

Jesse Byock. "The Icelandic Althing: Dawn of Parliamentary Democracy." In *Heritage and Identity: Shaping the Nations of the North*, ed. J. M. Fladmark, pp 1-18. The Heyerdahl Institute and Robert Gordon University. Donhead St. Mary, Shaftesbury: Donhead, 2002, pp. 1-18.

# **THE ICELANDIC ALTHING**

## Dawn of Parliamentary Democracy

Jesse Byock

It is an old idea, and one that reaches as far back as the nineteenth century, that Viking Age Iceland was democratic and much like an early republic. In the mid-twentieth century, however, this old idea became unpopular among researchers. Yet, we may ask ourselves if this outmoded concept is actually wrong? Is it possible that years of emphasis on class struggle and similar issues have skewed our perception of the political economy of early Iceland to the point that the baby may have been thrown out with the bath water? True enough, early Iceland from the tenth to the twelfth century was neither fully democratic in its processes nor fully republican in its structures. Yet, how are we to interpret the obvious egalitarian tendencies, personal freedoms, and political and legal enfranchisement so strikingly evident in historical, legal, and saga sources of medieval Iceland? As we enter the twenty-first century, perhaps it is time to rethink the matter.

Viking Age Iceland, if not fully democratic, was nevertheless a medieval society with unusually strong proto-democratic and republican tendencies. From the ninth to the thirteenth century it was a long-lived experiment in early western state formation, and early Iceland deserves a far more important place in the study of European and perhaps world society than it has until now received. In this paper, I direct my attention to the old Icelandic Althing, the parliament of Viking Age Iceland that was first established around the year 930. In considering the Althing, I explore the proto-democratic government that lasted in Iceland until the year 1264, when Iceland lost its medieval independence to the aggressive thirteenth-century Norwegian crown.

## THE HISTORICAL CONTEXT

The Althing, as a governmental institution of an immigrant society, had its roots in the ninth-century settlement of Iceland. The seafarers who first settled Iceland at that time did not come as part of a planned migration, a political movement, or an organized conquest. Unlike many later European explorers and colonists, Norse explorers and settlers were not acquiring territory for sovereigns or for established religious hierarchies. Viking Age voyages into the far North Atlantic were independent undertakings, part of a 300-year epoch of seaborne expansion that saw Scandinavian peoples settle in Shetland, Orkney, the Hebrides, parts of Scotland and Ireland, the Faroe Islands, Iceland, Greenland and Finland.

Iceland's settlement and subsequent development is a large chapter in this story of North Atlantic migration. The island was discovered in about 850, or perhaps somewhat earlier, by Scandinavian seamen who probably had been driven off course. Shortly thereafter reports of large tracts of free land on the island circulated throughout the Norse—Viking cultural area, which stretched from Norway and mainland Scandinavia to Ireland. Many of the Norse settlers from the Viking settlements in Ireland, Scotland, and the Hebrides brought with them Gaelic wives, followers and slaves.<sup>1</sup> The majority of immigrants to Iceland were free farmers. Among them were a few small-scale Scandinavian, mostly Norwegian, chieftains who did not lead the migration but came as independent settlers. The first settlers were men and women asserting their self-interest. They seized the opportunity to bring their families, their wealth, and their livestock 600 miles (nearly 1,000 kilometres) across the North Atlantic in search of land.

Iceland's medieval social order reflected the conditions of its settlement. As a culture group, the immigrants came from societies with mixed maritime and agricultural economies and brought with them the knowledge and expectations of European Iron Age economics. The absence of an indigenous population on so large an island was an unusual feature that permitted colonists the luxury of settling in any location of their choosing. As there were no hostile native inhabitants — Iceland was uninhabited except for a few hermit Celtic monks — the settlers enjoyed extraordinary freedom to adapt selectively to their new surroundings. In this frontier setting they established scattered settlements in accordance with the availability of resources.

In the 60 or so years of the *landnám* (literally the land-taking, c.870-930) at least ten thousand people, and perhaps as many as twenty thousand, immigrated to Iceland. Initially it was a boom period with free land for the taking,

## ESTABLISHING THE ALTHING: A SERIES OF CHANGES

The task facing Icelandic immigrants was to prosper on an empty island. In the process they created a society with a rich blend of attributes. Beginning in the tenth century with the close of the *landnám*, they established the Althing (c.930). This institution served as a general assembly for the whole country, answering the need for a central decision-making body. Through the Althing, which looks suspiciously republican, Iceland functioned as a single island-wide community. In many ways, Iceland was a decentralized, stratified society, operating with a mixture of pre-state features and state institutions. The settlers began by establishing local things or assemblies, which had been the major forum for meetings of freemen and aristocrats in the old Scandinavian and Germanic social order. However, the settlers made some crucial changes to the traditional Scandinavian thing and these changes altered the political and governmental equation. The early tenth-century Icelanders excluded overlords with coercive power and expanded the mandate of the assembly to fill the full spectrum of the interests of the landed free farmers.

