

By 1262, Iceland was so weakened by economic distress and internal political disputes that it was finally persuaded to allow the Norwegian annexation that King Håkon<sup>1</sup> had been attempting for the past several years. The decline and the ultimate fall of the Commonwealth is the subject of chapter five.



Major North Atlantic Trade Routes, Currents and Winds.

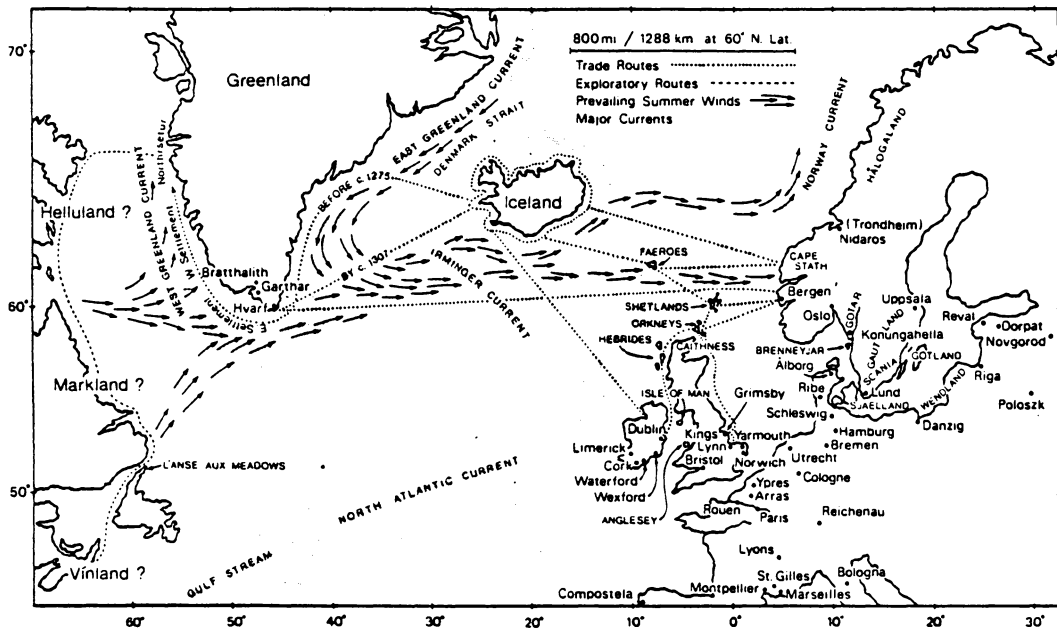


Chart 7

## Notes

1. Jón Jóhannesson: A History of the Icelandic Commonwealth. University of Manitoba Press, 1974, pp. 288 and on.
2. Jón Jóhannesson; Supra 1. pp. 310.
3. Bruce E. Gelsinger; Icelandic Enterprise. University of South Carolina Press, 1981, pp. 13.
4. Sulphur's military function appeared after the Third Crusade (1187-92) when Europe discovered how to manufacture Greek-fire, requiring sulphur, naphtha, and saltpeter.
5. This was true even in Vestlandet where sheep were preferred somewhat more than elsewhere because they were better suited to make use of the small amounts of grassland on the numerous, small, and unhabitated islands in fjords or along the coast.
6. It is clear that large quantities of Icelandic vadmál were imported to Norway during the Middle Ages, some of this was for use in Norway, but a big part was probably re-exported.
7. Jón Jóhannesson; Supra 1. pp. 322.
8. Bruce E. Gelsinger; Supra 3. pp. 151.

9. Gold did not play a significant role as an exchange medium in Iceland. When mentioned as a value of account, it was usually to avoid confusion with pure and impure silver. It was worth eight times the same weight of pure silver. Gold itself was rare in Iceland, and it was used mainly for ornamental purposes.

## CHAPTER V

### The Decline and Fall of the Commonwealth

#### 1. A Short History.

Iceland's geographic position in the North Atlantic, far away from other lands, has in many ways shaped the history of the Icelandic nation from the time of the settlement to the present day. Living on an island, the Icelanders have been spared all the complicated problems which often beset nations sharing common boundaries. Border disputes have never existed and jurisdiction over coastal waters could not be questioned until foreign fishing fleets began to appear at the beginning of the 15th century. Until the 15th century, Iceland lay outside the international sea routes except for the Greenland route, which was of no strategic importance to Iceland until about the close of the 12th century when the exporting of Icelandic sulphur was beginning to have some significance for military use in the northern and western parts of Europe. Except for its sulphur mines Iceland has no mineral resources. In general, the country had little to offer other nations which, until the 14th century, were

