

**Ordered Anarchy, State, and Rent-Seeking:
The Icelandic Commonwealth,
930-1264**

A dissertation submitted in partial fulfilment of the
requirements for the degree of Doctor of Philosophy
in Economics at George Mason University

by

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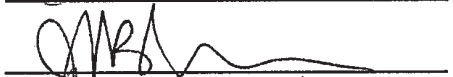
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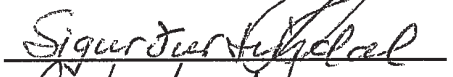
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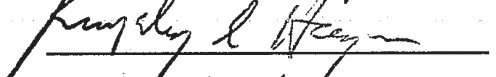
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[M]edieval Icelandic institutions have several peculiar and interesting characteristics; they might almost have been invented by a mad economist to test the lengths to which market systems could supplant government in its most fundamental functions. Killing was a civil offense resulting in a fine paid to the survivors of the victim. Laws were made by a "parliament," seats in which were a marketable commodity. Enforcement of law was entirely a private affair. And yet these extraordinary institutions survived for over three hundred years, and the society in which they survived appears to have been in many ways an attractive one. Its citizens were, by medieval standards, free; differences in status on rank or sex were relatively small; and its literary output in relation to its size has been compared, with some justice, to that of Athens.

David Friedman (1979,400)

ACKNOWLEDGEMENTS

I would, at the outset, like to give my thanks and appreciation to all those who, in one way or another, assisted me in producing this dissertation. Although, it is hard to distinguish how much the assistance from each affected the product here, I must begin by thanking my dissertation committee for their encouragement and comments. The committee's director, Professor Viktor Vanberg, has assisted and encouraged me from the days that I was just postulating a topic for my dissertation. Although, Professor Vanberg bears no responsibility for the final product, it is fair to say that without his encouragement this dissertation might not have been produced. The other committee members, Professors Buchanan, Wagner, Liggio, and LÍndal, not only showed great interest in the work but offered many suggestions that have affected the final shape of the product. Professor LÍndal deserves special thanks for taking the time and showing patience in reading the historical parts of the dissertation.

The faculty and my fellow students in the department of economics at George Mason all showed great interest in my work and offered unmeasured encouragement, which they deserve thanks for. I would especially like to thank Tyler Cowen for his

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Last but not least, I would like to thank Sólveig Singleton for her editorial comments, without which this dissertation's English would have been far less comprehensible.

My sincerest appreciation are acknowledged to all those mentioned and to others whom for lack of space I do not mention here. Finally, I should say that none of these bear any responsibility for the product as it is offered here. That responsibility is exclusively mine.

Constitutional economics is a domain of inquiry and discourse among scientists who choose to perceive social interaction as a set of complex relationships, both actual and potential, among autonomous persons, each of whom is capable of making rational choices. The domain, as such, cannot be extended to include inquiry by those who choose to perceive social action differently. There is simply no common basis for scientific argument, and ultimately agreement, with those who choose to perceive social interaction either in purely conflictual or purely idealistic visions. These visions are, indeed, alternative 'windows' on the world. And the process through which individuals choose among such windows remains mysterious. How can empirical evidence be made convincing when such evidence must, itself, be perceived from only one vantage point at a time? The naivete of modern empirical economists in this respect verges on absurdity.

James M. Buchanan (1990:17)

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ABSTRACT

ORDERED ANARCHY, STATE AND RENT-SEEKING; THE ICELANDIC COMMONWEALTH, 930-1262

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George Mason University, 1991

Dissertation director: Viktor Vanberg, Ph.D.

My task is to come up with a theory of cooperation and, then, apply that theory to a particular historical case. The historical case I discuss is the rise and decline of social order in medieval Iceland; the so-called Commonwealth period. The Commonwealth experience poses two main questions; first, how did the Commonwealth emerge, and, second, why did it break down.

I begin by discussing the concepts of reciprocity and cooperation, and then offer an evolutionary theory of cooperation. Next, I put the theory to the test of actually explaining the rise of the Commonwealth's institutional structure. I find that the theory is highly informative in application and able to account for Iceland's institutional structure. Reciprocal behaviour on the part of the Icelanders initiated and created the cooperative institutional system. The keys to the stability of the system are found in the encouragement of reciprocal behaviour, where the future repeated engagements are important enough to discourage defections. The Commonwealth was a decentralized structure, based mostly on voluntary cooperation, and enforcements of judgements were private.

Along with expanding population, the Commonwealth chieftains position as arbitrators and owners of churches strengthened their position with respect to their followers. As time went by they realized the advantage of their privileged status and combined the sale of legal and religious services for their own benefit. By the last decade of the eleventh century the chieftains were able to use their position to introduce the tithe, obligating farmers to pay a tax to the chieftains and the Church, of one percentile of their wealth. In essence, rent-seeking (defection) became more profitable for the chieftains than long-term reciprocal behaviour. Reciprocity, fruitful in establishing Iceland's institutional structure, lost its importance and such behaviour diminished. The tied sales of legal and religious services established the chieftains as local monopolies, as minimal states. These minimal states now competed for more territory, and population, and, most importantly, more chieftaincies and churches. The minimal states became fewer and fewer as the surviving ones triumphed in their advancements. Through the struggle for wealth and power the chieftains mostly killed each other and by 1250 only a few chiefdoms and even fewer chieftains survived. By that time the king of Norway had established a foothold in the country and by the voluntary choice of the Icelandic farmers in 1262-64, was accepted as king of Iceland.

In that Book on the reckoning of time, which the Venerable Bede drew up, there is mention made of the Island called Tili, which in books is said to be six days' sailing north from Britain. There he said day came not in winter, nor night in summer, when day is at its longest. By wise men the reason why Iceland is called Tili is held to be this, that, wide about the land the sun shines all night when the day is at its longest, and that wide about it the sun is not seen in the day time when night is at its longest.

When Iceland was discovered and peopled from Norway, Adrian was Pope of Rome, and after him John, he who was eighth of that name in the Apostolic seat, Louis, son of Louis, was Kaiser north of the Alps, and Leo and his son Alexander over Constantinople. Then was Harold Fairhair King over Norway and Eric the son of Eymund in Sweden, and Alfred the Great in England, and afterwards Edward his son, and Kiarval in Dublin, and Earl Sigurd the Mighty in Orkney.

The Book of the Settlement.

INTRODUCTION

When all is said and done, *Constitutional Economics*, for me, must be acknowledged to rest upon a precommitment to, or faith in if you will, man's cooperative potential. Persons are neither bees in hives, carnivorous beasts in a jungle, nor angels in God's heaven. They are independent units of consciousness, capable of assigning values to alternatives, and capable of choosing and acting in accordance with these values. It is both physically necessary and beneficial that they live together, in many and varying associations and communities. But to do so, they must live by rules that they can also choose.

James M. Buchanan (1990:18)

How is it that human beings come to cooperate with each other? How does cooperation arise among us? Are there conditions under which cooperation will or

will not arise? Will these conditions ensure the continuation and stability of cooperation, once it is established? Why does cooperation decline within societies?

These questions, if not posed in the above terms exactly, have intrigued scholars through the ages, and they still do. Many, indeed, have come up with answers to these questions, even managed to convince others of the correctness of their answers and gained a following, only for their answers to be questioned again and lose their appeal. For the most part, philosophers have been the ones asking and attempting to answer these questions, and only occasionally have scholars from other disciplines entered the arena.

A THEORY OF COOPERATION

These questions concerning the rise, stability, and decline of cooperation motivates this study. I approach these questions not from the point of view of the philosopher but rather from that of the economist. My task is to come up with a theory of cooperation, a theory that explains how and under what conditions cooperation among human beings arises, becomes stable, and how and why it may decline. I attempt to accomplish this task by searching the relevant literature and to utilize what it offers on this topic.

Mainstream economics regrettably does not attempt to answer these questions. The mainstream seems to take it for granted that cooperation exists in society and sees no sense in asking or answering these questions. Happily, though, there have been deviations from the mainstream and some of these provide clues to answers to these

questions. These deviant schools, for the most part, build upon neoclassical or orthodox analysis, but extend their paradigms to include additional areas of inquiry. Two of these schools, Constitutional Political Economy and Neoinstitutional Economics,¹ extend the mainstream paradigm to analyze the emergence and role of institutions. The generalized paradigm, which the two schools advocate, appears to offer some answers to the intriguing questions raised above.

Scholars using this new paradigm have asked and answered these questions with some success. Indeed collectively, this literature takes us a long way in understanding how cooperation arises, is stable, and why it may decline. Various scholars have modeled theories of cooperation which are highly informative theoretically.² My task, for this reason, is simplified. My study can, to some extent, use these models, although modification to, clarification of, and a selection among the preferred models is necessary. One, of two, major goals of this study, therefore, is to scrutinize these models of cooperation, and then adopt them for the second goal of our study, that of trying to understand human cooperation historically.

Although theorizing about and modelling cooperation is a novel goal and may help us intuitively to understand how cooperation arises and declines, it is only a partial goal. Theory, by itself, can sharpen or focus our intuition, and in so doing may supply its own justification. But only a theory that is helpful in understanding

¹ For an introduction to and survey of these schools, see, on the former (which to me includes both Constitutional Economics and Public Choice), Buchanan (1987c;1990) and, the latter, Eggertsson (1990).

² It suffices, at this point, to mention only a handful of these theoretical attempts: Axelrod (1984), Buchanan (1975), Nozick (1974), Sugden (1986), Taylor (1982; 1987), Ullman-Margalit (1978), Vanberg and Buchanan (1989).

actual history is worth its name. The ultimate goal of theorizing and modelling in the social sciences is only complete when the theory or model can, in one way or another, be utilized to understand what it is supposed to explain: actual human behaviour. Therefore, an equally important task to theory building is that of applying the theory to historical instances. My goals, therefore, are, first, to come up with a theory of how cooperation arises, stabilizes, and declines, and, secondly, to apply that theory to a particular historical case.³

THE ICELANDIC COMMONWEALTH

The historical case I will discuss is the rise and decline of social order in medieval Iceland; the so-called Commonwealth period. The Icelandic Commonwealth is conventionally dated 930-1264 AD. This historical case is interesting for several reasons. First of all, it is interesting to me, as an Icelander, because it gives me a chance to work on a native problem. But, secondly and more important, it has been of interest to other scholars, no matter what their nationality,⁴ because medieval Iceland

³ My goals should be interpreted with modesty. I do not intend to claim that with my case study I have in any way "proved" the theory. Nor do I even claim that with my theoretical explanation of the case have I "proved" the "true" history of the Commonwealth.

With modesty I claim, and will remind the reader occasionally of this claim throughout the thesis, to present a coherent theory of cooperation; how it may evolve and is then used to interpret a historical case. Hopefully, my interpretation is a more coherent and convincing explanation than has appeared before.

⁴ To name but a few "foreigners" that have written on this period in Icelandic history: J. Bryce (1901), J. Byock (1988), D. Friedman (1979;1989a;1990), B. Gelsinger (1981), K. Hastrup (1985), W. Miller (1984;1988) and last but not least Konrad Maurer (1864;1882;1908;1909;1910).

In this connection a question may occur to some as to why my writing on the same subject is needed? The answer is really twofold: First, and more importantly, my task is different from that of other scholars; namely in forwarding a theory of cooperation and then applying it to an (arbitrary?) historical case. Second, I am dissatisfied particularly with some of what has been written on the institutional history of the Commonwealth and also the interpretation of it. Some of this dissatisfaction will become apparent in the pages to follow, some will not. Of the latter, I will not discuss my dissatisfaction with some political interpretations that I do not think are justified; such as claiming that the Commonwealth is an example of libertarianism or anarcho-capitalism in practice (see Friedman 1989a;1989b). This interpretation of the Commonwealth is not warranted, and the reasons for why it is not, will become

provides an example of a country that was uninhabited before 874 and where a society was established over the next century. By 965 cooperation had arisen in Iceland and remained stable, for the most part at least, for the next two centuries. After that cooperation began to decline and eventually the Commonwealth came to an end in 1264.

The rise and decline of this society is interesting not only because it is fairly well documented, but, more importantly, because its history is in some respects simpler to analyze than histories of most other societies. This is because Iceland, an island in the middle of the Atlantic Ocean, was isolated from outside influences and threats. Iceland was not isolated in the sense of having no relations, such as trade, with other countries. Further, the Icelandic Church always had relations with the Church abroad, especially with the archbishop for Iceland. But, rather, the Commonwealth was isolated in that its domestic development was largely independent of developments in its neighbouring countries and free from the threat of invasion. This is in sharp contrast to the development of societies in most other areas, such as England, where continuous invasions threatened, and actual occupation sometimes occurred.

Likewise, the history of the rise of cooperation in Iceland is relatively simple compared to that of others. In Iceland, there was no urgent need imposed from the outside for the Icelanders to organize cooperative ventures. Furthermore, there was, seemingly, no organized effort either to establish cooperation in Iceland; nevertheless

cooperation did occur. This, interestingly, suggests that cooperation somehow arose spontaneously in Iceland.

The system of cooperation in Iceland, the institutional structure of the Commonwealth, worked fairly well, at least in the beginning, and did provide stability. Yet, the system did later decline and the Commonwealth came to an end. This decline of cooperation further adds interest to this historical case.

The experience poses two main questions; first, how did the Commonwealth emerge, and, second, why did it break down.

THEORY AND HISTORY

Historians, or more properly Icelandic historians, have always shown interest in the Commonwealth and produced numerous works on it.⁵ Most historians uncover similar facts from the original sources, but emphasize different sets of these facts as being the important explanatory factors. Such different emphases of the historians are most apparent in their explanations of the rise of the Commonwealth's institutional structure and in explaining the cause of its decline. Their general descriptions of the system's operation, on the other hand, are for the most part identical.

I essentially accept the account of the Commonwealth story that historians have provided. However, importantly, I differ from the historians in supplying an explicit

⁵ The best complete histories on the period are: Jóhannesson (1974) and Þorsteinsson (1953;1966;1980). Other important works, in my opinion, are: LINDAL (1964;1969;1974; 1975;1978;1984), Sigurðsson (1989), and Byock (1988). For others, see bibliography.

theoretical account of the Commonwealth's history.⁶ Because the historians lack such an explicit theory, they fail in their attempts to come up with a coherent explanations of the rise and decline of the Commonwealth's cooperative structure. It is this particular failure, the lack of an explicit theoretical account, of the historians that I want to rectify. I try to offer a convincing integrated explanation of the emergence of the structure and the causes for its decline.

I do not try to uncover new historical facts, but rather, accept the "facts" as recorded by the historians. My historical account is, in some sense, copied from the historians and my disagreement with them lies solely in interpreting these "facts". By providing an explicit theoretical account of the history, by using my theory to discriminate between and then arrange the "facts", I attempt to provide a more coherent story of the Icelandic Commonwealth.

SELECTION OF SOURCES

Since no attempt will be made here to uncover new historical facts I will not abandon the secondary literature of the historians in favour of original sources.