The result of these changes transformed a Scandinavian decision-making body that mediated between freemen and overlords into an Icelandic self-contained governmental system without overlords. At the core of Icelandic government was the Althing, a national assembly of freemen,<sup>2</sup> which operated through a socio-political system in which the governmental elite, the *goðar* or chieftains (the singular is *goði*), were not linked by a formal hierarchy. Theoretically and often in fact, the *goðar* acted as equals. In their local regions they were neither warlords nor petty kings. The absence of local warlords was in keeping with the nature of the society that evolved in Iceland. Out in the North Atlantic, Viking Age Iceland was too far distant to be attacked from Europe. On this very large island, a late Iron Age European group of settlers formed a culture group and took advantage of the safety afforded by the ocean distance to eliminate the hierarchy of command and the taxation necessary for defense. Writing in 1901, the legal historian James Bryce summed up the situation in the following manner:<sup>3</sup>

In Iceland, where no such need of defense existed, where there was no foreign enemy, and men lived scattered in tiny groups round the edges of a vast interior desert, no executive powers were given to anybody, and elaborate precautions were taken to secure the rights of the smaller communities which composed the Republic and of the priest—chieftains who represented them.

The actual events that lay behind the founding of the Icelandic government are not recorded and can only be surmised. According to *The*

*Book of the Icelanders*, written by the Icelandic historian Ari the Learned in about 1122, a man named Ulfljot was sent to Norway, probably in the 920s, to adapt the west Norwegian law of the Gula Assembly (Gulathing) to Icelandic exigencies. With good reason some scholars doubt the authenticity of Ari's story. They suggest that the Gulathing and its law, rather than being ancient tradition, came into existence after the establishment of the Althing in Iceland.<sup>4</sup> Even Ari's intent in telling the story raises questions. Because of his own political and family ties, Ari may well have exaggerated in his writings the importance of Norwegian influence, masking the influence of other Scandinavians and Celtic immigrants. Concerning the latter there are place names, especially in the western quarter, such as Brjánslækur (Brian's Stream) and Patreksfjörður (Patrick's Fjord) that give credence to a Celtic presence. If Ulfljot did, as Ari says, undertake his trip back to Norway, his task was probably to seek clarification on certain matters about which the Icelanders, in fashioning their own laws, were unsure, rather than to bring back an entire legal code. Most importantly, the laws of the Cilia thing and the Free State's early laws called *Grágás* show few consistent similarities.

Whatever the truth in Ari's story, a decentralized government specifically designed to satisfy Iceland's needs was established about 930. Initially there appear to have been approximately 36 chieftaincies (*goðord*), and a larger number of *goðar*, since each *goðord* could be shared by two or more individuals each calling himself a chieftain. The number of *goðar* in the early centuries was perhaps double or more the number of *goðord*. Selection was made on the basis of kinship alliances and local prominence. Although scholars generally agree that no other governmental or societal structure could have served as a direct model for the Icelandic chieftaincy, the word *goði*, which is derived from the Old Norse word for 'god' (*goð*), and which indicates an early sacral connection, was not new. It may have been written in runes in Norway around the year 400, and it is found on several Danish rune stones from the island of Fyn dated to the ninth and perhaps to the early tenth century.<sup>5</sup>

#### THE INSTITUTION, ITS COMPONENTS AND ROLES

As public institution, the Althing was a hothouse of information, a central clearing house uniting the whole of Iceland. It was an annual meeting of all *goðar*, each accompanied by some of his followers called thingmen. This crucial gathering, which met at Thingvöllr (the Thing Plain) in the southwestern part of the island, lasted for two weeks in June, during the period of uninterrupted daylight and the mildest weather. Its business was more than governance of the country. At the time when travel was easiest,

hundreds of people from all over Iceland, including pedlars, brewers of ale, tradesmen, and young adults advertising for spouses, converged on the banks of the Axe River (the Öxará), running through the site of the Althing. Thingvöllr, with its large lake and the mountains in the distance, is a site of great natural beauty. For two weeks the ravines and lava plains became a national capital. Friendships and political alliances were initiated, continued or broken; news was passed; promises were given; stories were told; and business was transacted.