only casually interested in Icelandic fishing grounds. For these reasons there was little or no danger from abroad. Moreover, the sea between Norway and Iceland was not considered to be navigable by ordinary warships, nor had any other nation outside Scandinavia acquired sufficient skill in navigation to pose threat to Iceland. Without this isolation, the small Icelandic nation could scarcely have maintained its independence for so long a period. Despite the geographic remoteness of Iceland, various kings of Norway are known to have devised plans to invade the country or to impose their authority on it by other means, even though for a long time such designs came to nothing.<sup>1</sup> King Ólafur Haraldsson, later known as St. Ólafur, concerned himself a good deal with the affairs of the Icelanders, especially with such matters as their observance of Christian traditions, and he made various friendly overtures to them. At this time many Icelanders officially became members of royal household, among them many prominent figures, a custom that was practiced for centuries. Other Norwegian kings showed interest, but there are no signs that other monarchs tried to impose their authority on Iceland until King Hákon Hákonarson and Earl Skuli came to power, at the very time when the Commonwealth was in its death throes.

In order to analyze the decline of the Commonwealth we must start by examining the developments of power of

chieftains over this commonwealth period.

Until the 12th century the authority of chieftains (godar) appears to have been fairly stable. Occasionally conflicts arose between the chieftains over power, wealth and prestige, but none of these men ever entertained the idea of imposing his authority upon large areas, much less upon the entire country. It appears that the leaders of the country held to the idea of carefully maintaining a balance of authority between various chieftaincies, a principle which had already developed at the time of the founding of the Althing. The balance of fear and jealousy we might call it. The power of a chieftain was proportionate to the number of his thingmen (liegemen) and thus it always remained a distinct possibility that those of the chieftains who surpassed their colleagues in wealth, nobility of origin, ingenuity, or administrative ability would attract thingmen from other chieftains, since every individual was free, at least in theory, to transfer his allegiance from one chieftain to another if he felt that such a move would be to his own advantage. From the early part of the Commonwealth, there is only one clear example of a chieftain's having accumulated power beyond ordinary limits.<sup>2</sup> Just as a certain chieftain might win over a disproportionately large number of liegemen, other chieftains, lacking in administrative abilities, might be expected to lose a large enough share of their

following to be unable to provide a sufficient number of liegemen for the judiciary and other official duties at the regular assemblies. In such a contingency they had to rely on the liegemen of other chieftains from their own assembly district. Ultimately, they might be left with no alternative but to give up their chieftaincies.

In the 12th century there are, however, clear indications of a gradual take-over of chieftaincies, or parts of chieftaincies, by relatively few individuals or families. There are a number of reasons for this development other than those already discussed.

During the heathen era the people attending a temple were also the followers of the priest-chieftain (god) in charge of it, as everyone would normally want to attend the temple nearest to him. As a result, there was little danger that the chieftaincies would extend over large areas or that the chieftains would have liegemen in remote districts. It appears most likely that in this early period, chieftaincies, as well as assembly jurisdictions, were more or less strictly localized. Accordingly, the temple may be said to have imposed limitations upon the following of a chieftain. With the legislation of Christianity, however, these limitations were completely removed. As the steady accumulation of wealth by churches continued, secular chieftains and influential farmers and landowners obtained control of an increasing amount of property; some

of them are known to have been in charge of more than one church estate simultaneously, where they operated large farms. Control of church estates added greatly to the power of some secular leaders. It is uncertain, however, whether the acquisition of control over churches and church property played a major part in upsetting the balance of power that had existed among the chieftains. In fact, it would appear more likely that internal warfare coupled with the lack of proper administration of justice were the main reasons for the erosion of political authority which gradually took place.

The period 930-1030 has been called the Saga Age, as most of the Sagas of the Icelanders are supposed to have taken place during this era. Armed conflicts were common and it was an era of violence and bloodshed as in other Scandinavian countries during the Viking Age. After 1030, however, Iceland grew more peaceful. The first generation of Christian Icelanders had then reached maturity and the improvements in judicial administration, introduced by Skapti the lawspeaker, were beginning to take effect. Although there were some serious conflicts earlier, it was not until after the middle of the 12th century that civil unrest and warfare in Iceland reached sinister proportions, and from then on the hostilities continued with only brief periods of truce until the end of the Commonwealth Period.



Disrespect for law and human life increased steadily even among the noblest of men. In these times of almost continuous civil strife, the lack of public safeguards caused people to seek support from individuals who wielded the greatest power. By the same token the less powerful chieftains sought protection from their more powerful colleagues. Moreover some bishops, such as Thorlákur Thórhallsson and Gudmundur Arason, were in part responsible for the growing number of incidents in which people defied the law. Bishop Gudmundur Arason, who was born 1161, received his consecration as a bishop of Hólar See 1203, but Hólar is located in the northern part of Iceland. Throughout his lifetime Gudmundur became involved in many serious disputes with secular chieftains, armed conflicts and even killing took place, and through Gudmund's enormous power it became clear that the episcopal power was stronger than the secular. In his dealings with the chieftains, Gudmundur never showed any regard for the law of the land, and in this way he, as a public figure, played a big part in the undermining of public respect for the law code of the Commonwealth.