However, I do recognize that 'facts' do not come without a theory; that all 'facts' are theory laden, and that in accepting the 'facts' I am, to some extent, accepting theories. Even so, my theory is not identical with any single theory of the historians' theories. Further, interpretation is needed in reading the secondary literature

⁶ There are exceptions, though. The nature of the legal system, for example, has been analyzed somewhat coherently through a particular theoretical perspective (Líndal 1964;1969;1984). Complete histories, on the other hand, all seem to suffer from a lack of a theoretical perspective.

and so my perspective may not be the same as that of the respective authors' themselves. At any rate, I do not claim that all the theories that the historians use are wrong, but rather that their theories are mostly implicit and that they are more or less incoherent. My task here is to provide a coherent theory of cooperation and then offer a coherent, explicitly theoretical, and convincing account of the history. I do not claim originality on the 'facts' presented in my study. Instead, the originality lies in providing, mainly through integration of previous work, a coherent theory of cooperation, how it rises and declines, as it applies to the historical case discussed: the Icelandic Commonwealth.

ORGANIZATION OF THE STUDY

The thesis is organized as follows:

Chapter 1, **CONSTITUTIONAL POLITICAL ECONOMY AND HISTORICAL ANALYSIS**, focuses on the connection between historical analysis and modern political economy. The main point is to show how institutional theory is essential to historical analysis, such as this one. The institutional approach is abstract and theoretical; the result is institutional history, not the history of persons. The discussion then focuses on Constitutional Economics and Public Choice theory, explaining how these fields differ from conventional, orthodox economics, and arguing that the addition of these fields adds greatly to our understanding of social and economic life.

Chapter 2, **HISTORY OF THE ICELANDIC COMMONWEALTH**, offers a short history of the Commonwealth. This short history takes us through the age of

the Vikings and shows how that history affects the settlement of Iceland. I describe the main institutions of the Commonwealth, their operation, and their evolution. The rise of the Church as an independent institution and the introduction of taxation are also briefly discussed. The historical summary closes on a discussion of the end of the Commonwealth, and of a treaty that the Icelanders made with the king of Norway. The treaty, the Old Agreement 1262-64, added Iceland to the Norwegian Kingdom.

After the historical summary I discuss the theories historians implicitly offer to explain the rise and the decline of the Commonwealth. It is on these issues that I differ with most historians and these issues are, therefore, the mainstay of my study. I first criticize the "constructivist" explanation of the formation of the institutional structure of the Commonwealth, and suggest instead that a more evolutionary or spontaneous type of explanation is in order.⁷

The main problem with the historians' account of the decline of the Commonwealth is their lack of explicit theoretical explanations. There are in fact so many differing explanations of the decline that I in no way claim to do justice to all of them individually. Instead, I criticize them in groups; drawing together theories that stress similar causes. My main emphasis will be on two types of theories: first, an economic decline explanation, and, second, a wealth and power struggle and concentration explanation.

Chapter 3, SPONTANEOUS AND DECENTRALIZED ORDERS, opens on the question of how cooperation among individuals can ever arise. A brief discussion is

⁷ This was suggested by Professor L ndal (1969), and I formalize his suggestion.

then offered of different types of explanations, separating spontaneous order explanations from constructivist ones. Axelrod's (1984) work on the evolution of cooperation is introduced to offer a framework for theory building and a potential answer to our question. After recognizing some shortcomings of Axelrod, I describe the contribution of Buchanan and Vanberg (1989) and show how their analysis helps clarify underlying issues. Their suggestion of "second-order clustering" provides a solution to the problem of cooperation.

With a theory of cooperation at hand, Chapter 4, *THE EMERGENCE OF SOCIAL ORDER IN THE ICELANDIC COMMONWEALTH*, begins the application of the theory to the historical case. I reject the constructivist explanation of the emergence of cooperation in Iceland. The theory of the evolution of cooperation provides an alternative explanation of the formation of a cooperative structure in Iceland. I first show how institutions emerged in the settlement period, how additional institutions of the second order evolved to form the Commonwealth structure, and how these institutions established cooperation among Icelanders. Next, I explain the legal system of the Commonwealth, including law enforcement. Finally, I show how the Icelanders overcame some potential problems posed by the theory, namely, the transmission of information and the reintegration of defectors.

Chapter 5, *FROM A DECENTRALIZED ORDER TO THE RISE OF MINIMAL STATES*, describes the institutional structure that evolved in the Commonwealth as a system of decentralized autonomous units. This decentralized system incorporated some elements of centralization, for instance, in legal decision-

making. Individuals voluntarily associated themselves with groups, and each group was led by a chieftain. There was a balance in this system to be found in the voluntary choice and the equality of group size. The relations in this system seem to have been able to provide stability of cooperation.

Next, I introduce Nozick's theory of the rise of the minimal state. I correct a problem with Nozick's theory by connecting the theory of the minimal state to the theory of "tied public goods." The evolution of the *Goði-Pingmann* relationship in the Commonwealth may, analogously, be thought of as a rise of minimal states through the tied sales of public goods. The chieftains, being limited in number and owning the temples and churches, were able to change their relations with the farmers and others within the system, at the farmers expense. The chapter traces this development through the first two centuries, laying the foundation for the argument that this balance would break down because of competition between the minimal states.

Chapter 6, THE POLITICAL ECONOMY OF RENT-SEEKING AND THE END OF THE COMMONWEALTH, introduces the theory of rent-seeking and, then analyzes "rent-seeking" in the Commonwealth. This rent-seeking behaviour was initiated by the institutional changes described in the previous chapter, changes which cleared the way for the acceptance of taxation in Iceland. My contention is that rent-seeking causes problems for the stability of cooperation and, in fact, caused the decline of cooperation in the Commonwealth.

The new tax-law provided a structure for ever increasing competition for the revenue, i.e. rent-seeking, and such behaviour really took off. This, in turn, led to

increased concentration of power, to the outbreak of a civil-war, and continuous warring among chieftainship families. The result was a breakdown of the legal order, and, increasingly, the formal legal structure was ignored and manipulated by the chieftains. The overall effect of rent-seeking behaviour was a general disruption of social and economic life, resulting, finally, in a treaty with the Norwegian king to uphold law and order.

Next, in some detail, I criticize the theory that the end of the Commonwealth was caused by economic decline. I argue that although an economic decline may have occurred during the last century of the Commonwealth period, this by itself was not the cause of the fall of the Commonwealth. Rather, this economic decline, if it did occur, was itself an effect and not a cause of the institutional and social breakdown in Iceland.

In chapter 7, the CONCLUSION, I evaluate the Commonwealth experience by drawing together the main thoughts and arguments of preceding chapters.

CHAPTER

ONE

CONSTITUTIONAL POLITICAL ECONOMY AND HISTORICAL ANALYSIS

"What difference does the explicit incorporation of the institutional analysis make to the writing (and for that matter the reading) of economic history and of history in general? Writing history is constructing a coherent story of some facet of the human condition through time. Such a construction exists only in the human mind. We do not recreate the past; we construct stories about the past. But to be good history, the story must give a consistent, logical account and be constrained by the available evidence and the available theory. A brief answer to the question is that incorporating institutions into history allows us to tell a much better story than we otherwise could." (North 1990:154)

The task in this chapter is to discuss, briefly, the general type of theoretical approach used in this study. My theoretical explanation of the rise and the decline of the Icelandic Commonwealth is founded in modern institutional analysis. My purpose is to explain the history of the Commonwealth, but in doing so I explain how institutions arose and changed during this period. In other words, I will be telling the

institutional history of the Commonwealth, and not the history of any particular individuals or events. My approach is an institutional analysis of the medieval Icelandic experience.

I claim in this chapter, as have several new schools of economists, that without institutional analysis economic theory is incomplete. In particular, I argue that without institutional analysis economics as perceived by mainstream economists cannot throw much light on history. The essence of doing proper empirical work is to explain how institutions are shaped and how they themselves shape the choices of agents.

The chapter will give support to my argument by explaining the relation between institutional analysis and history. Next I explain what we refer to as "institutions" and "institutional theory." Finally, I discuss modern political economy, in particular, constitutional economics and public choice theory, since my approach is derived from these schools of analysis.

INSTITUTIONS AND HISTORICAL ANALYSIS

"Institutions place history in a role central to theory. Central, because institutions require that we recognize that the set of constraints within which current choice-making occurs is derived from the past, and without understanding the way in which those constraints have evolved, we cannot understand the choice set existing today. The study of economic history should provide the economist with an understanding not only of what the current institutional constraints are but also of the past incremental process that led to those constraints. The economist will understand the bargaining strength of organized groups that determined the current institutional structure and hence be in the position to develop a far more relevant model of the significant constraints that then need to be incorporated in his/her current model." (North 1990:113)

The significance of institutional analysis is best demonstrated in the role it plays in empirical work. One could even go as far as to say that without accounting for the role institutions play in every historical situation there would be no history. There would be no history of how the economy developed and how society evolved, there would only be the biographies of individuals and "freeze-frame" pictures of choices in different periods. What institutional theory and analysis adds to a historical study is a 'window' of perception, through which we can understand why and how choices were made the way they were, and the consequences of those choices. By incorporating institutions into our study, we can begin to understand why an economy developed or regressed, or why a society was stable or unstable.

Institutions allow us to tell an institutional history; a history with a continuum. The continuous development or incremental change in institutions allows us to connect periods of history together, learning both how institutions change and what consequences the institutional changes have on economy and society. We can understand how and why certain institutions came into place, whether as the result of an organized effort on the part of some or all members of that society, or as an unintended consequence of some behavioural pattern. Institutions reveal the relation between the polity and the economy, and the way these influence and effect each other. Through the study of institutions and a historical analysis of them we understand why people constrain themselves in those particular ways and not some other way. Or, as North says:

"Institutions provide the basis structure by which human beings throughout history have created order and attempted to reduce uncertainty in exchange. Together with the technology employed they determine transaction and production costs and hence the profitability and feasibility of engaging in economic activity; they connect the past with the present and the future so that history is largely incremental story of institutional evolution in which the historical performance of economies can only be understood as a part of a sequential story; and they are the key to understanding the interrelationship between the polity and the economy and the consequences of that interrelationship for economic growth (or stagnation and decline). (1990:114)

The incorporation of institutional theory into historical analysis not only allows us to understand the role of institutions better, it allows us to understand history and theory better. Theoretical analysis gives us conception of history, it allows us to determine what the facts are and how to arrange them in sets so they make a coherent story. But the historical knowledge that we gain through theoretical analysis also allows us to theorize better. In the same sense that there is no history without theory, so it is that there is no theory without history.⁸ We have a circle; theory informs history, which in turn informs theory.

It is not the purpose of institutional theory to replace orthodox price theory. In fact institutional theory should be thought of as complementary to price theory; without institutional analysis price theory is incomplete. The relation between the two is circular; institutional theory and price theory inform each other.

RULES, INSTITUTIONS, AND SOCIAL INSTITUTIONS

"Institutions are a creation of human beings. They evolve and are altered by them; hence our theory must begin with the individual.... at the same time the

⁸ Theory here, of course, refers to institutional theory.

constraints that institutions impose on individual choices are pervasive and the failure to appreciate the role that institutions play in the choice set is a fundamental stumbling block in the path of further development of the social sciences generally and of economics in particular." (North 1990:4)

Modern institutional analysis is concerned with the role of institutions in economics. This new subdiscipline analyzes how and why institutions emerge, and how they evolve, change, and are comparable to each other. We now have to define what we take "institutions" to be, or how we define them.

Institutions can be defined in several ways, distinguished mainly by how broad or narrow one's analytical needs are. A narrow definition might claim that institutions include all "physical" phenomena, such as the Federal Reserve System, the Congress, the courts, firms, museums, the United Nations, the state, etc. This definition would exclude all "non-physical" phenomena, such as morals, manners, culture, language, etc. A broad definition, on the other hand, would include all "physical" and "non-physical" phenomena, ranging from lighthouses to manners, as long as some routine or rule-following behaviour were involved.⁹

⁹ There should be no need to underline the fact that in theory building, such as institutional theory, institutions are created as "ideal types", and the historian will analyze institutions as ideal types.

"The characteristic mark of an 'ideal type'...is that it implies some proposition concerning valuing and acting... When it refers to institutions, it implies that these institutions are products of uniform or similar ways of valuing and acting or that they influence valuing and acting in a uniform or similar way" (Mises 1957:316).

"The service a definite ideal type renders to...the historian in his analysis of the past is dependent on the specific understanding that led to its construction. To question the usefulness of an ideal type for explaining a definite problem, one must criticize the mode of understanding involved" (Mises 1957:319)

"Ideal types are expedients to simplify the treatment of the puzzling multiplicity and variety of human affairs. In employing them one must always be aware of the deficiencies of any kind of simplification" (Mises 1957:320).

"In acting-in their daily routine, as well as in technology and therapeutics, and also in history-people employ 'real types,' that is, class concepts distinguishing people or institutions according to neatly definable traits" (Mises 1957:315).

"The simplest way to describe the relationship between the analytical social sciences (praxeology) and the various kinds of history is in terms of the respective parts they play with regard to the production and use of ideal-typical conceptual schemes. Briefly, the former produce and the latter use them. They are used, as

(continued...)

Using this broader definition, which I adopt, it might be more proper to speak of "Social Institutions" rather than just "institutions." The term "social institutions" incorporates all institutions, whether economic or other, all rules, whether statutory law or morals, and all routine or rule-guided behaviour, whether cultural or personal rules are involved. This last part is the essence of the term; a social institution is any behaviour of an individual or individuals that is based on either a routine or rule-guidance. Under this broad definition the terms "rules," "institutions," and "social institutions," are interchangeable; they all refer to the same sort of behaviour. Having defined institutions, let us now turn to the question of why institutions matter for the study of economics.¹⁰

INSTITUTIONAL THEORY

"Institutions are the rules of the game in a society or more formally are the humanly devised constraints that shape human interaction. They provide the structure to all human exchange, whether political, social or economic. Institutional change therefore shapes the way societies evolve through time and hence is the key to understanding historical change." (North 1990:1)

⁹(...continued)

it were, as a foil against which to hold 'real events', so as to bring out particular properties of the latter by comparison" (Lachmann 1986:34)

For an excellent discussion on the relation between ideal-types and rules (institutions), see Horwitz (1989).

¹⁰ Although it is important that the reader know what I am referring to when I speak of institutions, my study, as such, is not concerned with arguing for one definition rather than another. Neither is my concern with why it is that individuals adopt routine and rule-following behavior, i.e. establishing institutions. I take it as a given that people establish institutions and my concern is how they do it, not why they do it. For those interested in pursuing this latter avenue should consult the following literature: Vanberg (1988;1989), Heiner (1983;1990), Schotter (1981), Langlois (1986), Hayek (1967;1973), Nelson and Winter (1982), Horwitz (1989), and Ullman-Margalit (1977). (There are actually several "why" questions. The first is why an individual is willing to follow rules himself, another is why he wants others to follow rules. The former question is dealt with in the literature listed above, while the latter will be discussed below.)