A major feature of the Althing was the meeting of the legislative or law council, called the *lögrétta*.<sup>6</sup> Here the chieftains reviewed old laws and made new ones. Only chieftains had the right to vote in the *Lögrétta*, and each brought two advisers into council meetings. When two or more shared a chieftaincy, only one at a time attended the *lögrétta* and performed the chieftain's other official duties at the Althing. The *lögrétta* was also empowered to grant exemptions from the law. This legislature, which functioned at the centre of the Free State, acted for the country in foreign affairs by making treaties, such as the one with the Norwegian King Olaf Haraldsson (1015-1030) delineating the status of Icelanders in Norway and of Norwegians in Iceland.

Formal government at the Althing was public. The *lögrétta* and the courts were held in the open air. At the *lögrétta* the participants sat on benches arranged in three concentric circles. The *goðar* occupied the benches of the middle circle while their freemen advisers sat on the inner and outer benches. In this way, each chieftain sat with one freeman in front of him and another behind him, and almost surely his decisions were tempered by their advice. The only fixed buildings at Thingvöllr were a small church, built after the conversion, and a farm. A second small church was added, probably in 1118. Most people pitched tents, but *goðar* and other important personages maintained turf booths from year to year; these they roofed with homespun for the duration of the meeting.

From the beginning of the Free State, until its end, the major national official was the law-speaker (*lögsögumaðr*), who was elected chairman of the *lögrétta* for a three-year term. Annually, at the Law Rock (*lögberg*), the law-speaker recited a third of the laws from memory. Attendance at this ceremony was required of each *goði* or two stand-ins, selected from among the advisers at the *lögrétta*. They and other interested parties sat on the surrounding grassy slope, probably offering emendations or corrections and taking part in discussions of legal issues. Among other duties, the law-speaker had to announce publicly any laws passed by the *lögrétta*. When needed, the *lögrétta* could also call on the law-speaker to furnish any part of the law its members needed in considering legislation. If faced with a difficult point of law or a lapse of memory, the law-speaker was required to consult five or more legal experts (*lögmenn*).<sup>8</sup>

Although the position of law-speaker was prestigious, it brought little or no official power to its holder, who was allowed to take sides and to participate in litigation and in feuds as a private citizen. We do not know to what extent the law-speaker decided what to recite, and the choice may have provided him with some leverage. Since the law-speaker functioned as an authority prepared to answer questions only when asked, it was the duty of the individual to learn the proper questions. To a large degree, knowledge of these came through the telling of stories or sagas about dispute, feud, legal cases and settlements arranged in and out of court. The names and duties of the law-speakers are preserved in the sources. Ari the Learned dates events by naming the current law-speaker.<sup>9</sup>

The 'supreme chieftain' (*allsherjargoði*) was the other prominent official in the Old Icelandic Free State. Acting as ceremonial head of state, the supreme chieftain's role was largely one of ritual. The office carried with it the duties of hallowing the Althing and setting boundaries for the different sections of the assembly area. The hallowing marked the official opening of the assembly. The position of *allsherjargoði* was held by the individual who owned the hereditary *goðord* of Thorstein Ingolfsson, the son of Iceland's first settler Ingolf Arnarson. It is possible that the honour was given to Thorstein and his descendants in recognition of services rendered at the time the Althing was established.

#### THE CONSTITUTIONAL REFORMS OF THE MID-960S.

The Althing that was established in 930 was not a static institution. It was a governmental centre whose evolution over the following century served to channel politics and government into a stable and workable system. Of crucial importance were the constitutional reforms of the mid-960s. These sophisticated reforms, which were carried out in a completely oral stage of the culture, came in the wake of a serious clash between two powerful chiefs, Thord gellir (the Bellowing) and Tungu-Odd (Odd from the Tongue Lands).<sup>10</sup>

The Althing, in the form that it was initially established in 930, does not appear to have included judicial courts. Courts were established on a local basis by the settlers and their first descendants as elements of regional things or assemblies, and by the mid-tenth century, that is 20 or 30 years after the establishment of the Althing, there were perhaps twelve regional springtime assemblies (*várthing*) distributed rather evenly around the perimeter of the country. Only two of them, the Kjalarnes Thing and the Thórsnes Thing, are known to have preceded the establishment of the Althing.

However effective the local courts had been in solving local dispute, the system proved unable to contain the violence of the specific conflict between Thord the Bellower and Odd from the Tongue Lands, and as a consequence the Icelanders in agreement at the Althing reorganized the judicial system so that there would be a system of courts centred on the Althing that could more successfully regulate feud.