Additionally, the increased interference in Icelandic affairs on the part of the Norwegian authorities, the king, the earl, and the archbishop, was a direct consequence of Gudmund's disputes. Furthermore, the bishop did more than

most others to promote among his countrymen superstition and belief in supernatural phenomenon.

It is easy to understand why Bishop Gudmundur Arason has been singled out as one of the most damaging leaders in the history of Iceland.

In brief, however, one may say that shortly after 1220 the main share of the political power in Iceland had been taken over by six families, or clans. Let's outline who these families were and what was their territory (Genealogical Tables I-VI at the end of this chapter contain a summary of both kinship and internal ties of kinship which bore directly upon the political alignment of the six families).<sup>3</sup>

The Svinfellings; their forfather was Sigmundur Thorgilsson of Svinafelli, which is sited in the southeast part of Iceland. The Svinfellings appear to have gained control of the entire East Quarter.

The Oddverjar; their forfather, Saemundur the learned, and other members of this family were both known as scholars and popular chieftains. Their main foothold was in Rangá-<sup>1</sup>thing, in the south part, South Quarter, of Iceland.

The Haukdaelir; it appears that members of this family were the sole wielders of power in the Árnesthing, in the south part, South Quarter, of Iceland, from early 12th

century until the very end of the Commonwealth Period.

The Sturlungs; Thórdur Gilsson, the forfather of the Sturlungs, was among Iceland's most prominent men. Thórdur lived in Dalasýsla, in the west part, West Quarter, of Iceland. His sons and grandsons later became the main shakers and breakers of the commonwealth. Sturla Thórdarson, the son of Thórdur Gilsson, got his chieftaincy when his father died, and through feuds with his neighboring chieftains he managed to increase the number of his supporters, but he kept his authority within the limits of one chieftaincy. On the other hand, his sons gained so much power that no one in the early history of Iceland could be compared to them. This explains why the period from 1200-1262 is sometimes called the Age of the Sturlungs.

The Vatnsfirðings; the district of the Vatnsfirðings, in the north-west, West Quarter, part of Iceland, may be traced back to the latter part of the 10th century. It never consisted of more than one chieftaincy, even though the members of the Vatnsfirðings dynasty wielded, in certain periods, considerable power.

The Ásbirnings; were considered the most influential leaders in Skagafjörður, which is part of North Quarter, in 1118. From the early part of the 12th century to the end of the period in question they were in sole power in Skagafjörður.

When we look at this development, of the take-over of all authority in the country by few families, it seems to have started in the North Quarter in Skagafjodur. While in the south it probably started in Arnesthing. In other words, this change occurred first in the neighborhood of episcopal seats, which would indicate that, to some extent, the causes for the political upheaval should be sought there. After the legislation of the tithe in Iceland, the bishops became financially independent, and before long their revenues exceeded those of individual chieftains. This challenge of increased concentration of power in few places created the necessity of new balance of power between the secular chieftains. This trend then started to spread around the remainder of the country. But at this point influences from a foreign power, namely Norway, were becoming increasingly discernible in Icelandic politics. There are other reasons as well why political power came to be centralized at different times in different parts of the country. In densely populated areas where settlement was unbroken by geographical barriers it was easier to create a strong centralized authority than in sparsely inhabited districts where settlements were divided either by mountains or fjords.

Needless to say, the fundamental changes that took place in the political structure led to changes in the

function of both the Althing and the district assemblies. The distribution of assemblies also underwent a change. In Grágás it is considered questionable whether any of the Quarter assemblies were still functional. These assemblies were in fact never held regularly and were discontinued early. Some of the district assemblies also ceased to function, and others were not held regularly. The Althing appears to have continued throughout the entire Commonwealth Period, but one can clearly see that in the 13th century its significance diminished considerably. On occasions when hostilities were particularly bitter, some of the chieftains would not bother to attend the Althing, and it is even doubtful if they sent representatives. This lack of representation made it impossible for the Althing to fulfill its role, since it is unlikely that influential chieftains who neither attended the Althing nor were represented there would be willing to abide its decisions. We can identify three principle stages of evolution of the Old Icelandic system of government: the founding of the Althing 930, the division of the country into Quarters about 962 and the establishment of the Fifth Court, by Skapti the Lawspeaker, around 1005. All these three stages were reached within a period of a century. After this, the Commonwealth lasted for almost two and a half centuries without any significant changes in the constitution. An obvious question is, why didn't the Icelanders try to reform their administrative system and

eliminate weaknesses in the constitution that had become increasingly obvious? One plausible answer is that they were held back by the power of the Church. They maybe realized that nothing less than a major revision of the entire constitution was needed if they were to create the required secular counter-balance to the Church. In addition, it is likely that the demand of the Church for recognition of various decrees as valid, even though they had not been approved by the Court of Legislature, slowly undermined public respect for law and justice. Finally, another plausible explanation is that when power became so concentrated there was always some powerful party that short-sightedly thought he would be better off by not restoring order.