The best way to answer the above question of what "institutions" are, is to explain what the purpose of institutions are. Institutions are created through, or with the intention of providing, routine behaviour. They are intended to provide some certainty in an otherwise uncertain world, to provide stability. In providing stability, institutions allow an individual to either adopt or refrain from certain form of behaviour and to allow the other individuals to form expectations about her behaviour. Without institutions individual behaviour would be chaotic; without routine expectations would be hard or impossible to form.¹¹

Individuals want stability to be able to form expectations of how other people will or will not behave. To get this stability they are willing to constrain themselves or be constrained. It is the task of institutional theory to analyze how individuals constrain themselves, how institutions emerge, evolve, and change, and how they compare with alternative institutions, whether former institutions or imagined ones. Understanding how people constrain themselves and how they might alternatively do so, helps us understand why their choices are what they are and how they could be under different institutional arrangements. Orthodox economic theory teaches us how individuals, under given constraints, make choices. Adding institutional theory to the orthodox theory, teaches us how choices will differ depending on the institutional arrangement. Institutional theory and orthodox theory are complementary, and together

¹¹ This is the second "why" question, and the answer. For an excellent discussion of the role of institutions and rules, see Horwitz (1989) and Hayek (1973).

they help the economist answer criticisms from other disciplines, claiming that economic theory only holds in a certain institutional environment. As North states:

"Defining institutions as the constraints that human beings impose on themselves makes the definition complementary to the choice theoretic approach of the neo-classical economic theory. Building a theory of institutions on the foundation of individual choice is a step towards reconciling differences between economics and the other social sciences." (1990:3)

MODERN INSTITUTIONAL THEORY

Modern Political Economy is a new subdiscipline within economics. It is actually a broad field of study that incorporates rather diverse schools of thought. Over the past several decades a whole array of schools within economics have appeared. These schools have gone under various labels, including: Public Choice, Property Rights School, Transaction Costs Economics, the New Economic History, Law and Economics, and Constitutional Economics. Sometimes more broadly encompassing labels have been used, such as Institutional Economics, New Institutional Economics, New Political Economy, Constitutional Political Economy, and Neoinstitutional Economics.

Modern Political Economy may, on the other hand, be said to originate in the works of the Scottish Moral Philosophers and particularly in the work of Adam Smith.

As Buchanan says:

Constitutional political economy is best interpreted as a re-emphasis, a revival, a re-discovery, of basic elements of earlier intellectual traditions that have been

set aside, neglected, and sometimes forgotten in the social sciences and social philosophy. (1990:10)¹²

Despite differing and sometimes conflicting labels, all of these schools of thought, which we in sum have called the Modern Political Economy, are alike concerned with the role of institutions in economics. In one way or another, all try to explain why and how institutions and rules emerge, and how they evolve, change, and are comparable with each other. Except for the "Old" Institutional school, all schools incorporate the rational choice model or *homo economicus* into their analysis.¹³ Yet, though the task of the various schools is for the most part similar and the schools' paradigms incorporate the same hard core principles, there are notable differences. Some, such as the Property Rights School, focus more narrowly on the institutions of property, and others, such as the Transactions Costs school, more narrowly on the costliness of exchanges.¹⁴ Instead of a detailed discussion on each of these schools I will focus on two of these schools.

¹² "The subject matter is not new or novel, and it may be argued that 'constitutional economics' is more closely related to the work of Adam Smith and the classical economists than its modern 'non-constitutional' counterpart." (Buchanan 1987c:584)

¹³ On the methodology of Constitutional Political Economy, see Brennan and Buchanan (1985). On the methodology of neoinstitutional economics, see Eggertsson (1990). On the different methodological approaches of the 'Old' Institutional and the New, see Vanberg (1988).

¹⁴ On these various schools see: Buchanan (1987c;1990) on constitutional economics, Mueller (1989) and Buchanan (1984) on public choice, Hodgson (1988) on institutional economics, Langlois (1986) and Schotter (1981) on new institutional economics, Eggertsson (1990) on neoinstitutional economics, North (1990) and North and Thomas (1973) on the new economic history, Alchian (1965), Demsetz (1967), Alchian and Demsetz (1973), Pejovich (1972), and Furubotn and Pejovich (1972) on the property rights school, and Coase (1960) and Posner (1981) on law and economics.

CONSTITUTIONAL ECONOMICS

There is a categorical distinction to be made between constitutional economics and non-constitutional, or ordinary, economics, a distinction in the ultimate behavioural object of analytical attention. In one sense, all of economics is about choice, and about the varying and complex institutional arrangements within which individuals make choices among alternatives. In ordinary or orthodox economics, no matter how simple or complex, analysis is concentrated on choices made *within* constraints that are, themselves, imposed exogenously to the person or persons charged with making the choice.

It is precisely at this critical point that constitutional economics, in its most inclusive definition, departs from the conventional framework of analysis. Constitutional economics directs analytical attention to the *choice among constraints*. (Buchanan 1990:2-3)¹⁵

Economics, especially the neoclassical tradition, focuses on the choices of individuals. These choices are postulated as being constrained in one way or another, such as by nature, budgets, prices, rules, and institutions. These constraints are taken as givens and individuals can only make choices within these boundaries. No attempt is made to explain why any of these constraints are there, nor is the question asked whether some of these constraints are determined or are there by choice. It seems absurd to the orthodox economist that people might actually choose to constrain their own behaviour and choices. Scarcity, according to orthodox economics, is the basis

¹⁵ Although Buchanan uses the terms Constitutional Economics and Constitutional Political Economy synchronously, which I do not, and in a 'narrow' definition, i.e. separating this school from the others mentioned above, he does allow for a more 'wider' definition:

"In continental Europe, the whole set of subdisciplines is included under the rubric 'The New Political Economy'. Within this set we can place (1) Public Choice, from which Constitutional Economics emerged; (2) Economics of Property Rights; (3) Law and Economics or Economic Analysis of Law; (4) Political Economy of Regulation; (5) the New Institutional Economics, and (6) the new Economic History. Defined imperialistically, Constitutional Economics would parallel the inclusive term and embrace all of these programmes, since some attention is drawn in each case to the legal-political constraints within which economic and political agents choose. (Buchanan 1987c:586)

By Constitutional Economics, I refer to this wider or imperialistic definition of the field. Constitutional Economics, for me, refers to all choices by agents at the constitutional or meta-rule level. I do separate Public Choice theory from this and to me it refers to all choices, in non-market settings, within the constitutional or meta-rule constraints. Together, Constitutional Economics and Public Choice, I refer to as Constitutional Political Economy.

for choice, and overcoming scarcity is basically the motive for behaviour. The idea that people may actually choose to artificially increase the degree of scarcity has not found a place within orthodox economics.

At this point Constitutional Economics enters the arena.¹⁶ Constitutional Economics focuses on how constraints come into being; how rules and institutions are chosen. As Buchanan says, in moving "beyond the models of orthodox economics....we observe that individuals do, in fact, choose their own constraints, at least to a degree and within limits" (1990:3). It is the task of Constitutional Economics to explain why and how individuals come to choose one institutional arrangement, rather than another: "The whole inquiry involves the study of rules, how these rules work and how rules might be chosen" (Buchanan 1990:2).

Constitutional Economics does not claim that orthodox analysis is unimportant or useless, but rather that it is incomplete. Analyzing how individuals make choices within a given institutional setting is in a way a trivial study; explaining these choices and their results in different institutional settings, by comparison, is of real significance. The latter paradigm helps us understand why and how people come to adopt one set of rules and institutions rather than some other.

¹⁶ "By both contrast and comparison, constitutional economic analysis attempts to explain the working properties of alternative sets of legal-institutional-constitutional rules that constrain the choices and activities of economic and political agents, the rules that define the framework within which the ordinary choices of economic and political agents are made. In this sense, constitutional economics involves a 'higher' level of inquiry than orthodox economics; it must incorporate the results of the latter along with many less sophisticated subdisciplines." (Buchanan 1987c:585)

PUBLIC CHOICE

Public choice can be defined as the economic study of nonmarket decision making, or simply the application of economics to political science. The subject matter of public choice is the same as that of political science.... The methodology of public choice is that of economics, however. The basic behavioural postulate of public choice, as for economics, is that man is an egoistic, rational, utility maximizer. (Mueller 1989:2)

Not only has orthodox economics confined itself to analyzing choice within given constraints, but, further, economics has traditionally focused on individual choice in a market setting. In such a setting individuals are constrained by budgets, prices, and other market institutions, and they make choices and exchange with each other on the basis of these monetary terms. What public choice adds to conventional economics is its focus on hampered markets and politics; in other words, non-market settings. The novelty of the public choice approach is that it asks us to view politics as a market setting; the political market. Instead of viewing politicians and bureaucrats as altruistic, it postulates that these actors have the same motives for behaviour as do actors in market settings. At the same time, it recognizes that the incentives for choices in a non-market or political market may differ from those in a market setting.

Although public choice focuses on non-market and political market settings it does not intrude on the field of political science. Rather, it adds to the study of political science. Political science views politics as a conflict where one side or the other comes out on top. Public choice, like economics, emphasizes the cooperative element of politics, where actors exchange with each other. Instead of viewing a political outcome as a triumph for a particular group, public choice may look at the

outcome as a cooperative solution, where most or all groups got something they wanted. Public choice can also analyze conflicts, as economics analyzes market rivalry.

SUMMARY

Together, public choice and constitutional economics, give us an alternative paradigm by which to study politics and other non-market settings. Together these analyses add to the field of economics by explaining how constraints come into being, how they work, how they change, and how they are comparable. The areas in which these emerging fields add to the inquiry are properly viewed as the extension of the economic paradigm. Constitutional Political Economy should also be viewed as necessary for a more complete analysis of the market and social order. Without the fields of Constitutional Economics and Public Choice, the question of how a market order comes into being, evolves, and declines may not be properly understood. More generally, with the addition of these fields, the study of how social order is possible and comes about may be more fruitfully answered.¹⁷

The Constitutional Political Economy of the Icelandic Commonwealth is what this study is all about. The theory I construct in this study and then use to explain the institutional structure of medieval Iceland, falls squarely within the paradigms of Constitutional Economics and Public Choice.

¹⁷ "The major contribution of modern Public Choice, as a subdiscipline in its own right, has been that of endogenizing political decision-making. In its direct emphasis, public choice theory examines the political decision rules that exist with a view toward making some predictions about just what sort of tax institutions or tax instruments will emerge. Constitutional Economics, as an extended research programme that emerges from Public Choice, goes a step further and uses the inputs from both neoclassical economics and public choice theory to analyze how alternative political rules might generate differing tax rules." (Buchanan 1987c:587)

CHAPTER

TWO

HISTORY OF THE ICELANDIC COMMONWEALTH

Many men say that writing about the settlement is unnecessary. But it seems to me that we would be better able to answer foreigners who upbraid us for our descent from scoundrels or thralls if we knew our true origins for certain. Similarly, for those men who want to know old lore or to reckon genealogies, it is better to begin at the beginning rather than to jump right into the middle. And of course all wise peoples want to know about the beginnings of their settlement and their own families.

*The Book of the Settlement*¹⁸

With few exceptions, most early societies did not record their history in writing. An exception is the history of the Athenians. Another, rivalled only by the former, is the history of the Icelanders. In the twelfth century a brilliant literary tradition arose in Iceland; the Icelanders not only produced poetry and prose, but also the famous

¹⁸ Quoted from Byock (1988:14).

Icelandic Sagas.¹⁹ There is general agreement that the *Sagas* can be used as historical sources and, particularly, as sources revealing the institutional workings of that society.²⁰

AN OVERVIEW

The settlement of Iceland began around 870, and the period from that time up till 930 is referred to as the Settlement period. Little is known about this period, except for what is known about the initial settlement process. The period from 930 to 1264 is referred to as the Icelandic Commonwealth period (*Þjóðveldistímabilið*).

¹⁹ Aside from poetry and prose, whole arrays of *Sagas* were written in the 12th through 14th centuries. These *Sagas* are usually referred to as the *Sagas*, the *Icelandic Sagas*, and sometimes incorrectly as the *Old Norse Sagas*. The stories in the *Sagas* take place almost exclusively in the tenth century and in the twelfth and thirteenth centuries. Only a few stories from the eleventh century are found in the *Sagas* and this has traditionally been interpreted as if this century was rather uneventful.

Other works written in this period include: *Landnámabók* (The Book of the Settlement), *Íslendingabók* (The Book of Icelanders), and *Grágás* (The Early Laws of Iceland). These were written in the early 12th century, but only 13th and 14th century rewritten editions survive though. Because the original editions of these books have not survived there is always a possibility that the rewritten editions may not be wholly truthful, assuming the originals were.

These are available in Icelandic in the bookseries *Íslensk Fornrit*. These are also available wholly or in part in English translations. A good guide and bibliography on the sources, and also on secondary works, is in Byock (1988). Jóhannesson (1956, 1974 in English) is an excellent source on the *Icelandic Commonwealth*. On the *Vikings* see Jones (1984). On the *Sagas* see Kristjánsson (1988).

For those interested in reading further on the *Commonwealth* should consult the above mentioned works. In addition it should be mentioned here that the *Fiske Icelandic Library*, at Cornell University, Ithaca, N.Y., has copies of all the works on the *Icelandic Commonwealth* and the *Vikings* used here.

For clarification it should be mentioned at the outset that I will in general refer to the *Sagas* on points generally agreed upon by the historians. This is done mainly for the purpose of freeing the study of extensive citations and footnotes on commonly agreed upon points. On occasion I may also refer to other original sources for the same purpose. In cases where there is less agreement, although most scholars on the Commonwealth may actually agree on it, I will cite the author whose work I am relying on for the particular claim.

²⁰ On the value and use of these sources for historical work, see Þorláksson (1987), Kristjánsson (1974), and Byock (1988:ch. 2). All historians do not agree on this. Karlsson, for example, states: "[T]he chief sources...are laws and the Sagas of Icelanders. Both are unreliable as historical sources" (1979:55). See also the discussion in Miller (1990).

The *Landnámabók* is written in the early 12th century, as mentioned, but only 13th and 14th rewritten editions survive. The book describes the settlement of Iceland, roughly the period 870-930. The *Íslendingabók* is the other major source, but it too has survived only in rewritten editions and deals with roughly the same period. Although many of the *Sagas* deal with the 10th century it is hard to rely on them for chronological details, because they were only written in the 13th and 14th centuries, at least the editions that survive. The events of the period before 1100 are therefore not to be expected to show consistency in chronology and to some extent conjecture is needed.

The *Alþing* is formed around 930, establishing the legal system and a judicial system. With the *Alþing* the Commonwealth begins. Up until 1030 some of the settlers, many of whom were Vikings, participated in piracy and other theft both abroad and within the Commonwealth.²¹ By 1030, the Viking expeditions, initiated by individuals and groups, had given way to "state" organized ones. Further, in Iceland, the Fifth Court had been established and, with this, all legal disputes might be settled. Despite there being a number of Vikings, the majority of the population was nonetheless peaceful and kept to the daily routine of such livelihood.

From 1030 to 1118 the richest chieftains were allied with and controlled the churches, which only became a formal and an independent institution at the dawn of the 12th century. This alliance broke down in the first half of the 12th century with the rise of other wealthy chieftains and new leaders. A wealth and power struggle began at this time and gradually escalated, eventually leading Icelanders to accept the Norwegian king and his representatives as peacekeepers in Iceland.