The changes brought about country-wide cohesion in a manner that reinforced an incipient, somewhat republican form of organization. The original law had specified that a case of manslaughter be tried at the local assembly nearest the scene of the killing. This arrangement seems to have worked in regulating disputes among individuals who lived within a thing district, but a defendant from outside the district could hardly expect to have his rights upheld in the home territory of his accuser. To remedy this potential for imbalance, the law was altered. Such cases were now permitted to be brought to the Althing where four new courts, one for each quarter, were established. We catch a glimpse of this development in Ari's *Book of the Icelanders* (Chapter 2):

A great lawsuit occurred at the thing between Thord gellir, the son of Olaf Feilan from Breiðafjord, and Odd, the one who was called Tungu-Odd; he was from Borgarfjord... They first brought suits against each other at the local thing which was in Borgarfjord at that place which since is called Thingnes. At that time it was the law that suits for manslaughter were required to be brought before that thing which was nearest to the place where the manslaughter had been committed. But they fought there, and the assembly could not be carried on according to the law... Thereafter the case was brought before the Althing and there again they fought.

Then Thord gellir delivered a speech at the Law Rock concerning how badly it suited men to go to things outside their local regions in order to sue for manslaughter or for other injuries. He related what had happened to him before he was able bring this case to law. He said that many in their turn would experience difficulties if this matter was not remedied. Then the country was divided into quarters, so that three things were established in each quarter where thingmen should bring their own lawsuits.

With the island divided into quarters, four new quarter courts (*fjórðungsdómar*; singular *fjórðungsdómr*; *dómr* means court) were established at the Althing. These met annually and were courts of first instance. This meant that individuals from any quarter could begin an action at the Althing rather than at a local *várthing* or regional springtime assembly as long as the matter was of more than minimal consequence. The quarter

courts also served as appellate courts — a case that was deadlocked at a *várthing* could be referred to that region's quarter court at the Althing. Dividing the island into quarters was a change that required fixing the number of full chieftaincies at 39. The Western, Southern and Eastern quarters each held three fixed springtime assemblies under joint control of three chieftains, making a total of nine chieftaincies in each quarter. At the same time a fourth *várthing* was added to the Northern Quarter. The combination of geographical conditions and the needs of people in Iceland's most populous quarter required four assemblies, one more than in each of the other quarters. Ari the Learned also speaks about this development:<sup>11</sup>

However, in the Northern Quarter, there were four things, because they could not reach any other agreement. Those living north of Eyjafjord were not willing to go there to attend the thing. Likewise, those who lived to the west of Skagafjord were unwilling to go there.

The Northern Quarter thus had twelve *goðar*, although its three new chieftains were not empowered to appoint judges to the quarter courts. To maintain a balance of power among the quarters at the Althing, the title of *goði* was conferred upon three new chieftains from each of the Eastern, Western, and Southern quarters, bringing the total number of *goðar* to 48. These nine new *goðar* sat in the national legislative assembly but were not allowed to nominate judges to the quarter courts or even to take part in the local assemblies as chieftains.<sup>12</sup>

Through these measures the Icelanders, after a trial period of three decades, remedied the most serious inadequacies of the original system of government. The presence of such an extensive court system did not mean that all disputes were resolved in court. Many, perhaps even a majority, were not. The courts set a standard to which out-of-court arbitrations and other resolutions adhered, and a legalistic settlement could be reached even though a case was not formally adjudicated. If a private, negotiated solution could not be achieved, then one of the parties could turn to the public arena of the courts. That such action would involve third parties in what were otherwise personal affairs was a factor that encouraged private settlement. The sagas often present us with cases stemming from intractable disputes and escalating feuds, but most dispute settlements were routine, not worthy of a saga.

The reforms of the mid-960s reaffirmed the essentially decentralized nature of the earlier governmental and judicial structures, based as they were on the relationship of mutual dependency between chieftain and thingmen. The more centralized judicial system resulting from the reforms

is the one we know from the laws and the sagas. It provided Iceland with legal and judicial structures which operated as a balanced system. Local groups from any part of the country had equal access to the central Althing, where proportion was also maintained in the balance of chieftains and judges from the different quarters.

#### LEADERS AND FOLLOWERS

The Althing system that emerged in the tenth century made Iceland into one legal community; it was a maximal group which had the obligation to end fighting by peaceful settlement and the machinery to arrange such resolutions. The *goðar* and their non-tribal cluster of followers formed the major subgroupings within this politically and legally defined world. Of central importance was the fact that *goðar* were not territorial lords, rather, they were leaders of small interest groups composed of free farmers. Of importance was the fact that the farmers retained the right to choose the leader and hence the group to which they made allegiance.