In sum we can say that in the end of the Commonwealth the political strife in Iceland derived mainly from three sources:

- i) The struggle of the Icelandic Church, in keeping with demands of the Catholic Church, to secure greater rights for members of clerical ranks.<sup>4</sup>
- ii) Internal strife among secular chieftains over wealth and authority.
- iii) King Hakon the Old's efforts to impose his authority on Iceland.

We have earlier mentioned some reasons for concentration of power and lack of respect for law that contributed heavily to the final outcome, but the story is not completed without considering the way King Hákon was able to manipulate Icelandic politics and contribute to the collapse.

For a long time it had been a custom of many Icelanders who went abroad to become liege vassals of Norwegian kings or earls, to whom they gave their allegiance by oath. This custom was bound to have serious consequences if the king ever attempted to gain power in Iceland, which was precisely what King Hákon did. All his Icelandic agents were also his liege vassals, among them members of Iceland's most powerful families. It would have been difficult for them to disobey the king's commands, although they sometimes carried them out against their own will. Snorri Sturluson (member of the Sturlungs family), one of Iceland's most powerful men at his time and a liege vassal of the king was later killed by the King's order when he failed to obey his commands. This case shows that Iceland was within easy reach of royal retribution if a liege vassal failed to obey his king. The king could summon his Icelandic vassals to Norway, and keep them practically as long as he pleased. This authority was the weapon repeatedly used by King Hákon. Thus vassals, or retainers, both Icelandics and Norwegians were in fact the foundation of the royal power, serving both as bodyguards

and officers of the royal household, and were often required to undertake missions on the king's behalf. In addition to his Icelandic retainers the king usually had a number of his Norwegian retainers in Iceland for various reasons. Some were merchants, other spies; either secret or official spokesmen of the king. This is how the king came to be in a position to remain so well informed on what was going on in Iceland, which in turn enabled him to adjust his plans to changing circumstances and strike at the Icelanders where they were most vulnerable. Playing on the strings of personal ambitions and greed the King was quite successful in taking advantage of the instability in Iceland and every action of his was destabilizing, contrary to his reported intentions.

The royal court - its Icelandic and Norwegian components alike - provided the king with power, and later this institution became the royal instrument of government in Iceland, the same kind of development having taken place earlier in Norway.

The Icelandic Gizurr Thorvaldsson, received an Earl's title for bringing Iceland under King Hákon's authority, for he presented the covenant, i.e., the agreement reached at the Althing in 1262, upon which Iceland was annexed. That covenant marked the end of the Commonwealth.



This agreement, later called Gizurr's Covenant, was ratified with the representative of the King of Norway by farmers from the northern and the southern parts of the country. The continuous turmoil, especially in the North Quarter, created by power struggle of the chieftains, smoothed the way for the king to bring the country under his rule, even though all parts of the country were not represented at this historical Althing. The main content of the covenant was as follows:

- i) The Icelanders agreed to pay a thingtax to King Hákön.
- ii) The King would respect Icelandic laws and secure peace.
- iii) To ensure that a specified number of ships would sail from Norway to Iceland with merchandise, but a serious problem of shortages of imports was indeed realized at that time.
- iv) Inheritance rules were modified, so that Icelanders could exercise equal rights as Norwegians did in Norway and vice versa.
- v) The land-fees (landaurar) were abolished.
- vi) In Norway Icelanders were to enjoy rights as advantageous as they had ever enjoyed there.
- vii) That Icelanders would keep faith with the King, and his descendants, so long as he and his descendants

kept his covenant, but would be free of all obligations if the covenant would be broken by the king or his descendants.

Various written works have produced speculations as to what Iceland's constitutional status became after the ratification of Gizurr's Covenant. The conclusions presented have been diverse in nature, however, according to the covenant the constitutional status was clear. The agreement did not presuppose that the Icelanders and the Norwegians would share any authority other than the king. Thus Iceland was not incorporated into the Norwegian state; rather it continued to exist as a separate state whose relations with Norway could best be described as a personal union. However, in reality this union assumed a different character, since it turned out that on many occasions Iceland was merely regarded as one of the tribunal lands of the Norwegian Crown and was therefore placed on a level subordinate to that of Norway itself.

## 2. Why Was the Balance of Power Upset?

We have seen that the old blood-feuds assumed more and more the aspects of civil wars, as the balance of power was upset. The obvious economic answer to what happened is that the cost of breaking the law must have fallen when power got concentrated and it presumably fell because there

were fewer chieftains to check or constrain the potential law-breaker than before. But let's look at some plausible explanations as to why this situation occurred.