²¹ The early *Sagas* tell many stories of Vikings and their expeditions, but it is not easy to determine the truthfulness of these. It may be that they are stereotyping persons and thereby making them more interesting to the readers. If the settlers were Vikings, as the sources tell us, then it would seem reasonable to assume that some of the first and maybe second generations were so. By the third generation, though, going into viking would have become uncommon or exceptional. (On the Vikings and how peaceful or warring they were, see Wilson and Foote 1970).

It is also interesting to read Chadwick's verdict on the effect of the Vikings on Irish society:

"We have to bear constantly in mind that our literary evidence for the Vikings in Ireland comes to us almost exclusively from the monasteries which were the chief objects of Norse depredation, and therefore their biggest accusers. They were, in fact, the only people able to give us a written report. Taking a longer view, however, Ireland gained from the Vikings in her position in the modern world. All her terminology of shipbuilding and trade, weights and measures, was Norse, and the first coinage struck in Ireland was that of the Vikings of Dublin, which soon afterwards found its way across the Irish Sea, as in the hoard discovered at Bangor in Caernarvonshire. The Vikings introduced commerce to Ireland" (1971:107)

Brøndsted's (1987:261) discussion on the Vikings in England is also interesting:

"The Danish Viking came to England sword in hand, but he came to stay and to wield the plough and till the ground. He doubtless dispossessed some of the native population, but there is no evidence that he sought to exterminate it. He brought his language with him, his laws, and ways of life, and their effect was felt far into the Middle Ages; it was a long time before the Viking laws and customs became assimilated into the feudal system."

In this chapter I offer a short version of the historians' history²² of the Commonwealth.²³ I describe the historical background of the settlement of Iceland, the age of the Vikings. I present the history of the settlement period and describe the institutional structure of the Commonwealth. This description is, for the most part, uncontroversial.

I next summarize historical accounts of the rise of the institutional structure in place by 965. Then I turn to historical explanations of the decline of the Commonwealth. The explanations are by no means uncontroversial. Most historians, starting with Ari Þorgilsson in the 12th century, give a constructivist explanation of the formation of the order in Iceland. Only one historian (Líndal 1969) has disputed this account of the rise and instead implies that a more evolutionary and spontaneous explanation is fitting. I likewise argue that an evolutionary perspective is a much more convincing explanation than the alternative constructivist account.

I classify historical theories of the decline of the Commonwealth into two groups. First, some historians claim that a downward trend in economic activity, an economic decline, is the major cause of the Commonwealth's institutional breakdown. This economic decline initiated a wealth and power struggle that eventually led to an agreement with the kingdom of Norway, to uphold the law and secure trade. This

²² My account here is selective restatement of the histories presented by Byock (1988), Gelsing (1981), Hastrup (1984), Jóhannesson (1974), Jones (1984), Líndal (1974;1964;1969), Olgeirsson (1954), Sigurðsson (1989), and Þorsteinsson (1953;1966;1980). Occasionally I point to other sources, on those see bibliography.

²³ I have chosen to refer to "*Íslenska Þjóðveldið*" as the Icelandic Commonwealth. I derive this mainly from Jóhannesson's (1974) use: The Old Icelandic Commonwealth. Others prefer to refer to it as the Free State or as the Old Icelandic Free State (Byock 1988).

explanation has not only little factual support but, furthermore, if an economic decline did occur then it was an effect of the wealth and power struggle, not its cause.

Finally I present the other type of explanation the historians offer of the decline of the Commonwealth. This latter approach stresses the wealth and power struggle as the major factor in causing the decline. Although, I accept the basic thrust of this theory, I argue that the historians have failed to clarify a logical chain of events that fits their story of the decline. I argue that these historians are on the right track but that their theories are incomplete. Instead, I use rent-seeking theory from the public choice literature to offer a more fruitful and logical account of the Commonwealth's decline.

THE AGE OF THE VIKINGS

The settlement of Iceland began about 870 AD, and during the next sixty years around 30,000 people settled there.²⁴ In describing the origin of the settlers, the *Sagas* seem to be biased. They mostly deal with the Norsemen (Scandinavians) and only rarely mention settlers of other origin. These rare references do provide hints, though.

The *Sagas* refer to slaves, known to be of non-Norse origin, mostly Celtic. Similarly, the Landnámabók mentions that some of the settlers came from the British Isles and Ireland and these were both Norse and Irish by origin. Further, archaeological and

²⁴ To get some idea of the variation in population estimates among historians, we suggest the following: Lárusson (1944:34-36) claims that 50,000 would have been a high. Þorsteinsson (1966:51) uses the number 60,000. Jóhannesson (1956:46-49) and Hastrup (1984:169) use a high of 70,000, while Sigurðsson (1989:129) claims the high was 40,000. The most precise estimate, although by no means accepted, is by Björn M. Olsen who estimates a high of 77,520 (see Jóhannesson 1956:49). Some are less precise; Karlsson (1975:7) estimates the population at 40-60,000 at its height. Gelsing (1988:7) points to estimates of other historians of a low of 50,000 to a high of 100,000, and himself accepts a high of 80,000.

linguistic studies show that some settlers were not of Norse origin. Remains in burial grounds in Iceland show that inhabitants differed in bone structure and height from those in Scandinavia (Eldjárn 1974).²⁵ The names of the settlers also point to their origin; the famous Burnt-Njáls Saga suggests that the main figure, Njáll, was of Celtic origin (*Niall* in Celtic).²⁶ The Landnámabók also mentions names of settlers, names that suggest that some settlers were Irish or Celtic. These would have been both Irish chieftains and slaves, as well as women that Norse settlers had married. Some historians have also suggested that many settlers were Danish, rather than Norwegian (Guðmundsson 1969).²⁷ On the whole no claim can be made concerning the actual composition of the settling population. The Landnámabók tells us that some of the settlers came to Iceland from the British Isles, especially Ireland, but a definite ratio can not be inferred. Further, whether the mentioned settlers were in fact Irish or Norse by origin is not always easy to determine.²⁸ Some of these are claimed to be of Irish origin and others are said to be Christian. We know, further, that both Irish chieftains and slaves had moved, or had been moved, to Norway before the settlement of Iceland and these might have some relation to the settlers of Iceland. Although most historians

²⁵ An alternative explanation is found in Eldjárn (1984:5): "The archaeological material tells us that people who took possession of this big island which they named Iceland were of Norwegian stock but kept some contacts with the Scottish-Irish area and probably to a certain extent with the Baltic." Eldjárn therefore seems to have changed his opinion on the archaeological material found in Iceland.

²⁶ Some consider *Burnt-Njáls Saga* to be unreliable and even to have been written as fiction (See Kristjánsson 1975).

²⁷ On the whole matter of the origin of the settlers, see Eldjárn (1974), Benediktsson (1974:159-160), Jóhannesson (1956:27-38), Benediktsson (1968a:CXXIV-CXXXV), and Jones (1984:279).

²⁸ Chadwick emphasizes the point on intermarriage: "The Norse and the Irish had lived together in a small country for two centuries; intermarriage was frequent; and conversion of many Norsemen to Christianity had tended to induce a mutual understanding. The leading bards of the Irish and the Norse were fraternizing" (1971:105).

simply assume that the stock of the population was of Norse origin, it may well be that they were not. But whatever their origin, why would these peoples settle in Iceland and at this time? Some historical background is needed to explain this.

The Norse peoples probably began trading with the British Isles in the late seventh century AD or early eighth century. Since navigation techniques were primitive, bad weather could easily take ships off course. Some of these ships wound up in Iceland and the Faroe Islands. Furthermore, in trading with the Irish, the Vikings acquired knowledge of a huge land to the North, where only a few monks or hermits lived in isolation.²⁹

Yet it is only in the middle of the ninth century that people began settling there. The most plausible reason for this is that the Vikings needed a new place to settle. Scandinavia probably began having overpopulation problems early in the eighth century, but the British Isles, Normandy, and Russia easily satisfied their need for land.³⁰ By raiding and occupying these areas they solved their problem. But, in the late ninth and early tenth centuries, the raids became chaotic. Most of the Vikings were probably young and therefore easily settled in the colonies and started new families there. Some intermarried with the inhabitants of the colonies and fought on the side of various English, Saxon, and Irish kings. But, from 870 to 930 most of these countries began fighting back against the Vikings successfully. In England, Ireland, and Scotland, native kings defeated the Vikings, and in Norway some local petty kings

²⁹ On the monks, or *Papar*, see Eldjárn (1974) and Byock (1988:2 and 55).

³⁰ On the causes for the *Viking* movements and the Vikings in general, see Jones (1984:182-204).

joined forces with King Harald Hárfagri, the "Fairhaired", to rid the country of Viking bases. To do so, King Harald also captured the Orkneys and surrounding islands. All this resulted in a new colony being sought out, and, since the Vikings knew of the Faroe Islands and Iceland, they settled there (Jones 1984). King Harald, besides fighting against the Vikings, began national taxation, and for that purpose chose local rulers. Former petty kings or chieftains not chosen by King Harald left Norway.

THE SETTLEMENT OF ICELAND

Iceland was first settled from Norway in the days of Harold the Fairhaired, the son of Hálfván the Swarthy, at the time - according to the opinion and estimation of Teitur my foster-father, the wisest man I have known, son of Bishop Isleifur; and of my father's brother, Porkel Gellison who remembered far back; and of Þuríður daughter and Snorri Goði who was both learned in many things and trustworthy - when Ivar, son of Ragnar Woolbreeches, caused Edmund the Saint, King of the English, to be slain; and that was about 870 years after the birth of Christ....

Learned men reported that Iceland was fully settled in sixty years, so there was no settlement afterwards.

*The Book of the Icelanders*³¹

Since Iceland was uninhabited when the first settlers arrived, they could settle anywhere they pleased. According to the Landnámabók some of the earliest settlers claimed tracts of land so large that they could not cultivate it all. On each ship that arrived with settlers there were 10 to 20 freemen, and their families and slaves. The captains or owners of these ships usually had the first claim to appropriate land; the freemen were next in line. In some cases slaves were allowed to claim land, although they were not necessarily set free. Although around 30,000 people had settled in

³¹ Quoted from the translation in Ruth (1965:19-20, 22).

Iceland by 930, it is doubtful that all the land was cultivated by that time. Some areas may have been fully cultivated, but the land they settled may not all have been livable. People may have come to realize that the particular piece of land they occupied lacked drinking water, had too much snow, or had poor grass production.

Therefore, a need to resettle arose, causing problems. According to the Landnámabók, conflicts arose concerning land claims. The book mentions four ways to claim land: by acquiring it as a gift, by buying it, by challenging a disputant to a duel, and by claiming a part of someone else's property. The first two means are unproblematic; the third was probably restricted to conflicting claims that later would be solved through the courts. The fourth is interesting and yet hard to believe. The Landnámabók claims that a rule was established, in consultation with King Harald, allowing the new settlers to claim only "so much" land; seemingly, they could claim it anywhere. If this mythical rule was in effect, presumably the first settlers had claimed too much land for themselves and were willing to give some away. Perhaps they traded for labour services, which were in short supply (Gelsinger 1981:26; Jóhannesson 1956). This seems likely, considering that the rule was supposedly established around 900, and it is unlikely that there was any shortage of land then. Possibly some form of tenancy arose, although the *Sagas* do not mention that during this period. Tenancies certainly arose later, especially when the institution of slavery was in decline.³²

³² On the property rule, see Benediktsson (1968a:CXXIV-CXXXV) and (1968b:337-338). Also Byock (1988:55-58) and Jóhannesson (1956:43-46). On the rise of King Harald, there are various references in Benediktsson (1968a;1968b). See also Benediktsson (1974), Jóhannesson (1956), Byock (1988), and Jones (1984). On the economics of the period, see Gelsinger (1981: especially ch. 2) and Karlsson (1974). On the slavery, see Gelsinger (1981), Foote (1977), and Agnarsdóttir and Árnason (1983).

The *Sagas* show that some local *þings*, or courts, were formed early in the settlement period. Two are specifically named in the *Sagas*, the *Kjalarnesþing* and *Þórsnesþing*. The former, at *Kjalarnes*, was in the territory the first settler in Iceland had chosen to make his home. Whether Ingólfur Arnarson, the first settler,³³ or his descendants formed this *þing* is not known. The only thing that can be inferred from the sources is that these two above mentioned *þings* were established before 930, before the *Alþing*.³⁴

Some community organizations, the *Hreppar*, may have formed as early as these *þings*. In *Landnámabók* some settlers are referred to as having settled in this or that *Hreppur*.³⁵ Later in the Commonwealth these *Hreppar* became more numerous, eventually spanning the whole island. According to Benediktsson (1974:185-6) the *Hreppar* formed to oversee social functions that the family or kingroup had previously provided for in the old countries. Family ties were looser in Iceland because family members had scattered all over the island, so a new method of providing for the poor was needed.

³³ The *Landnámabók* claims that Ingólfur was the first settler in Iceland. Historians have generally accepted this claim, except Línal (1969) who questions the story of Ingólf in the *Landnámabók*.

³⁴ There is some ambiguity as to who owned the *Þingvellir* area before the *Alþing* was formed there. The area lies at the outskirts of Ingólf's lands and may have belonged to him originally. On the other hand there is reference in one of the *Sagas* to the area having been confiscated from an outlaw. See Benediktsson (1974, 168-171). Aside from this, it should be mentioned that the position of *Allsherjargoði*, or Supreme Chieftain, was reserved for the descendants of Ingólfur. Whether this implies that they had given the land or whether they were awarded this simply because they were the first settlers (and may have established the first local *þing*) is not known. The position of Supreme Chieftain was strictly ceremonial in that he only opened the *Alþing* each year. See Byock (1988:64-65).

³⁵ It should be stated here at the outset and kept in mind throughout, that the precise timing of the formation of the *Hreppar* is simply not known, except that they were in place by 1096. Whether the first of them were formed in the 9th, 10th, or the 11th centuries is impossible to determine factually. Historians, though, have assumed that the first of these formed in the 10th century and some even claim an earlier date (see Benediktsson 1974).

Benediktsson states that the sources are unclear on the origin of these organizations, but he and Jóhannesson (1974) both claim that some *Hreppur* must have been formed early on and that most of them had been established in the 10th century. The *Hreppur* was a geographical unit, independently formed from either the local *þings* or parishes. The *Hreppur* was composed of, at least, 20 *þing*-farmers according to Grágás. The main function of the *Hreppur* was to provide for those poor people who did not have relatives to assist them. It should be emphasized though that Grágás also stated that families were obliged to provide for all their members, but the *Hreppur* would overtake this responsibility if the family either could not do this or if no family ties were there to provide. At first the committee of the *Hreppur* would assign the poor to farms in the community according to their wealth, but after the island had been Christianized the *Hreppur* were provided with revenue to give to the poor directly. The committee of the *Hreppur* was composed of five farmers elected by all farmers in the community. The committee also prosecuted those who had broken community by-laws or not fulfilled their obligations. Yet another function of the *Hreppur*, one that may explain their origin, was to organize the use of summer grazing lands.