While farmers did not choose their *goði* through a modern election, they chose from among the often numerous, competing *goðar* in a quarter. In choosing leaders, free farmers (that is, the majority of the farmers) relied on the lack of significant distinction between chieftains and farmers in early Iceland. The *goðar* were themselves prominent local farmers, and Icelandic chieftains were what anthropologists call 'local bigmen'. As leaders, *goðar* dealt directly with their followers, and if they wanted to hold onto their followers they had to offer services. *Grágás*, Iceland's medieval laws, clearly defines a freeman's right to choose his *goði*,<sup>13</sup> a right characteristic of a non-territorial concept of authority:<sup>14</sup>

A man shall declare himself in thing [part of a chieftain's assembly group] with whatever *goði* he wishes. Both he and the chieftain shall name for themselves witnesses in order to attest that he [the farmer] declares himself there, along with his family and household and livestock, in thing [with the chieftains]. And that the other accepts him.

Once a farmer had chosen a *goði*<sup>15</sup> he was not bound to him but had the right to change:<sup>16</sup>

If a man wants to declare himself out of the thing [relationship with his *goði*], it is the law that he declare himself so at the springtime thing [local assembly], if he enters into a thing relationship with another *goði* who is a *goði* of the same springtime thing. So also if

he enters into a thing relationship with another goði who has an assembly group within the same thing district, it is the law that at the Althing he declare himself out of the chieftain's assembly third [a chieftain's following, called a third as there were three chieftains] at the high court at the lögberg [the Law Rock], if the goði hears [or listens]. If the goði does not hear, then he must say it to him directly, and in that instance it is the law that he declare himself out of the thing in the presence of witnesses for himself. And on the same day he must declare himself to be in a thing relationship with another goði.

By the same token, a chieftain could break off a relationship with a thingman:<sup>17</sup>

If a goði wishes to declare himself out of thing with a thingman [thus ending their thing relationship], then he shall notify him (the thingman) a fortnight before the springtime thing or with more notice. And then it is the law that he should tell the man at the springtime thing

In practice, the free exercise of the right to change leaders - an essential element in chieftain-farmer reciprocity - was tempered by traditions of personal and family loyalties, as well as by practical considerations, such as living close to a chieftain. Freemen probably did not change chieftains any more frequently than a modern citizen changes political party, yet the option was available. Farmers, particularly rich and prominent ones, could, if dissatisfied, shift their allegiance. In extreme instances, disaffected farmers moved to other areas.<sup>18</sup> Although the laws give the impression that all freemen were required to be in thing with a chieftain, it is probable, especially in the absence of a policing authority, that some freemen chose not to enter into such arrangements. One has to look far and wide in medieval Europe for so well-defined proto -democratic tendencies.

#### A SYSTEM WITH THE LAW AT ITS CENTRE

The reforms of the mid-960s affected the type of feud practised. This is because the settlement of feud, which in many societies is a private and extralegal affair, was moved to the Althing courts where in a formal public way it involved a broad consensus of opinion.<sup>19</sup> To interject feud into the centre of public and legal life was a complex matter and the Icelanders tested a series of courts. One quarter assembly (*fjórðungathing*) was devoted entirely to the legal affairs of each quarter and was a further innovation

instituted some time after the reforms of the mid-1960s. The four *fjórðungathing* seem to have been a short-lived experiment. There is little information about them, and they were overshadowed by the courts at the Althing. It is generally held that they were soon discontinued.<sup>20</sup> The quarter assemblies are not counted among the regularly convened assemblies. *Grágás* names them only once and does not mention them as having been regularly constituted.<sup>21</sup>

After a short period of trial and error in the usage of the different court bodies, people came to regard the quarter courts at the Althing as better suited than the local assemblies or *várthing* spread around the country to solve serious problems. At the Althing, a case was normally heard in the court of the quarter in which the defendant was domiciled. Built into this system of annual Althing courts was the concept of impartiality, embracing an intense desire to avoid partisanship. The sources are unclear as to whether 36 judges sat in each of the four courts at the Althing or whether a total of 36 judges were chosen for all the quarter courts.<sup>22</sup> Since the courts at the local *várthing* had 36 judges, most experts now believe that the quarter courts at the Althing had the same number. In order to insure impartiality, judges were assigned by lot to each of the quarter courts.<sup>23</sup> An individual who initiated an action at the Althing or a person who was summoned there thus entered one of four courts, whose panels of judges were drawn from all four geographical divisions of the country.