Firstly, there is evidence that the legal institutions did encourage the concentration of power, or at least they did not prevent it. The Icelandic Commonwealth law made e.g., no provision for the authority of the bishops, and thus in effort to create a counter-balance to this power, the lesser chieftains in the areas closest to the episcopal sees yielded up their chieftaincies and liegemen to more influential secular leaders.

The law-book Grágas states quite explicitly that one individual was not to be permitted to manage more than one chieftaincy, but it does not even hint at the possibility that any individual could ever become the owner of more than one chieftaincy. On the other hand, Grágas did recognize the possibility that a chieftaincy could be owned by more than one individual. It is quite conceivable that the owners of more than one chieftaincy could have delegated the management of their chieftaincies to different individuals, even though such a procedure would indeed have been contrary to the spirit of the law. In addition, the law of the commonwealth did not provide for the contingency that a foreign sovereign might obtain possession of the chieftaincies, as did indeed happen, and the decision

of a chieftain to yield up his chieftaincy in this manner did not commit his liegemen in any way.

A second consideration as to why the balance of power was upset has to do with cost and revenues of keeping up a chieftaincy. As has been shown earlier, the chieftains had many and varied duties, both in their districts as well as at the Althing. During the heathen era the chieftains derived some revenue from temple-fees and they occasionally had some small income from other sources until the legislation of the tithe which changed their status somewhat, with respect to revenues derived from their chieftaincies. Although the tithe was an important source of revenue to the chieftains, it still must have been considered supplementary to ordinary income. For these men, as for all other Icelanders, their most significant revenue was always earned by raising livestock and, in some cases, by tilling the soil. The fact that chieftaincies were always regarded as a symbol of power rather than property suggests that the office of a chieftain must not had been a lucrative position, at least not from an economic standpoint. All this is highly speculative, but maybe the reason for concentration of power was that revenues of many chieftaincies declined in the 12th century, so much, that fewer chieftains were simply able to meet the considerable expenses involved in running a chieftaincy.

A further explanation could be of climatical and economical nature. On the one hand, it is a well known fact that in the Northern Hemisphere, and perhaps in other parts of the world as well, the climate has been getting warmer since about 1920; also that over long periods of time the climate has alternately grown warmer and colder. A change in weather conditions might therefore have occurred in the Commonwealth period, although conclusive evidence is hard to find.<sup>5</sup> On the other hand, the Icelanders faced a reversed economic distress after c. 1180 and already has been dealt with partially in chapter IV. The economic misfortune in which Iceland found itself was due at least as much to general trends in Europe as to its own weaknesses. The development of new techniques of weaving, possibly coupled with some change in fashionable taste, greatly reduced the market for Icelandic woolens just at a time when growing populations abroad permitted less food to be shipped to Iceland. Thus Iceland, because of its very great dependence upon imports and its isolation from important trade routes, was among the first of European countries to feel the effects of a growing general shortage of food supplies, and because of its narrow export base of inexpensive woolens, was among the first to suffer from a contraction of foreign markets for manufacturing goods.

Finally, we may not overlook the trend in private ownership of farmsteads in Iceland. We saw earlier that as land became more expensive, and in the hands of fewer more number of farmers were 'forced' into tenancy.<sup>6</sup> Without doubt, this contributed to the upset of balance and made subjection to the Norwegian king easier in execution.

### 3. Some Additional Observations.

What has already been said about the death throes of the Icelandic Commonwealth should have covered the main aspects of this issue, yet we can add some further points.