THE COMMONWEALTH

And when Iceland had become settled in many places a Norwegian named Úlfjótur - so Teitur told us - brought for the first time to this country from Norway laws, and these were called Úlfjót's Laws... And these laws were chiefly patterned after the Gulaping Laws of that time; but the advice of Þorleifur the Wise, son of Hörða-Kári, was followed in deletions, additions, and amendments...

The Alþing was established upon the advice of Úlfjótur and his countrymen, where it now is. Earlier, however, there was a moot at Kjalarnes which

Þorsteinn, the son of Ingólfur the settler, and the father of Þorkel Moon the lawspeaker held there and those chieftains who attended it.

*The Book of the Icelanders*³⁶

The Commonwealth itself is said to have been established about 930. About that time the *Alþing* is formed at *Þingvellir* and with it a common body of law and a judicial structure were established.

Íslendingabók (quoted above), written by Ari Þorgilsson about 1118-1122, tells the story of the formation of the *Alþing*. According to that account local chieftains, the *Goðar*, decided to establish an assembly of all of the settlements. For this purpose they sent a man named Úlfjótr to Western Norway to learn or adapt the *Gulaping* law. Others were dispatched to convince farmers and their leaders to attend the assembly and still others to locate a suitable place for the assembly.

Ari claims that in 930 these people gathered at *Þingvellir* (The Þing Plain) and the *Alþing* was formed. According to Ari, Úlfjótr supposedly recited the laws he had learned and the chieftains selected from that recitation certain laws which became *Vár Lög* (Our Law). These laws supplied a complete legal code and a constitution for the Commonwealth. The *Alþing* also agreed on a Law Council, the *Lögrétta*, which was composed of 36 chieftains along with 2 advisors for each. The Law Council decided what the law was, what changes in the law were to be made, and what exceptions from the law were allowed. The *Lögrétta* also chose the only official of the Commonwealth, the Lawsayer, or *Lögsögumaður*. The Lawsayer was responsible for reciting the constitution every year and the legal code over his term of 3 years. Furthermore, he

³⁶ Quoted from Ruth (1965:21-22).

would advise anyone on matters of law, but it is not clear whether he himself could vote on what the law was.³⁷ Besides the *Lögsögumaður* the 36 chieftains who owned *Goðorð* (chieftainships), the *Goðar*, had voting rights in the Law Council.³⁸

Interestingly enough, Úlfjótr was not chosen as the first Lawsayer. *Íslendingabók* names all the Lawsayers of the *Alþing* from 930-1120 and Úlfjótr's name is not among them.³⁹

With the formation of the *Alþing*, the assembly/court system seems to have had the following structure: In the various localities there were local-*þings*, like those of *Kjalarnesþing* and *Pórsnesþing*. These were the *Vorþing*. Each *Vorþing* was a gathering of three chieftains and their followers. On top of those arose the *Fjórðungþings*, or Quarter-*þings*, where nine chieftains with followers would gather. Overlapping all these various *þings* was the *Alþing* with its law council. From about 930 to 960 this was the "official" structure of the court system, or so Ari tells us in the *Íslendingabók*. In many respects it was highly decentralized, except that all subscribed to the same legal code, Our Law.

³⁷ At one place in the *Grágás* it seems that the *Lögsögumaður* had voting rights. The particular clause deals with a tie vote in the *Lögrétta*, in which case the side wins which the *Lögsögumaður* is on (the law seems to indicate that it was common for the lawsayer to be a chieftain also). On this, see Línal (1984:137).

³⁸ Throughout this thesis I will refer to the number of chieftains as being 36, before 960-5, and 39 chieftains after 965. In actuality it is not all that clear what the number of chieftains was before 960-5. The sources claim that they were 36 and most historians have accepted that number. On the other hand though, for anyone to accept that number he has to accept also that the legal and judicial structure had become formal before that time, such as in 930.

In this thesis I will follow Línal's hint that the structure only became fully formalized about 960-5 and therefore the number of chieftains before that time becomes indeterminate. It is only to keep with tradition that I find it necessary to adopt the 36 figure. Following Línal in claiming that the structure only became formalized about 960-5 and the number of chieftains being fixed at 39 after that, it should still be kept in mind that the number of voting seats in the *Lögrétta* was 48 after 960-5.

³⁹ Neither is *Njál's* name, i.e. *Njál* from the famous *Burnt-Njál's Saga*, and this supports the claim that this *Saga* is fictional.

INSTITUTIONAL CHANGES IN THE COMMONWEALTH

In A.D. 964 the constitution was settled; the number of goðorð being fixed at three in each þing, and three þings in each of the other three quarters, but four in the north; thus the number of goðar came to be nominally thirty-nine, really thirty-six as the four in the north were reckoned out as three.

*The Book of the Settlement*⁴⁰

About 960 some constitutional changes were made. New courts at the *Alþing* were established and the number of chieftains was increased. The former change was made to handle out-of-district killings. The older procedural rules stipulated that the case be tried in the local assembly/court nearest to the killing. This was bound to cause problems, since a non-local person could hardly expect to have his rights upheld in the district of the accuser (Byock 1988:65-66; Ingvarsson 1970). Therefore the *Alþing* established the *Fjórðungsdómar*, Quarter-courts. In essence, these may have replaced the Quarter-þings, though we do not know if the latter were officially discontinued or abandoned by choice.⁴¹ The new Quarter-courts' juries were appointed by all chieftains at the *Alþing*, and not simply by those affiliated with that quarter.⁴²

The number of chieftains was increased in the Northern quarter. Their numbers were therefore increased from nine to twelve and the local þings from three to four. To counter this imbalance at the *Alþing* nine other "chieftainships" were established, but these had obligations only in the Law Council and had no local þings to preside

⁴⁰ Quoted from the English version by Ellwood (1898:27).

⁴¹ Lárusson (1932:17) is seemingly the only historian that puts forth the view, which I accept, that *Fjórðungþings* had been formed some time before the 960's. But, see also Byock (1988:66-7).

⁴² There is some disagreement on the number of jurors in a court and on the required numerical for judgement. The description given here is conventionally accepted by most historians and legal historians (see Jóhannesson 1974:66; Byock 1988:66-68).

over. As a result, the first 36 chieftainships are referred to as full and ancient chieftainships, *full og forn Goðorð*, while the latter three are called new chieftainships, or *ný Goðorð*. The nine additional "chieftains" were simply chosen by the "full" chieftains; each group, from the same *Vorþing*, of three chieftains would select a "fourth" to sit with them in the *Lögrétta* (Ingvarsson 1986).

Another constitutional change was initiated in 1005. The *Fimmtardómur*, the Fifth court, at the *Alþing*, was established. This court handled unresolved cases from the other courts. The juries at lower level courts had 36 jurors, and to resolve a case no more than six could dissent.⁴³ This produced a number of unresolved cases and the Fifth Court would hear these and resolve them by simple majority vote.⁴⁴ Each of the 48 chieftains at the *Alþing* appointed one juror to the Fifth Court. The defendant and plaintiff could then challenge six each, so that only 36 jurors would remain. In case of a tie vote of the jury a toss would be used to force a decision.⁴⁵

Most of the settlers were heathens at the time of settlement, although some had been introduced to Christianity in the Western Isles. These religious differences do not seem to have caused any conflicts, until missionaries were sent to the island late in the 10th century. These missionaries had some success in the Southern part of the island, at least, and in the years 998-1000 religious differences became an issue.

⁴³ But see previous footnote.

⁴⁴ In *Burnt-Njáls Saga* this constitutional change is attributed to Njál, but since *Íslendingabók* does not support that contention, i.e. according to *Íslendingabók* Njál never was a Lawsayer, the change is conventionally ascribed to Skafti Þóroddsson, who was the Lawsayer in 1004-1030.

⁴⁵ The judicial structure was to some extent more complicated than described here. But I only want to offer a short outline of the history here and therefore any more relevant details will have to await our theoretical analyses in chapter 4.

At the *Alþing* in the year 1000 the two opposing groups came to an agreement. Christianity was accepted by law, and all were to be baptised. Being a compromise, this agreement did allow exceptions from the Papal code, for example, horsemeat could still be eaten, cursing was allowed in private, and infants could still be carried out to die (Líndal 1974b).

Despite becoming Christianized the Icelandic peoples did not establish the Church as a formal and an independent institution until the turn of the next century. In 1000-1096 Christianity was represented by local churches which were the private property of the farmers whose land they were on. Leaders such as *Goðar* and wealthier farmers built churches on their lands and either became part-time priests themselves or hired learned ones. In heathendom local temples existed and were private property, like the churches. Owners of these temples may have charged users of them a temple-tax (or temple-fee) and this method of getting revenue may simply have continued under Christianity, except now it became a church-tax.⁴⁶ These taxes may have reimbursed the church-owners but hardly provided a stream of any excess income or profits.⁴⁷

⁴⁶ Benediktsson (1974:172) discusses the issue of the temple-fee and cites a passage from the original sources, where the use of temple-fees is claimed. Benediktsson, though, claims the whole story of the temple-fee is fictional and like so many other stories simply invented in the 12th and 13th centuries to justify current practices, ie. taxation. Benediktsson does not exclude, though, that the islanders may have occasionally offered contributions to the owners of the temples.

⁴⁷ I will discuss further the temple-fee and the profit potential it provides in chapters 5 and 6.

THE INSTITUTION OF THE CHURCH

"And now it seems advisable to me," he said, "that we do not let those decide, who are most strongly opposed to one another, but so compromise that each side may win part of its case, and let us all have one law and one faith. It will come to pass that if we sunder the law we will also sunder the peace."

After he concluded his speech the assembly agreed that all would keep the law which he would proclaim.

*The Book of the Icelanders*⁴⁸

In the first years following the acceptance of Christianity Iceland did not have any native bishops or educated priests. The first bishops in Iceland were Anglo-Saxon, but they did not establish the church as an institution nor were they able to secure a bishopric. Danish and Norwegian kings also had a hand in attempting to Christianize Iceland, but none of these were able to build up the Church as an institution. Gizur Hvíti, the "White", had been one of the leading advocates of Christianity at the *Alþing* in the year 1000. Later in the new century he continued his advocacy by sending his eldest son, Ísleifur, to Saxland for education and than to Rome for acceptance as the first Icelandic bishop. Ísleifur returned to Iceland in 1057 but even he was not able to secure the position of the Church as an independent institution. The best Ísleifur could do was to educate people and thereby provide future priests for the Church.

Gizur Ísleifsson, Ísleif's son, became the second Icelandic bishop two years after his fathers death, in 1082. Gizur established the Church as an independent institution in Iceland (Þorsteinsson 1980:87-99). Two things he did made this possible:

⁴⁸ Ari is here referring the speech by Þorgeir the lawspeaker. Quoted from Ruth (1965:27).

First, he gave some of his lands, *Skálholt*,⁴⁹ to the Church. The Church thereby owned its own church building, lands, school, and could have some income from these. Secondly, Gizur advocated taxation as means to secure a permanent income stream to the Church. By getting the *Tíund*, the Tithe, accepted at the *Alþing* the means for the Church were established.

The Tithe was a property tax on all farmers of certain wealth status, and accessed 1% of total wealth.⁵⁰ After collection, which was the responsibility of the *Hreppar*, the Tithe was divided into four places: A fourth for the institution of the Church, a fourth for the local church, a fourth for the priest, and the last fourth for the poor relief.⁵¹

Gizur also established another bishopric in Iceland in 1106. This new Bishop, Jón Ögmundsson, sat in the Northern quarter, at *Hólar*. Gizur, and later Jón, established schools in the bishopric and provided education for the richer chieftains' sons. With these two bishops in place the Church began Christianizing Icelandic society thoroughly. Daily masses began, remnants of heathendom were abolished, and many entertainment activities were banned.

Although the Church never got full judicial power over its own conflicts during the period of the Commonwealth, as did the Church in most other countries, both

⁴⁹ *Skálholt*, with the establishment of the church and the Tithe, became the "Capital" of Iceland and would remain so until Reykjavík replaced it in the 19th century (Porsteinsson 1980:89). *Þingvellir*, where the *Alþing* was held, was in a way also the "Capital" of Iceland, but only for two weeks a year.

⁵⁰ Actually the Tithe was a tenth of the accepted interest rate, 10%, i.e. 1% of property. See Stefánsson (1975:60-62).

⁵¹ I will discuss the Tithe in more detail in chapters 5 and 6, and also offer some suggestions as to why it was accepted and the consequences of that acceptance. For further details on the Tithe, see Porsteinsson (1980:92-93).

bishops obtained seats on the Law Council at the *Alþing*. In 1118-1122 those two bishops got the Law Council to accept a Christian Section to the laws to regulate matters of the Church and proper Christian ways of life.

After the acceptance of the Tithe and the establishment of the Church the story of the decline of the Commonwealth begins. The next 160-70 years, or roughly half the duration of the Commonwealth, are all grouped together under the period of decline. Most, if not all, historians claim that it is in the events at the beginning or during this period that the causes for the decline are to be found. As will become evident, though, there is little consensus among the historians on what the causes are.

The population of Iceland in 1100 was about 60,000 and the economy was a fairly prosperous one (Porsteinsson 1966; Gelsing 1981).⁵² The fact of the acceptance of the Tithe supports the contention that Icelanders were rather prosperous, and nothing in the *Sagas* suggests otherwise. Immediately after the Church became established most church buildings were still in private hands. Despite the Canonical directives of Pope Gregory VII that the Church should control its own affairs and property there is little evidence of this in Iceland. Only in the 1160s and the early 1200s, when two of the bishops tried to gain more control of local church places and appointments of priests, did the Church make any real effort to attain such control.⁵³

⁵² The estimates of the population size are actually a highly controversial issue. Estimates for the year 1100 vary from a low of 40,000 to a high of 100,000, but 60,000 seems to be the average high for most historians. I deal more fully with this aspect in chapter 5.

⁵³ On the role of the Church in the 12th and 13th centuries, see Þorláksson (1982a), Grímsdóttir (1982), and Stefánsson (1975).

CONCENTRATION OF POWER

Until the 12th century the authority of chieftains (*goðar*) appears to have been fairly stable. Occasionally conflicts arose between the chieftains over wealth, power, and prestige, but none of these men ever entertained the idea of imposing his authority upon large areas, much less upon the entire country...

In the 12th century there are clear indications of a gradual take-over of chieftaincies, or parts of chieftaincies, by relatively few individuals or families. (Jóhannesson 1974:226-7)

Also noticeable in the 12th and 13th centuries is the concentration of the chiefdoms in fewer hands. It had not been uncommon that chieftainships were co-owned by several people, and the laws, as seen in *Grágás*, discussed how to handle such situations. One person owning more than one *Goðorð*, though, had not been common and *Grágás* is silent on this matter.

The first instance of concentration known was in the early 11th century. The *Sagas* describe Guðmundur Ríki, "The Wealthy," as owning two chieftainships and ruling in his areas like a warlord (Sigurðsson 1989:44). By 1220 almost all the chieftainships were in the ownership of five families, the *Ásbirningar*, the *Sturlungar*, the *Haukdælir*, the *Oddverjar*, and the *Svínfellingar*. This concentration started around 1120 in all quarters except the Western, where it started around 1200 (Sigurðsson 1989:140). In the South, the *Haukdælir*, and in the North, the *Ásbirningar*, began this process around 1120-30. This process was continued in the South by the *Oddverjar* in the latter half of the 12th century, while at the same time by the *Svínfellingar* in the East and Southeast. After 1200 the *Sturlungar* got involved in this power struggle and quickly acquired all the Western areas and part of the Northern ones also. By 1240

the only independent chieftain remaining was the Supreme Chieftain in the Southwest (Karlsson 1975).