Panels of judges functioned as a kind of jury or sometimes as knowledgeable witnesses with the power to examine facts weigh evidence and deliver a verdict. Using the panels of judges drawn from the freemen, insured that a broad segment of the population was involved in court judgements. The national character of the Althing courts is apparent in the composition of the panels of judges. The holders of the 'old and full chieftaincies', as the 36 pre-reform *goðord* came to be known, each nominated judges from his own assembly district. These judges were required to be free males at least twelve years of age, and the youthful beginning age of judges is perhaps representative of a desire to socialize young males, at the earliest possible age, into the peacemaking system. Judges had to have a fixed domicile and to be responsible for their commitments and oaths.

The Althing convened on a Thursday evening, and on the following day all judges were appointed. On Saturday the nominees could be challenged and disqualified for various reasons, such as kinship. The process, governed throughout by strict rules of procedure, was open to public scrutiny. The system of seating judges further discouraged regionalism; farmers became acquainted with issues and disputes in other quarters, and decisions were standardized throughout the country. In this way a large segment of the politically important population took part in the decision-

making process. The importance of involving large numbers of farmers as judges should not be passed over lightly. It was an essential element of proto-democratic enfranchisement system.

Verdicts in the Althing courts had to be almost unanimous to avoid legal deadlocks; if six or more judges were in disagreement the case was legally deadlocked. In that event the panel entered two opposing judgements, each favouring one party to the dispute, and with no legal resolution possible, the dispute was returned to the disputants, a situation that continued until a court of appeals was finally established as is discussed below. Although every freeman had access to the courts, success in judicial cases often depended on a litigant's ability to muster political support. Settlements usually required negotiations among influential individuals, especially *goðar*. The system, while guaranteeing the rights of freemen, offered opportunity for a professional leadership class, the *goðar*, whose status, prestige and wealth often depended on the quality of the services they offered.

A reason for the success of the Althing system was its openness to carefully considered change. After the reforms of the 960s, it became clear that unanimous consensus at court was not always possible, and, after another 40 years (c.1005), the court system of the Althing was again altered, this time by the establishment of a court of appeals called the fifth court (*fimtardómr*). As in the other courts, the jury was composed of farmers.<sup>24</sup> The new addition proved to be effective as a court of last resort in which verdicts were determined by a simple majority. Establishment of the fifth court was the penultimate reform of the governmental structure in the Old Icelandic Free State. The final alteration, which came after almost a century of incremental constitutional reform, was to expand membership in the *lögrétta* to include the two Icelandic bishops, who, unlike the *goðar*, were not permitted to bring advisers with them. The system, of which the Althing served as the head, lasted in functioning and self-regulating order until a new class of 'big' chieftains emerged in the late twelfth century in some parts of the country and into the thirteenth century in other parts of the island. The struggles among these new leaders, whose ambitions of becoming territorial overlords often brought them into conflict with each other, opened the door for Norwegian intervention in the thirteenth century.

#### THE PROTO-DEMOCRATIC FACTORS

Although the regularity and the dependability of the Icelandic courts within the althing system reveal the society's desire that parties quickly find acceptable and publicly approved solutions to disputes, the courts

from their inception in the tenth century had another function of equal importance. Both local and Althing courts offered Icelandic leaders an outlet for their ambitions. The courts and the assembly stood at the centre of Icelandic political and governmental life, and local leaders found the opportunity for country-wide renown in the politics of the Althing. To a large extent the events at these courts reflected the political climate of the country, and, because their solutions were based on agreement, they brought workable solutions to problems that otherwise could have been disruptive. Farmers and chieftains met there to settle differences, to broker their power, and to advocate the positions of those individuals whose cases they were supporting.

The presence of the elaborate court and assembly structures of the Althing system reinforced the proto-democratic tendencies by offering Icelanders many alternatives in handling grievances. Ideally, two individuals could resolve personal differences by compromise. One party to a dispute might offer self-judgement or *sjálfðæmi*, allowing the other party to fix the terms of the settlement. *Sjálfðæmi* was granted when the party offering it assumed that the opponent would act with moderation, or when the opponent was so strong that he could demand the right to set the terms. *Hólmganga*, formal dueling, and *einvígi*, unregulated single combat, were used less frequently as direct methods of resolving disputes.<sup>25</sup> The duel was outlawed at the beginning of the eleventh century, probably because it embodied outdated values incompatible with the system of negotiation and compromise that by then had become firmly entrenched.