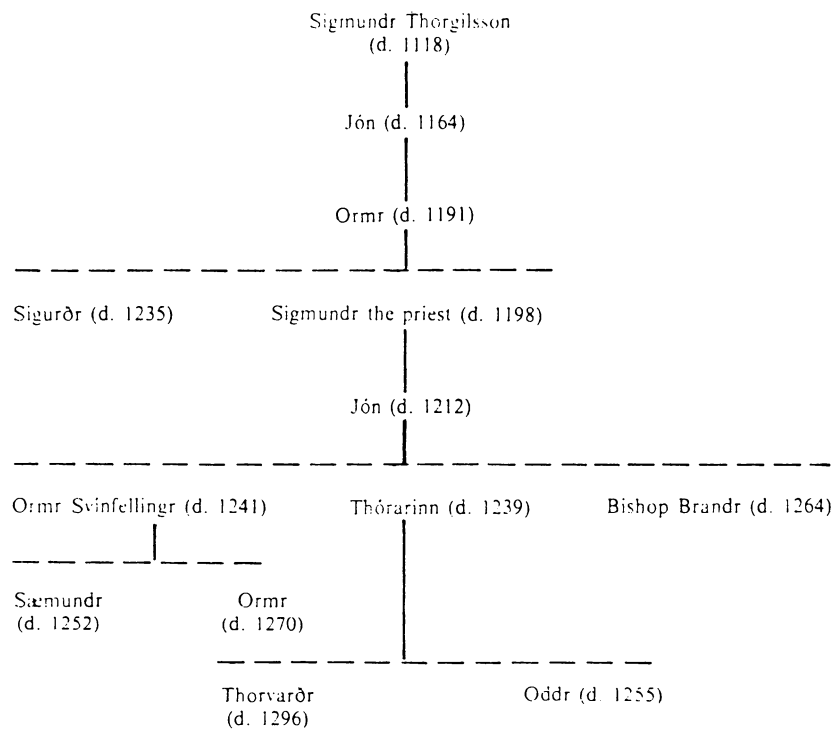
One possible explanation for the subjection to the Norwegian king in the 13th century, but not sooner could be fact that the Norwegian state was strengthened considerably during the 13th century, which had before been subject to several wars about the succession to the throne. Another common explanation is given; the absence of centralized executive power. I feel that there is nothing said so far in this thesis or elsewhere, that support this argument per se. The fact that the Commonwealth did survive for more than 300 years, without centralized executive power, must discredit this argument.

The far most popular 'folk' explanations is that Icelandics were betrayed by some of their own countrymen, such as Gizurr Earl and Snorri Sturluson. As pointed out

earlier in this chapter, many of Iceland's 'best' sons became retainers of the Norwegian king. That status gave them often glory and power but left them dependent on the king, and in position to have to carry out various assignments. In his *Íslendingasaga*, Sturla Thordarson says that Snorri Sturluson, e.g., was assigned the task of bringing Iceland under the rule of the king.<sup>7</sup> To bring Iceland under the rule of the king was probably not a firm commitment, but rather an investigation that later led to that result. There is, however, no doubt that many Icelanders, including Snorri, driven by unlimited personal ambitions, did not deserve to be called Icelanders by participating in the vicious game that was played towards the end directed by the Norwegian king. This 'betrayal' cannot however be considered of fundamental importance, it was rather a consequence than a cause, and would probably not have been realized if other cornerstones of the Icelandic commonwealth would have been in place.