With this concentration of chieftainships in fewer hands a civil war broke out on a limited scale. After 1220 violence becomes a problem, although some battles took place in the 12th century. This violent period is called the Age of the *Sturlungs*. Some have suggested that this civil war is the cause of the fall of the Commonwealth. With the chieftains engaged in infighting, wealthier farmers took over many of the supposed functions of the chieftains in their localities.⁵⁴ Later when the Norwegian Kings had begun their attempts to gain foothold in Iceland, some Icelanders may have accepted the idea of having the King as ruler of Iceland to end the civil war.

THE END OF THE COMMONWEALTH

In the covenant the Icelanders yielded up their *country* to the king, pledging their *allegiance as his subjects*. This meant that they accepted the King of Norway as their sovereign, whose subjects they had become, and that the Icelandic Commonwealth had ceased to exist. This is the very core of the agreement. (Jóhannesson 1974:283)

Iceland had already become partly "Norwegian" before 1262. The Church of Iceland fell under the archbishop of Western Norway, in *Niðarós*, in the 12th century. Icelandic trade was carried through Norway and organized by Norwegian merchants.

⁵⁴ There is some debate on how independent wealthier farmers were during the Commonwealth period. Karlsson (1972) claims they only became independent, i.e. the equals of the chieftains, in the 13th century. Þorláksson (1982) claims they became so much sooner. Karlsson assumes that there was continuous violence through out the whole period. The farmers were dependent on the chieftains all the way up til the middle of the 13th century. Only then, when the numbers of chieftains had decreased, did the wealthier farmers take over the functions of the chieftains. Þorláksson, on the other hand, assumes that the society was more peaceful and that the farmers, especially the wealthier ones, were always quite independent, except in the late 12th and early 13th century. He, therefore, claims that the "freedom" of these farmers in the middle of the 13th century was not new.

The Norwegian King and the Norwegian Church therefore may have had some control over Icelandic trade. After 1230 the bishops in Iceland were Norwegian, since the archbishop refused to appoint Icelanders. By 1250, the Norwegian King had shrewdly gained some chieftainships and put his representatives, some of the Icelandic chieftains who had joined the Royal Circle, in control of them. Thus Icelanders were prepared to accept the fact that Iceland had become a part of the Norwegian Kingdom.

At the *Alþing* in 1262 the farmers in the South and the North confirmed an agreement, Old Covenant 1262-64 or *Gamli Sáttmáli* 1262-64 (also called Gizur's Covenant or *Gizurar Sáttmáli*), making the Norwegian King the king of Iceland.⁵⁵ By 1264 farmers from the other quarters had also confirmed this agreement and with that King Hákon became king of Iceland. The agreement stipulated that the king would guarantee peace in the island through his representatives and in turn the Icelanders would pay taxes to him. The agreement further insured that the Icelanders would have their own laws and the *Alþing* would continue to be in charge of legal and judicial matters. In addition the king promised that trade between the countries would not be disrupted by economic downturns in Norway, by guaranteeing that a certain number of ships would sail to Iceland each year. Most important, though, a clause in the agreement provided for its termination, although despite broken promises it was never used.

The Old Covenant 1262-64 marks the end of the Commonwealth. Although some or even most institutions remained after its "fall", there was one institutional

⁵⁵ The Old Covenant 1262-64 is to be sharply distinguished from the Old Covenant of 1302.

addition that made the Commonwealth rather different. This institution was that of the executive: The sovereign with its police powers.

CONTROVERSIES CONCERNING THE RISE OF THE STRUCTURE

In the above, I have skipped any discussion of how modern day historians explain the rise and decline of the Commonwealth's institutional structure. These explanations are, in contrast to the description above, highly controversial.

There are basically two theories of how the institutional structure arose. The first one builds on the account given by Ari Þorgilsson in Íslendingabók. That book claims that the *Alþing* was formed at *Þingvellir* (around) 930.⁵⁶ It further claims; that the leaders of *Kjalarnesþing* initiated the establishment of the *Alþing*. They, according to the Íslendingabók, sent a man named *Úlfjótur* to Norway to adapt the West Norwegian law of *Gulapþing*. Upon his return to Iceland, local leaders gathered at *Þingvellir* and agreed on a law code, that *Úlfjótur* and another man named *Þorleifur hinn spaki* (the wise), proposed. At this first gathering of the *Alþing* a lawspeaker was elected to recite the laws each year, since writing had not yet begun. Interestingly enough, *Úlfjótur* is not named as a lawspeaker, according to the list of lawspeakers found in the Íslendingabók, and this fact makes the story as told in the book less credible.

While Jóhannesson (1956), Þorsteinsson (1953), and most other historians simply repeat the account given in Íslendingabók, trying to show the logic of this account,

⁵⁶ The book actually does not say which year the *Alþing* was formed. But from other things the book mentions, historians have estimated that this would have been around 930.

Líndal (1969) disputes this account.⁵⁷ Líndal states that the medieval legal tradition, the customary law tradition, would not have allowed such a constructivist creation. He claims that if Úlfjljótr was actually sent to Norway, then it was only to compare some Icelandic laws to those of the Western regions of Norway but not to copy or learn them (1969: 6-10). Líndal further claims that there are great differences between the oldest Icelandic laws and the oldest *Guláping* laws, so much that the latter could not have been the model for the former (1969:9).⁵⁸ Líndal does not deny that the *Alþing* may have been formed through an organized effort on the part of some chieftains, but suggests that the *Alþing* could only have arisen as a logical continuation of an existing tradition and structure.

In the study here, I join in Líndal's criticism of the standard account of the rise of the institutional structure, but take his alternative a step further. It is my contention that in rejecting the mainstay of the constructivist explanation, which leaves us without actual factual account of how the *Alþing* actually emerged, I must use conjectural history. The conjectural history cannot, of course, escape establishing some connection to what we know of early medieval Iceland. The conjectural history is

⁵⁷ Although Líndal (1969) suggests that the whole story about the formation of the *Alþing* may be fictional, he himself does give the book the benefit of the doubt and claims instead that the story is at least incorrect: "Hér verður því ekki haldið fram, að frásögunar af landnámi Ingólfs og sendiför Úlfjljóts séu tilbúningur frá rötum, enda þótt ekki sé unnt að útiloka, að svo kunnir að vera." (Líndal 1969:15)

Historians have also wondered about what the purpose of writing the *Íslendingabók* and the *Landnámabók* was. Benediktsson (1968a:preface), in particular, has suggested that the whole writing of the former book may have been influenced by the Church and even initiated its writing. This Christian influence may explain the constructivist type of explanation offered for the formation of the *Alþing* (see also Líndal 1969:19-24).

⁵⁸ See also Byock (1988:57-60).

founded in Línadal's work (1969;1984) and supplies a basis for an evolutionary model of Icelandic institutions.

CONTROVERSIES CONCERNING THE DECLINE OF THE STRUCTURE

The fall of the Commonwealth is also a source of controversy. There are more historical accounts of the decline of these institutions than their initial formation. Almost all ask the same question: Why the struggle to accumulate chieftainships? Historians offer various explanations, ranging from efficiency arguments to dreams of kingship.⁵⁹ Although these theories are numerous we may classify these theories into two groups. The first type may be referred to as a wealth and power struggle theory, while the second may be referred to as an economic decline theory. The facts that the two agree on are presented in the sections above, but each theory supplies additional "facts" that are not the subject of such consensus.

The "economic decline" explanation claims that a decline in economic activity, caused by less favourable trade terms and colder weather, initiated a wealth and power struggle. As wealth dwindled the wealth and power struggle intensified. This resulted not only in a concentration in wealth and power, but also in the agreement with Norway, mainly to facilitate trade.

But the theory of an economic decline is hard to support. Production of the main export goods increased during the Commonwealth period, but, of course, market changes did occur resulting in production changes. For example, the market for certain

⁵⁹ Fairly good summaries on the reasons offered by historians are in Karlsson (1975) and Sigurðsson (1989).

wool products, called *varafeldir*, disappeared around 1200, and this could support a theory of economic decline. But at the same time other export markets were opening or expanding. For example, the export of falcons, horses, and sulphur, began in the 12th century (Porsteinsson 1966).

Porsteinsson (1953;1966) strongly denies the theory of economic decline.⁶⁰ He claims that economic conditions were better at the end of the Commonwealth. Furthermore, Icelanders would have known from experience that any economic decline would be temporary. The *Sagas* are full of examples of hard times and natural disasters, and the barbarian responses to them. During periods of hardship in the 10th century old people, sick people, weak people, and small children were killed off. By the end of the 12th century such killings were exceptional in Iceland. It has sometimes been suggested that the Icelanders stopped such killings for religious reasons, because they became Christian instead of heathen. There may be some truth to this claim, but there is evidence from other countries that economic progress was what really mattered. The establishment of taxation, *tíundargjald*, in 1096 and the ever increasing "welfare system" give evidence of economic progress.⁶¹

The second type of explanation for the decline of the Commonwealth argues that the chieftains were struggling to gain more power and wealth, irrespective of whether wealth itself was increasing or declining. After the Tithe was introduced in

⁶⁰ Línal (1964) also rejects this explanation for the fall. He claims that even if an economic decline did occur, it by itself would not have caused the fall of the institutional structure.

⁶¹ For a good summary and assessment of the various arguments for the fall of the Commonwealth, see Línal (1964). I deal more fully with the economic explanation in chapter 6.

1096 local churches became sources of real revenues for their owners.⁶² The chieftains therefore began to compete for ownership of churches; the more chieftainships held by a chieftain, the better his chances. This accumulation of churches explains why secular authorities were never willing to give up these properties to the Church.

The main differences between the theories lie in the emphasis each theory places on certain facts. For the "economic decline" explanation the ultimate or first cause of the Commonwealth's decline is the downward trend in the terms of trade, the lack of ships, and the colder weather. For the "wealth and power" theory, the first cause is the introduction of the Tithe. I accept the main thrust of the latter theory. However, I contend that the "wealth and power" theory needs to be made much more explicit and provide a more logical story. For example, I find that the claim that the introduction of the Tithe was the ultimate cause of the fall begs an important question: Why did the Icelanders accept the Tithe in the first place? An answer to this question has to be found or the whole explanation is left incomplete.

SUMMARY

This study will accept the uncontroversial facts of the Commonwealth history. This history describes the Commonwealth's institutional structure and how this structure changed over time. The causes of the rise and decline of the structure are more controversial. I will provide an alternative account of the rise of the Commonwealth's institutional structure, an evolutionary explanation that is founded in the work of

⁶² This is basically the explanation that I favor and I will build on in chapter 6 to explain the fall of the Commonwealth.

Professor LÍndal. As for the decline of the Commonwealth's institutions, I follow the majority of historians in claiming that the Tithe was one of the causes of the fall of the Commonwealth. However, such an explanation as articulated by these historians is incoherent and incomplete. I use rent-seeking theory to build an explicit and logical account of how and why the Commonwealth declined and eventually came to an end.

CHAPTER

THREE

SPONTANEOUS AND DECENTRALIZED ORDERS

Under what conditions will cooperation emerge in a world of egoists without central authority? This question has intrigued people for a long time and for a good reason. We all know that people are not angels, and that they tend to look after themselves and their own first. Yet we also know that cooperation does occur and that our civilization is based upon it. But, in situations where each individual has an incentive to be selfish, how can cooperation ever develop? (Axelrod 1984:3)

That cooperation is beneficial and even necessary to a prosperous society is well known. That cooperation, for the most part at least, exists in modern societies is also known. People trade peacefully with each other and even join common causes and contribute to common projects, both within and across societies. Although this may seem natural in most respects, it is at the same time curious.

It is fully understandable that people can get together and cooperate when there are obvious benefits to all parties. In trade, for example, people give up what they value less for something they value more. When these benefits are less clear, whether to the parties or outside observers, it becomes harder to understand. In other situations, benefits are such that so long as some contribute (cooperate) it remains profitable for others not to contribute, as the latter may still enjoy the same benefits as those who contributed (the public goods problem).

This is not to say that cooperation takes place in a vacuum. Rather, there are institutions that encourage or enforce cooperative behaviour, including property rights, law, money, and other market and state institutions. Observing the rise and, sometimes, the decline of such institutions, we could say that human history is the history of how cooperation emerged or failed to emerge, how it became stable or unstable.

Human cooperation has always attracted scholarly attention. Various theories have been set forth on how social order emerges and collapses, and historical studies have tried to determine the factors that contribute to the formation of an orderly society.

This chapter will outline and explain the theoretical framework that will be used to explain the emergence of the Icelandic Commonwealth. Before explaining my theory a brief discussion on theoretical constructions will be offered.

TYPES OF EXPLANATIONS

In explaining how social order comes about a theorist can basically differentiate (at least) between two types of theories. The first is a theory of created order, where human beings deliberately set out to construct a social order. The second is a theory of spontaneous order, where people "accidentally" through their self-motivated behaviour "come up" with a social order.

The first theoretical type typically tells a story of a ruler, a king or other sovereign, who decided on his own or in conjunction with others to establish a form of social order based on some form of rules, and in which some organization has the task of enforcing those rules. A good example of such a construction would be the story of the Founding Fathers and their creation of the United States of America.

The second theoretical type would typically not postulate such a creator, but rather show how through some change in the behaviour pattern of individuals the order arose "accidentally" or unintentionally. This sort of theorizing has been put to its best use in describing the workings of a market economy (see Hayek 1976; Horwitz 1989) and its institutions (see Menger 1981; 1984; 1985; Vanberg 1988).

The spontaneous order or "invisible-hand" approach is unique in that it starts from an original situation where the phenomenon to be explained does not exist and ends with a situation where it does exist, although no one aimed at this conclusion.⁶³ In other words, the phenomenon was an unintended consequence of the behaviour of the individuals involved. This approach has often been equated with the Scottish Moral

⁶³ For a more detailed discussion on this approach see Ullman-Margalit 1978; Nozick 1974; Vanberg 1988.

Philosophers and with some members of the Austrian School, notably Menger and Hayek (see, for example Barry 1982; Vanberg 1986; 1988; Vanberg & Buchanan 1988). Menger's most famous use of this approach, or as he called it, the "organic" approach, is in his explanation of the evolution of money (for example Menger 1985). Hayek has used it to explain the evolution of the rules of conduct, or cultural evolution (for example Hayek 1967b; 1967c).

This type of explanation proceeds in steps:

Step 1: An 'original situation' is described in which the institution (i.e. the behavioural pattern) that is to be explained does not exist.

Step 2: The ordinary behaviour is described that, under the stated conditions, individuals will typically exhibit in pursuit of their own interest.

Step 3: It is shown that adopting a particular kind of behaviour would allow the individuals concerned to better realize their interests.

Step 4: It is shown to be plausible to assume that, sooner or later, some innovative individual(s) will "discover" this particular behaviour and its advantageous consequences.