An injured party often had other options. The aggrieved could seek a reconciliation or engage in violent action, rising to manslaughter or even a protracted blood feud. More so than in other types of action, resort to blood vengeance depended on the support of kinsmen. Here the courts of the Althing offered a choice for breaking the cycle of violence. Hoping, perhaps, to avoid the consequences of blood feud or to end a feud, an individual could turn to the formal legal system with its prescribed rules for summoning, pleading, announcing, and so on. Then there was the less formal option of arbitration, which tended to introduce into a quarrel the influence of new, often more neutral parties. Each of these techniques of settling disputes could be interconnected. For example, arbitrated settlements were most effective when announced (published) at an assembly, and many court cases were a stylized form of feud.<sup>26</sup> At different times contending parties might be involved in all aspects of dispute, government, and settlement, including violence, legal redress and arbitration. The presence of options and choices, even in the midst of crisis situations, reinforced the sense of personal independence, strengthening the proto-democratic aspects of law and government.

By modern standards the Icelandic system was rough. In part this was because governmental services had been privatized. The advantage for the free farmers was that there were few taxes. The disadvantage was that individuals involved in dispute had to choose carefully between the choices offered by aggressive and at times voracious suppliers of services, mostly *goðar* for hire. The close connection between political and legal success in Iceland was owing to the institutionalized concept that the government bore no responsibility for punishing an individual for breaking the law. Once a court decision or arbitrated settlement had been reached, criminal acts were regarded as private concerns to be settled between the injured and the offending parties or their advocates; the latter were professionals who contracted out their services. Penalties could be restitutions or fines paid in the form of damages to the successful party. The duty to exact vengeance in cases of manslaughter fell on the kin of the slain, who, if they wished to act, had to choose among the available methods of processing a claim, including the common recourse to contract with an advocate who need not be a kinsman. At the same time, persons who were not kinsmen could buy the right to persecution from a kinsman of the uninjured party. The result was a series of procedures that recognized the importance of kinship yet moved dispute settlement into the world of non-kinsmen.

Far less than a duty, violence under the Althing system became only an option. Recourse to violence was in most instances more costly than using the services of advocates and arbitrators to resolve dispute, and reinforced proto-democratic tendencies and contributed to the centuries long continuance of the Althing system. Many 'headless' societies around the world mitigated and to varying degrees controlled the ravages of feud and regulated their internal politics. However, few did this as successfully as the Old Icelandic Free State, where freemen saw their rights and independence protected by the operation of the Althing system of law and government.

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## References

1. Pálsson, H., *Keltar á Íslandi*, Háskólaútgáfan, Reykjavík, 1996. Sigurðsson, G., *Gaelic Influence in Iceland: Historical and Literary Contacts; A Survey of Research*, *Studia Islandica* 46, Bókautgáfa menningarsjóðs, Reykjavík, 1988.
2. Byock, J., *Viking Age Iceland*, Penguin Books, London and New York, 2001.
3. Bryce, J., *Studies in History and Jurisprudence*, (1901) 2 vols, Books for Libraries Press, Freeport, New York, 1968, p. 285.
4. Línadal, S., 'Sendiför Úlfjóts: Ásamt nokkrum athugasemdum um landnám Ingólfs Arnarsonar' in *Skírnir* 143, 1969, pp. 5-26. Benediktsson, J., 'Landnámabók: Some Remarks on its Value as a Historical Source' in *Saga Book of the Viking Society for Northern Research*, 1969, p. 171. Finsen, V. (ed.), *Grágás I: Islændernes Lovbog i Fristatens Tid, udgivet efter det kongelige Bibliotheks Haandskrift*, Det nordiske Literatur Sarnfund, Copenhagen, 1852, Pp. 8-10.
5. Benediktsson, J., *op. cit.* 1969, p. 172. Wimmer, L., *De danske runemindesmærker*, Gyldendalske boghandels forlag, Copenhagen, 1893-1908, vol 2, pp. 346-351, 352-361, 368-383. Magerøy, H., *Norsk-islandske problem*, Omstridde spørgsmål i Nordens historie 3. Foreningene Nordens historiske publikasjoner 4, Universitetsforlaget, Oslo, 1965, pp. 31-33.
6. In *Íslendingabók*, Ch. 5, Ari reports that Hen-Thorir (Hænsa-Þórir) was outlawed at the Althing (c.965), indicating that a judicial court also sat there. Nothing is known about this court, which would have existed before the reforms. [*Íslendingabók* (The Book of the Icelanders), Benediktsson, J. (ed.), *Íslenzk fornrit*, 1968]
7. Finsen, V. (ed.), *Grágás I: Islændernes Lovbog i Fristatens Tid, udgivet efter det kongelige Bibliotheks Haandskrift*, Det nordiske Literatur Sarnfund, Copenhagen, 1852, p. 216.
8. Finsen, V., (ed.), *op. cit.* 1852, p. 209.
9. For a list of the law-speakers and their dates see Byock, J., *op. cit.* 2001, Appendix 1.
10. The confrontation between the two men is reported with somewhat differing details in *Íslendingabók* and in *Hænsa-póris Saga*. [*Íslendingabók* (The Book of the Icelanders), Benediktsson, J. (ed.), *op. cit.* 1968. *Hænsa-póris Saga* (Hen-Thorir's Saga), Nordal, S. and Jónsson, G. (eds), *Íslenzk fornrit*, 1938, PP- 1-47]