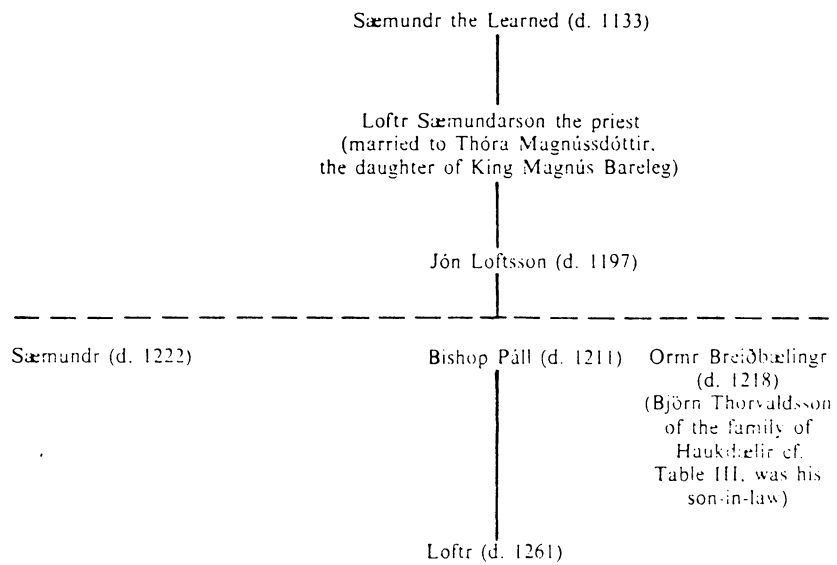
*Genealogical Tables*

## I

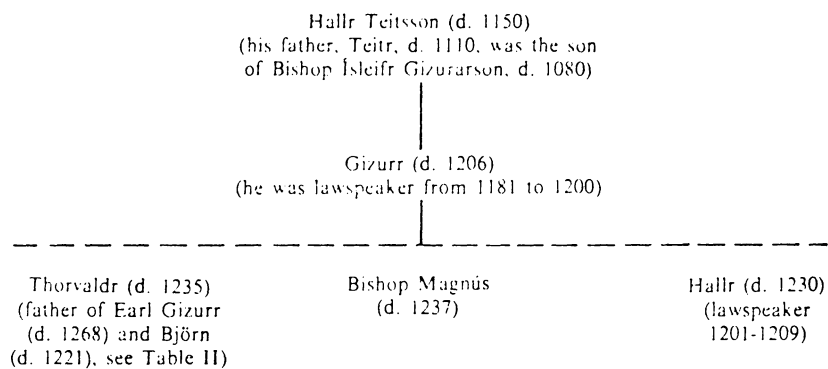
**The Svínfellings**



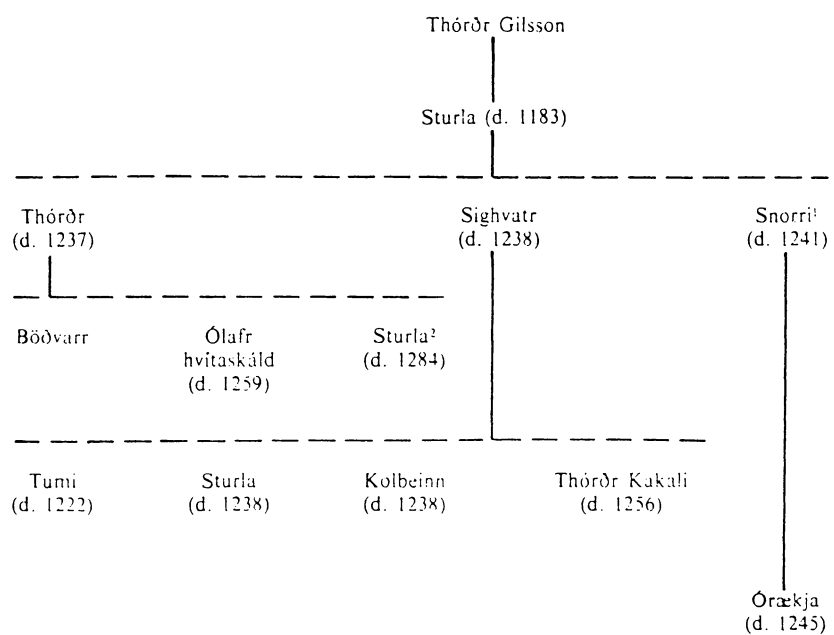
II  
The Oddaverjar



III  
The Haukdælir



IV  
The Sturlungs

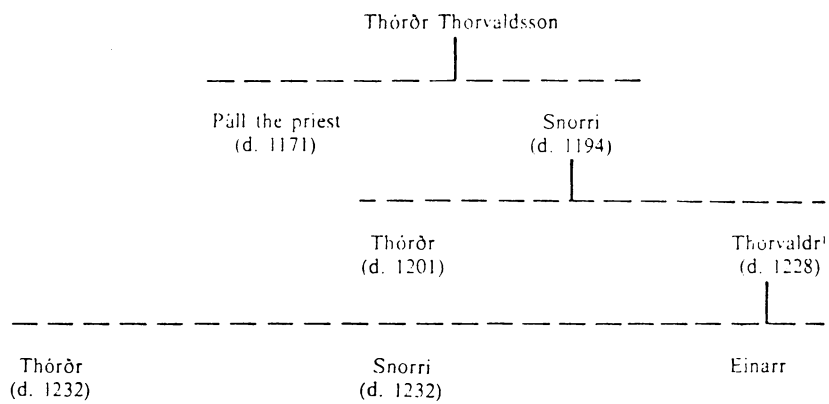


<sup>1</sup> Among Snorri Sturluson's sons-in-law were Gizurr Thorvaldsson, Thorvaldr Snorrason and Kolbeinn the Young, cf. Tables II, V and VI.

<sup>2</sup> i.e., Sturla Thórdarson the historian.

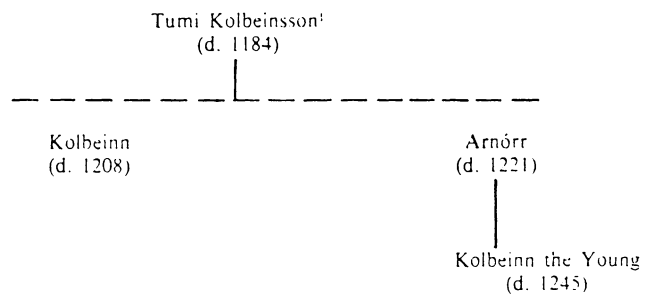
## V

## The Vatnsfirðings



<sup>1</sup> His second wife was Thórdís the daughter of Snorri Sturluson (cf. Table IV) and the mother of Einarr.