Step 5: It is shown that, once the initial discovery has been made, other individuals are likely to notice the greater success of the 'pioneers' and they will tend to imitate their behaviour.

Step 6: It is shown that as the behaviour spreads out and becomes common social practice it will result in the institution (that is: the socially uniform pattern of behaviour) that is to be explained.⁶⁴

Although the "unintended outcome" is a key to this sort of theorizing, this feature by itself is not enough to distinguish the theory from a "constructivist" theory. The latter type of theory can also describe unintended outcomes. Rather the difference

⁶⁴Quoted from Vanberg (1988:9-10) and shortened somewhat. Vanberg, in his presentation, is showing Menger's invisible-hand explanation and his theory of the evolution of money. The references to Menger and money were skipped in the quote.

is that in an invisible-hand explanation there is no intention that adoption of certain behaviour have a particular overall result, while in the constructivist explanation there is this intention.

The purpose of the discussion above is to place the theory presented below in the invisible-hand category rather than the constructivist one. I do not claim that this theory is fully consistent with the procedural steps of the invisible-hand explanation as detailed above, but, rather, that my theory is more consistent with the spontaneous order approach than the constructivist one.

There are basically two reasons to prefer a spontaneous order explanation. First, the spontaneous order theory can usually explain instances of constructivist order, while the constructivist theory cannot explain spontaneous orders. A spontaneous order theory can just as easily and convincingly explain the founding of America as can a constructivist theory. A constructivist theory, on the other hand, cannot as easily (and certainly not as convincingly) explain the workings of the market order and its institutions.

Secondly the historical case that I analyze here was not chronicled by contemporary historians of the time. The first histories of the beginning of the Commonwealth were written about 200 years later and are therefore not trustworthy records of all the details of the formation of the order. I will not reject all constructivist elements of this history. My theory will not be fully consistent with a spontaneous order or invisible-hand theory and I propose to call it a "decentralized order" theory instead. As will become evident below, my theory subscribes basically

to the invisible-hand form and yet allows some elements of intention on part of some members of the population.⁶⁵

COORDINATION VS. CONFLICT

In explaining how cooperation arises from a state of nature it is necessary to analyze the types of institutions that are required for cooperation. We typically refer to certain institutions that either encourage or enforce cooperative behaviour. These institutions include property rights, language, money, and law.

These institutions are not all alike. At first glance, we might try to separate market institutions and state institutions, although there seems to be no clear line between the two. Another distinction would separate institutions that create benefits for a person only if he participates and institutions that generate benefits for a person whether he participates or not. Game-theory clarifies this distinction, contrasting coordination games with conflict games. A coordination game generates the greatest benefits to those who cooperate. Conflict games, such as prisoner's dilemmas, generate the greatest benefits to those who defect, or fail to cooperate.

The institution of money, for example, corresponds to a coordination game. Only by using the same commodity as money as others are using can an individual benefit from the institution. Carl Menger put it this way:

As each economizing individual becomes increasingly more aware of his economic interest, he is led by this interest, without any agreement, without

⁶⁵ My theory therefore does not conform to the invisible-hand explanation as detailed by Ullman-Margalit 1978; Vanberg 1988. On the other hand, it is fully consistent with Nozick's (1974) account of what an "invisible-hand" explanation should be like.

legislative compulsion, and even without regard to the public interest, to give his commodities in exchange for other, more saleable, commodities, even if he does not need them for any immediate consumption purpose. With economic progress, therefore, we can everywhere observe phenomenon of a certain number of goods, especially those that are most easily saleable at a given time and place, becoming, under the influence of custom, acceptable to everyone in trade, and thus capable of being given in exchange for any other commodity. These goods were called "*Geld*" by our ancestors, a term derived from "*gelten*" which means to compensate or pay. Hence the term "*Geld*" in our language designates the means of payment as such. (Menger 1981:260)

Using the more marketable commodity that others use expands each individual's choices. Not using the commonly accepted money reduces the number of choices.⁶⁶

In contrast, public goods, such as law, correspond to a prisoner's dilemma game (PD-game). With all other people adhering to the rule (cooperating), a single person does best by not adhering to the rule. In some sense, PD-games are like public goods, sharing the latter's free-rider problem. It may seem that state provision of the benefits in question would be the only solution to the problem. Recently, though, there has been a new interest in solving this problem with self-enforcing rules.

Axelrod (1984) shares this interest (others are, Ullman-Margalit 1977; Hardin 1982; Sugden 1986; Taylor 1987).

THE EVOLUTION OF COOPERATION

The essence of Axelrod's contribution is the notion of recurrent dealings (with a low discount rate) and reciprocity. If some individuals have recurrent interactions, then by adopting a strategy of reciprocity they can modify each others' behaviour. In

⁶⁶ To avoid misunderstanding: it is not the marketability, as such, of the commodity money that is being stressed here, but rather that people are using it and thereby establish it as a convention.

game-theory terms this means that cooperation will be rewarded with cooperation, and defection retaliated against by defection. In a one shot PD-game this of course does not work, because reward and punishment cannot both be given by a player in the same game.

If A cooperates and B defects in a PD game, A cannot punish B unless they play more than one game. If there are recurrent games between A and B, A could defect to punish B in the next game after B's defection. In a way, A's behaviour could be explained by his learning; A now knows B.

Axelrod ran a computer tournament in which competition among different strategies was simulated. The strategy that came out on top in the tournament was TIT FOR TAT, a strategy in which the hypothetical player initiates a cooperative move and then reciprocates its opponent's move on the following turn. The results from Axelrod's study suggest that cooperation can evolve without a central enforcement agency.⁶⁷

The main results of the Cooperation Theory are encouraging. They show that cooperation can get started by even a small cluster of individuals who are prepared to reciprocate cooperation, even in a world where no one else will cooperate. The analysis also shows that the two key requisites for cooperation to thrive are that the cooperation be based on reciprocity, and that the shadow of the future is important enough to make this reciprocity stable. (Axelrod 1984:173)

⁶⁷ Michael Taylor (1987), through an analysis of two-person PD-games, reaches the same conclusion:

"Axelrod comes to the same *general* conclusions we arrive at here (and which was at the heart of the analysis of the Prisoners' Dilemma supergame in *Anarchy and Cooperation*), namely that 'the two key requisites for cooperation to thrive are that the cooperation be based on reciprocity, and that the shadow of the future is important enough to make this reciprocity stable'." (p.70)

All that is needed is for two people to start cooperating, and cooperation will spread to others.⁶⁸ However, if defectors randomly interact with cooperators, there will be a limit to how far cooperation spreads. This is the problem of large numbers.⁶⁹ As long as the group is small, there will be no opportunity for a defector

⁶⁸ A full list of what assumptions Axelrod (1984) claims he does and does not make can be found in the following:

"[L]ittle had to be assumed about the individuals or the social setting to establish these results. The individuals do not have to be rational: the evolutionary process allows the successful strategies to thrive, even if the players do not know why or how. Nor do the players have to exchange messages or commitments: they do not need words, because their deeds speak for them. Likewise, there is no need to assume trust between the players: the use of reciprocity can be enough to make defection unproductive. Altruism is not needed: successful strategies can elicit cooperation even from an egoist. Finally, no central authority is needed: cooperation based on reciprocity can be self-policing.

The emergence, growth, and maintenance of cooperation do require some assumptions about the individuals and the social setting. They require an individual to be able to recognize another player who has been dealt with before. They also require that one's prior history of interactions with this player can be remembered, so that a player can be responsive....

For cooperation to prove stable, the future must have a sufficiently large shadow.... It requires that the players have a large enough chance of meeting again and that they do not discount the significance of their next meeting too greatly....

Finally, the evolution of cooperation requires that successful strategies can thrive and that there be a source of variation in the strategies which are being used. These mechanisms can be classical Darwinian survival of the fittest and the mutation, but they can also involve more deliberate processes such as imitation of successful patterns of behavior and intelligently designed new strategies....

In order for cooperation to get started in the first place, one more condition is required. The problem is that in a world of unconditional defection, a single individual who offers cooperation cannot prosper unless others are around who will reciprocate. On the other hand, cooperation can emerge from small clusters of discriminating individuals as long as these individuals have even a small proportion of their interactions with each other. So there must be some clustering of individuals who use strategies with two properties: the strategies will be the first to cooperate, and they will discriminate between those who respond to the cooperation and those who do not." (1984:173-5)

The following caution from Rappoport should be kept in mind: "The most instructive lesson to be drawn from the iterated Prisoner's Dilemma strategy contests and from the simulated "ecologies" associated with them concerns not what will happen under given conditions (the usual instruction expected from an experiment), not even what is likely to happen, but only what can logically happen" (1988:400).

⁶⁹ Or as Taylor puts it:

Axelrod's "analysis hinges on the assumption that an individual will play out the whole of an infinite supergame with one other player, or each player in turn, rather than, say, ranging through the population, or part of it, playing against different players at different times in the supergame (possibly playing each of them a random number of times)." (1987:71)

And Taylor continues:

"[I]t is pretty clear that Cooperation amongst a relatively large number of players is 'less likely' to occur than Cooperation amongst a small number. For a start, the more players there are, the greater is the number of conditions that have to be satisfied - the conditions specifying that the right kinds of conditionally Cooperative strategies are present and those specifying the inequalities that all the Cooperators' discount rates must satisfy. But the main reason for this new 'size' effect is that Cooperation can be sustained only if conditional Cooperators are present and conditional Cooperators must be able to monitor the behavior of others.

to interact at random with the other members of the group. But after the group has grown to a certain point, the opportunity for defection presents itself (Vanberg and Buchanan 1988). It therefore seems that small groups, or clusters, would predominate instead of a large group. A different possibility for a large group is the creation of controlling institutions such as a central enforcement agency. But my purpose is to see if cooperation can emerge and survive without such institutions. Again, Axelrod's results suggest that reciprocity can serve as a type of an enforcement, and this possibility we recognize in human interaction.

ACTION INTEREST VS. CONSTITUTIONAL INTEREST

To throw better light on the issue let us look at a recent analysis by Vanberg and Buchanan (1988). They use the notions of "action interest" and "constitutional interest" to refer to what have been called individual interest and group interest, or private and common interest. This terminology is necessary in order to clarify what is at issue. The two interests do not necessary conflict, but, rather, allow one to differentiate between two levels of choice. The constitutional interest is what an individual considers his best interest as a member of a group in general, while action interest is what the individual considers his best interest in a particular situation. The constitutional interest determines an individuals choice of a rule or constitution for the whole group. The action interest determines whether an individual would actually

Clearly, such monitoring becomes increasingly difficult as the size of the group increases." (1987:104-5)
But, Taylor does state that:
"Nevertheless, it has been shown that *under certain conditions* the Cooperation of some or all of the players *could* emerge in the supergame *no matter how many players there are.*" (1987:104)

adhere to the rule in a particular situation. The problem hindering the emergence of cooperation is that the two interests may not converge. In coordination problems they do converge, as there are no incentives to drive them apart. Again, in the case of money, it is only rational to use money if others use it, and if they do, then the best choice in a particular situation is to use it. To refrain from using money would leave the individual worse off. For PD-type problems, however, there is a problem of convergence. An individual may prefer a rule for the whole group, such as a rule intended to provide a public good, but, then in a particular situation he may be better off if he consumes the good without paying his share. We have seen that if reciprocity is practised, additional incentives are established to make the two interests converge. As pointed out, though, this reciprocity should only be expected to emerge, or be effective, in small groups or small-number settings, where recurrent dealings are expected.⁷⁰

TRUST-RULES AND SOLIDARITY RULES

Vanberg and Buchanan (1988) point out, however, that not only are there two types of game problems (two broad groups of games), the coordination and the PD (or conflict) type, but PD-games actually include two different sets of rules. These two PD-type rules, as the authors distinguish them, are trust-rules, like "respect property,"

⁷⁰ "Reciprocity seems likely to emerge and to be effective as a behavioral pattern only in critically small-number settings, where individuals both identify others in the social interaction and expect to experience further dealings within the same group. The question for us becomes one of identifying conditions under which persons are likely to form small-number groups or 'cooperative clusters' that internally secure rule-following through reciprocity. In this regard it is useful to distinguish between two types of rules which we shall call trust rules and solidarity rules." (Vanberg and Buchanan 1988:147)

and solidarity-rules, like "do not litter in public places," "respect waiting lines," "do not drive recklessly," and "pay your fair share in joint endeavors." The essential claim supporting this distinction is that the latter are not targeted to particular individuals or groups as are the former. Or as Vanberg and Buchanan put it:

By his compliance with or transgression of trust-rules a person selectively affects specific other persons. Because compliance with or non-compliance with trust-rules is, in this sense, "targeted" the possibility of forming cooperative clusters exists: Any subset of actors, down to any two individuals, can realize cooperative gains by following these rules in their dealings with each other. Adoption of and compliance with trust-rules offers differential benefits to any group or cluster, independently of the behaviour of other persons in the more inclusive community or population. (1988:18)

In contrast to trust-rules, compliance with or violation of solidarity rules cannot be selectively targeted at particular other persons, at least not within some "technically" - i.e. by the nature of the case - defined group. There is always a predefined group all members of which are affected by their respective rule related behaviour. (18-19)

For solidarity rules it is not true, as it is for trust-rules, that any two individuals can start to form a "cooperative cluster" that would allow them to realize differential gains from which their unconstrained fellow-men are excluded. Solidarity-rules require adherence by some inclusively defined persons before providing differential mutual benefits to those who adopt compliance behaviour. (19)

In other words, compliance with trust-rules provides benefits wholly to the participating actors and only to them. By contrast, compliance with solidarity-rules generates benefits both to participating actors and non-participating ones. The trust-rules therefore become self-enforcing with the additional incentive of reciprocity, but this incentive is not enough to make the solidarity rules self-enforcing.

It was suggested above that as far as coordination rules are concerned, there is no "large-number" problem. They are totally self-enforcing, and there are no incentives for defection. In contrast, there was a "large-number" problem with

PD-type rules. When we separate the trust-rules from the solidarity-rules, we see that large numbers are less of a problem for trust-rules than for solidarity-rules.

Compliance with trust-rules confers benefits only upon participants, while solidarity-rules confer benefits upon others as well. Therefore, trust-rule groups can grow as large as the notion of reciprocity allows. In other words, an individual only has to discriminate between cooperators and defectors, and he can use his memory of previous interactions to accomplish this. Further, there is an incentive for the individual to cooperate, since others have the capacity to remember his previous behaviour. In trust-rule situations, he would not want to be defected against since that makes him miss out on the benefits. In contrast, for solidarity-rules he does not have this incentive, because these rules are like genuine non-excludable public goods. He benefits whether he cooperates or not, and is better off by defecting if the cooperative choice is costly.

A partial solution to ensure compliance with solidarity-rules (or "norms," as Axelrod calls them) is offered by Axelrod (1986). His suggestion is that a metanorm be adopted to punish not only defectors, but also those who fail to punish defectors.