11. Benediktsson, J., 'Landnám og upphaf allsherjarríkis' in *Saga Islands*, 1974, pp. 153-196.
12. Sigfússon, B., 'Full goðorð og forn og heimildir frá 12. öld' in *Saga 3*, 1960, pp. 48-53.
13. Finsen, V. (ed.), *op. cit.* 1852, pp. 140-141. Finsen, V. (ed.), *Grágás II: Grágás efter det Arnamagnæanske Haandskrift Nr. 334 fol., Stadarhólsbók*, Gyldendalske Boghandel, Copenhagen, 1879, pp. 277-278
14. Finsen, V. (ed.), *op. cit.* 1852, p. 137. Finsen, V. (ed.), *op. cit.* 1879, p. 273.
15. The major territorial restriction was that a farmer could not choose a chieftain outside his quarter of the island. There were, however, a few exceptions: *bændr* who lived on Hrutafjord in the northwest were allowed to cross the fjord, and a chieftain could accept a thingman from outside his quarter if permitted to do so at the *lögberg* at the Althing (Finsen, V. (ed.), *op. cit.* 1852, pp. 140-141).
16. Finsen, V. (ed.), *op. cit.* 1852, p. 140. Finsen, V. (ed.), *op. cit.* 1879, pp. 277-278.
17. Finsen, V. (ed.), *op. cit.* 1852, p. 141 (Ch. 83). Finsen, V. (ed.), *op. cit.* 1879, pp. 278-279. Finsen, V. (ed.), *Grágás III : Stykker, som findes i det Arnamagnæanske Haandskrift Nr. 351 fol. Skálholtsbók og en Række andre Haandskrifter*, Gyldendalske Boghandel, Copenhagen, 1883, pp. 426-42.
18. *Sturlunga Saga* offers many examples of farmers moving in the later centuries of the Free State, a time when the territorial authority of the goðar was increasing [Jóhannesson, J., Finnbogason, M., and Eldjárn, K. (eds), *Sturlunga Saga (The Saga of the Sturlungs)*, 2 vols, Sturlunguútgáfan, Reykjavík, 1946 Chs. 3, 6, 9, 23, 26. *Gudmundar Saga Dra (The Saga of Gudmund the Worthy)*. *Sturlunga Saga*, 1946, Ch. 4. *Hrafns Saga Sveinbjarnarsonar (The Saga of Hrafn the Son of Sveinbjorn)*, *Sturlunga Saga* 1946, Ch. 13. *Íslendinga Saga (The Saga of the Icelanders)*, in *Sturlunga Saga*, vol 2, 1946, Chs. 6, 13, 18, 32, 33, 52, 53, 56, 59, 81, 83, 146, 166.]
19. For Icelandic feud see Byock, J., *op. cit.* 2001, pp. 197-251.
20. Some scholars, such as Ólafur Lárusson, have argued that they functioned for a longer period than has been assumed. [Lárusson, Ó., *Lög og Saga*, Hlaðbúð, Reykjavík. 1958. Translated into Norwegian by Knut Helle as *Lov og ting, Islands forfatning og lover i fristatstiden*, Universitetsforlaget, Bergen and Oslo 1960. *Nokkrar athugasemdir um fjórðungaðingin*, pp. 100-118.]
21. Finsen, V. (ed.), *op. cit.* 1879, p. 356.
22. Benediktsson, J., *op. cit.* 1974 p. 180. Jóhannesson, J., *op. cit.* 1974, p. 66.
23. Finsen, V. (ed.), *op. cit.* 1852, p. 38.
24. Finsen, V. (ed.), *op. cit.* 1852, p. 77.
25. Be, O., 'Holmganga and Einvígi: Scandinavian Forms of the Duel' in *Mediaeval Scandinavia*, 1969, pp. 132-148. Ciklamini, M., 'The Old Icelandic Duel' in *Scandinavian Studies*, 1963, pp. 175-194.
26. Heusler, A., *Dus Strafrecht der Isländersagas*, Duncker und Humbolt, Leipzig, 1911, p. 103.

# THE ALTHING

This systematic picture of the Althing's legislative and judicial functions and their relationship to other governmental structures is based on information found principally in the thirteenth-century lawbooks. In reality Iceland did not operate so systematically