VI  
The Ásbirnings



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<sup>1</sup> Sighvate Sturluson's father-in-law cf. Table IV

Notes

1. Jón Jóhannesson: A History of the Icelandic Commonwealth.  
University of Manitoba Press, 1974, pp. 224.
2. Björn Sigfússon: "Veldi Guðmundur-rika" (The estate  
of Guðmund the powerful). Skirnir, 108 Reykjavík  
1934, pp. 191-198.
3. Note that in this thesis, I have used modern way of  
spelling names, e.g., Guðmundur, but the old way,  
and the way the geneological tables are set up,  
was to spell names with r in the end, e.g.  
Guðmundr.
4. Jón Jóhannesson: Supra 1, pp. 182-196.
5. Sigurdur Þórarinnsson: History of Iceland. Reykjavík  
1974, pp. 31.
6. Sigurdur Lindal: "Early Democratic Traditions in the  
Nordic Countries", Nordic Democracies;  
Copenhagen, 1981, pp. 15.
7. Sigurdur Lindal: History of Iceland, Reykjavík, 1974,  
pp. 218.

## CHAPTER VI

### Conclusions

I started this thesis motivated by interest in economics and history, and in the hope that I might be able to add some insights to the Icelandic Commonwealth Period. To give an overall picture, was my way of approaching the task. I felt that by exposing readers to the settlement, the political and legal institutions, environment and economic conditions, I would be equipped to analyze the rise and decline of the Commonwealth. Hopefully I have accomplished that to some extent.

However, is there anything to be learned from the Icelandic experience; is there maybe some ground for further research in this area that this thesis points to? I believe so. I have said many times in this thesis that Iceland is unique as an example of a community which had a great deal of law and no central Executive, a great many Courts and no authority to carry out their judgements. Iceland was a highly cultural land, in spite of unrest and bloodshed at times. Its highly contrasting social order surprises us with extreme complexity in law and

institutional arrangements, and yet is so simple and even rude in other aspects.

Although one is tempted to draw some conclusions from the Icelandic experience great caution is needed. Unreliability of sources, differences in environmental and social order, makes all comparisons with present state of affairs extremely difficult. Nevertheless, I want to pull out two areas which I feel would be of great interest and importance to explore. First of all I refer to the legal system. One of the greatest flaws in the present day American legal system is the low expected cost of criminal activity which implies that criminal activity is a 'sound business'. There are fundamentally two ways of affecting expected cost of criminal activity: by changing the probability of detection and/or conviction and by changing the level of punishments. Clearly it requires more structural changes to affect probabilities than the level of punishments, but doesn't the Icelandic system provide us with a model as to how individuals can, by cooperation, affect such variables, as probabilities, and thereby complement their present systems? By defining territories, through families or clans we do indeed affect these variables. Neighborhood watch programs, private guard and so on are in a way the start of natural responses of individuals to defects in their legal system. The optimal way would be to reconstruct the



system, but until that is realized the citizens' alertness is highly beneficial. By their actions they raise the probability of detection, they are in a way redefining property rights, and higher probability raises expected cost of criminal activity. To investigate this aspect further, to locate more areas where individuals' initiative can complement defects in the present legal system, must be an interesting research area.

The other variable to be affected is the punishments; the question is again what can we learn if anything in this area from the Icelandics? What about the fundamental distinction between civil and criminal law? It seems plausible to me that by making all, or most, crimes civil offenses we could increase the punishments and accordingly raise the cost of criminal activity. First of all, conviction rate should go up, due both to a higher detection rate and to more people having incentives to push a civil case. Secondly, people are motivated to prosecute since their compensation will be in fines, properly adjusted to compensate and deter. In the case, which would often be true, that the offender couldn't afford to pay the fine, he or she would have to submit himself/herself to temporary bondage resulting from debts. To investigate this area, e.g., what arrangements would we have concerning the bondage, what part would the state play and so on, is again an interesting research area.

Another fundamental question rises, of course, whether we should operate private or public legal and judicial system and private or public enforcement of law. In any case, I feel that the Icelandic model can offer some important insights.

The other major area of interest is the so-called 'social security' system. There should be no quarrel that this research area is important in present colossal welfare state. From research we might want to find out whether we can preserve some of the functions of a collective 'benefit' system without inheriting all the flaws of the present system, implementing some ideas from the Icelanders.

A final note; what final judgment one makes about the Commonwealth will vary, some will glorify it because of its achievements, others will denounce it because of inequality and violence it brought about. Whatever the final verdict will be, one should not forget that the Old Icelandic Order existed for 330 years without any substantial changes. That surely is a long time for a social order.

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# THE RISE AND DECLINE OF THE ICELANDIC COMMONWEALTH

by

Fridrik Fridriksson

(ABSTRACT)

The purpose of this study was to trace the history of the Icelandic commonwealth, from the rise of the independent Icelandic State 930 A.D. to its collapse 1262 A.D. Efforts were made to analyze the different theories on the reasons for the early settlement, as well as the reasons for the establishment of a general state, and then later the reasons for the collapse.

In the Icelandic system there existed a complex legal and judicial order without any central executive power, with private enforcement of law. Although it is difficult, now, to determine the attractiveness of this system, e.g., in comparison to other European Nations at that time, the theoretical interest remains the same.