A cooperating individual would himself punish not only those who defect, but also cooperators who do not punish defectors. But this solution requires more knowledge than does the solution for trust-rules. For the metanorm enforcement, the individual has to have knowledge not only of defectors but of those who fail to punish defectors. To enable group members to acquire the knowledge needed to enforce the metanorm requires a smaller group than trust-rules are capable of. Therefore, reciprocity in

recurrent interactions only allows for small cooperative clusters. That essentially means that in such situations one winds up with many small cooperative groups or clusters. Will cooperation emerge among these groups, and if so, how?

SECOND-ORDER CLUSTERING

If two individuals can cooperate and become better off, why not two groups? Vanberg and Buchanan (1988) suggest that such "second-order" clustering provides a solution for problems of intergroup cooperation. If there are recurrent dealings between groups or between individuals from the different groups then it seems that a strategy of reciprocity supplies a solution here, as in the original case. Groups could have not only first-order boundaries but also different second-order boundaries. At the first-order level the group is bounded by the "optimal number" for cooperative clusters, the optimal number being determined by the range of the solidarity-rules. At the second level a different group emerges. This second-order group is different in that it incorporates members from more than one group. Two individuals from two different groups begin cooperating: this second-order cooperation spreads. It can spread, as on the first-order level, through a strategy of joining or imitation. If this secondary clustering works, then nothing prevents third order clustering also.⁷¹ In this way a hierarchy of groups could emerge without any central enforcement agency.

Another way intergroup cooperation might emerge would be through intergroup sponsorship. A group guarantees the cooperative behaviour of the group members in

⁷¹ Whether these clustering will actually be hierarchial or only overlapping on the same level is not of concern here. In the theory both ways would tend to promote cooperation between groups.

interactions with members of other groups. Such sponsorship could be imitated by other groups if the original group was successful. Either of these could be described as a self-enforcing federal structure.⁷²

THE STATE OF NATURE

All the theorists commenting on the "cooperation problem" attempt to solve the problem of the state of nature, or, as it is often called, the Hobbesian problem of social order.⁷³

There are basically two ways to describe a state of nature. First, there is the paradigm of kin groups or tribes. This paradigm generally describes order in primitive societies. The claim is that kin groups and tribal clans can be orderly because the order is based on community, a sense of belonging to the group, or a belief in witchcraft or supernatural sanctions (Taylor 1982;1984). On this view, there is some limit to group size and a limit to intergroup cooperation. Intergroup cooperation is based mainly on marriages or fostering, and the stability of cooperation is dependent

⁷² Others have suggested similar solutions:

"[R]ussel Hardin has suggested that large groups without any internal authority structure at all may be able to resolve collective action dilemmas by using a federated structure. He argues that despite the absence of a central authority, subunits may be able to regulate themselves via decentralized strategies. Such self-regulation could arise if there were multiple activities going on simultaneously in each chapter" (Bendor and Mookherjee 1987:143).

Or, as Hardin himself states:

"It is hard to imagine that conventional behavior or strategies of contingent cooperation could resolve Prisoner's Dilemmas if these occurred exclusively in very large groups. Large-group Prisoners Dilemmas might be resolved as a byproduct of smaller subgroup interactions. But this could be strictly a spontaneous voluntaristic by-product - not the organized by-product of Olson's analysis... (1982:184) ... Overlapping activities are therefore perhaps most important for their relation to reputation, or rather for the dependence of one's reputation on one's behavior in a cluster of activities." (1982:185)

⁷³ This section is only supposed to connect the cooperation problem contributions to a broader class of a problem all of the contributors claim to be challenging, the Hobbesian problem. All contributions are looking for an alternative solution, an alternative to the Hobbesian solution.

on how a person changing groups views the relevant communities. Will the person view the old group as part of his community or not? If he does, some intergroup stability can be realized.

The other paradigm is that of a state or central enforcement agency. This is the Hobbesian view. It supposes that individuals will not be rule-follower voluntarily, so a state must impose and enforce such behaviour. The claim is that individuals in the state of nature maximize their own utility without consideration for others. This view may not deny that kin groups can be orderly, but it denies that anything beyond that will be (Taylor 1987).

As the cooperation theory that I have put forth above shows, a solution to the problem posed by Hobbes is possible without a central enforcement agency. Cooperation could emerge between kin groups by the same mechanism. It must be remembered, however, that an original state of nature where all are fighting all is unlikely to have ever existed. The theory outlined in this chapter will be tested for its historical relevance against a historical case that most resembles a state of nature, the settlement and the rise of social order in medieval Iceland.

CHAPTER

FOUR

THE EMERGENCE OF SOCIAL ORDER IN THE ICELANDIC COMMONWEALTH.

Iceland has a rare treasure in its lawbooks... Unlike other Scandinavian law, *Grágás* was compiled without concern for royal justice or prerogatives. Its resolutions and rulings illustrate the limits and precedents of a legal system that operated without an executive authority... *Grágás* was the law of a society in which order was maintained principally through negotiation and compromise and in which the upholding of an individual's rights through legal proceedings, such as prosecution and the exaction of penalties, was a private responsibility. (Byock 1988:20)

The early history of the settlement and the formation of the Commonwealth as told by Ari, in Íslendingabók and by others in Landnámabók has mostly gone unchallenged. But, although most modern historians have tacitly accepted Ari's account at least one legal historian has questioned the story. Línadal (1969) concludes that whatever the truth may be it is not what Ari would have us believe.⁷⁴ For my

⁷⁴ Línadal even suggests that in medieval times, and before, it was common to ascribe the initiation of law and

purposes here the most important point LÍndal makes is that because of the customary nature of law in the high middle ages, a recreation or copying of "foreign" laws would not have been acceptable at that time. LÍndal claims that since the settlers came from areas scattered around NW-Europe, although most were probably Norse by origin, these people had come into contact with various legal traditions.

LÍndal's idea is that the legal system as it evolved in the settlement period was basically a mix of the various legal traditions that the settlers had known before. These laws often conflicted, so a legal structure arose which probably caused additional conflicts of law in addition to substantive disputes. With time, and as the hierarchial legal structure began to rise, some of the local leaders may have recognized the need to simplify the legal tradition and accept one unified legal code. LÍndal therefore assumes that some leaders may have gotten together and discussed these issues, and, taking notice of their differences decided to send Úlfjót abroad to clarify some legal issues.

It is my aim here to use the theory, as presented in chapter 3 to offer a variation on LÍndal's claim and explain the history presented in chapter 2. In essence, the decentralized order theory offers an alternative explanation of the emergence of institutions and social order in the Commonwealth. I do not claim to formalize ~~LÍndal's views, but rather to~~ take his challenge and offer an alternative account of the whole systems to some great lawgiver. Morris (1910), similarly, claims the same on the origins of the Frankpledge system in England:

"The definite medieval statements concerning the rise of frankpledge prove to be but traditions founded on inference. William of Malmesbury, the first of the chroniclers to mention the system, says in his *Gesta Regum*, written a little before 1125, that King Alfred originated the suretyship tithing as well as the hundred. This assertion is, however, the merest conjecture, accepted by no reliable modern authority, and apparently due to an old-time tendency to explain institutional beginnings by a single act of some great lawgiver." (Morris 1910:7) See also LÍndal (1969).

evolution of the legal order in Iceland. Neither do I claim to prove the history of the Commonwealth; the theoretical explanation in this chapter only offers an alternative version of this history - an alternative that I myself find more convincing than Ari's version.

THE EMERGENCE OF INSTITUTIONS

The Norse chiefs who settled in Iceland finding the country uninhabited, solemnly took possession of the land, directing their landtake by the omens of the drifting ashore of the high seat pillars, &c., and then in order to found a community, they built a temple and called themselves by the name of *goði* or *hof goði*, and thus the temple became the nucleus of a new community, which was called *goðorð*. Many independent *goðar* and *goðorð* sprung up throughout all the country, until about the year 930 the Alþing was erected where all the petty sovereign chiefs *goðar* entered into a kind of league, and formed a general government for the whole Island.

*The Book of the Settlement*⁷⁵

The first settlers arrived in Iceland about 874 and the island quickly became populated. These settlers were in a new land they knew little about. They knew only that Iceland was uninhabited, land was abundant there, and it was a good place to settle. They also knew that the winters there could be harsh. Most settlers had probably heard of the expeditions that had found the country earlier. Members of these expeditions had stayed in the country during winter and may have given it names like Snowland and Iceland.⁷⁶ Surviving the winters was a problem. Although

⁷⁵ Quoted from the English version by Ellwood (1898:26-7). The term *hof goði* translates as temple-priest.

⁷⁶ It has also been suggested that the name derives from the common vision or sight that travelers to the island got: That in approaching the island from the South-East, which most did, the first sight or vision they had was of a huge snowy mountain, Europe's largest glacier *Vatnajökull*, from which the travelers gave it its name (Benediktsson 1974:158).

the *Sagas* do not refer to such problems we may assume that many lost their homes, livestock, and their means of livelihood through hardships imposed by nature. That the settlers had conflicts with each other during the settlement period would be expected. Although they may have had inherited or invented rules of property, there would have been problems in the application of these rules. For example, two settlers in the same area may have argued about the location of a mutual boundary. Although both subscribed to the same property rule, it is in the interest of each to defect on the rule and get his claim enlarged. Since each person would expect to stay on his own land, it was in the interest of each to find a peaceful solution to the conflict. Of course, they could fight, but that would mean that they would have to fight continuously until one left. The two of them could negotiate a compromise solution, but if they could come to such an agreement, they presumably would not have had the conflict. Thirdly they could appeal to some outside agency to determine and enforce a solution. In Iceland, however, no such agency existed. Fourthly, they could accept an arbitrator, perhaps a respected leader. This would require that both trusted the same person to arbitrate between them. Fifthly, if they would not accept the same arbitrator, two arbitrators could possibly appeal to a third arbitrator.

Germanic, Scandinavian, and Celtic peoples all had some form of assembly for handling disputes (Líndal 1981; Berman 1983:ch. 1; Chadwick 1971:chs. 4-5). Therefore, it is not surprising that the Icelanders would come up with similar assemblies. What must be stressed here, however, is that, in contrast to assemblies of the races mentioned, the presence in Iceland of different or mixed races required

assemblies of a new type. Each race had traditional tribal and kinship assemblies, presided over by kings; the members of these groups were of the same race. In Iceland, these traditional solutions were not possible (Byock 1988:ch. 4). What emerged in Iceland were local *Þings*, which acted as assemblies and courts, presided over by chieftains instead of a king, as in Scandinavia and the other colonies.

I conjecture, although no historical evidence is available on it, that the first assemblies were presided over by a single leader, a chieftain.⁷⁷ These were likely very informal gatherings at first, but nonetheless initiated the later more formal and encompassing institutions. Those who became chieftains likely had been a captain of a settlement ship, had been a chieftain or petty king before, or had wealth or reputation. The sources on this matter are ambiguous. Some chieftain likely oversaw each assembly, but he had no more rights than any other freeman. The law itself was presumably copied from the law in the areas the settlers had come from; the assembly only applied the laws but did not make them. The different assemblies had different laws to begin with, arising from the different background or heritage of the members (Líndal 1969;1984;Byock 1988).

The way a chieftain established a following supports the view that the chieftains were originally arbitrators. This can be seen in that each freeman-farmer could pick a chieftain to follow; the farmer chose his arbitrator. After the establishment of

⁷⁷ Actually, there is no evidence as to how the first assemblies/courts formed in Iceland. A logical sequence, as mine hopefully is, would postulate that a local assembly arose first around a single chieftain and then only later the local *þings*, the *Vorþings*, would have arisen. This would seem more sequential than the *Vorþings* arising right away. The only historical evidence on these pre-*Alþing* assemblies mentions the existence of two *Vorþings*, but tells us nothing of their origin or procedures (see page 72).

Historians have not really addressed this issue, but instead rather tried to retell us what the sources tell us. Lárusson (1932:16) is an exception; he assumes that local assemblies arose around each chieftain at first.

certain of these chieftainships, their numbers became fixed by law. Each freeman-farmer could still pick a chieftain to follow, but his choices were now limited by the number of chieftains.⁷⁸

Because of weather and poor crop yields, some settlers lost all their belongings, while others died, often leaving orphaned children. There were also man made disasters, such as fires, and natural calamities such as outbreak of disease. Such problems could have created a class of people who would have preyed on others. It was necessary for the Icelanders to discover how to cope with these problems and curtail the rise of a predatory class.

There were several potential solutions to such problems, but only one of these solutions is of value in the long term. Trying to eradicate the predatory class somehow would have resulted in increased violence, a never-ending war. The only workable solution was to assist these people in some way. Possible means of assistance, of course, varied, but all require some form of organization, whether private

⁷⁸ The origin of the chieftainship is disputed. The *Goði* (Icelandic for chieftain) seems to be derived from *Goð*, or God in English. There have been suggestions that this refers to the chieftain role as keeper of the temple (heathendom). This probably is the correct origin of the term, but not necessarily of their functions. On the origin of the chieftain functions, see Byock (1988:chs. 4-6), Benediktsson (1974), Jóhannesson (1956). On the legal definition of their functions, see *Grágás*, vol. 1.

It is also interesting to note the similarity of the Icelandic chieftain-farmer relation to the Anglo-Saxon practice. Taswell-Langmead states:

"In the original Teutonic community, the monarchic and aristocratic elements were subordinate to the democratic element. The growth of the Thegthood, working in close alliance with the Kingly power, which from motives of self-interest it was bound to support as the source of its own dignity, reversed this original relation. Thus the aristocratic and monarchic elements obtained a decided pre-eminence. Purely voluntary in its origin, service rapidly grew to be universally compulsory. It soon came to be regarded as a principle that every freeman, not being a *hlaford*, must be attached to some superior, to whom he was bound by fealty, and who, in return, was his legal protector and the guarantee for his good behaviour. The freeman had indeed the right of choosing the lord to whom he should, in technical language, *commend* himself; but if he failed to do so, his kindred were bound to present him to the shire court and name a lord for him. The lordless man was treated as a kind of outlaw, and might be seized like a robber by anyone who met him. Having once commended himself to some lord, the freeman was prohibited from exchanging into the service of another lord in another shire without the consent of the ealdorman of the shire which he was desirous of quitting" (1896:20-21).

or public. The Icelanders took the middle way; partly public and partly private. The organization that emerged is called the *Hreppur*.

THE COMMUNE, OR *HREPPAR*

"In early Iceland, Posner's insurance problem was in part handled directly by geographical associations of farmers, called *hreppar*. Membership in one's local *hreppur* was compulsory, which solved the problem of adverse selection." (Eggertsson 1990:306)

"Thus, each commune was a mutual insurance company, or a miniature welfare state. And membership in the commune was not voluntary. Each farmer had to belong to the commune in which his farm was located and to contribute to its needs." (Gissurarson 1990:17)

The *Hreppur* seems to have developed early in Icelandic history, although historical evidence is lacking on this too.⁷⁹ The only certain thing is that they were a part of the institutional structure by 1096, but were likely formed as early as the settlement period or in the 10th century (Benediktsson 1974:185). Like the early local assemblies, it is not much discussed in the *Sagas*. But according to the lawbook, the *Grágás*, the *Hreppur* was composed of a minimum of twenty farms and had a five member commission. Among other things, the *Hreppur* was responsible for seeing that orphans and the poor within the area were fed and housed. It did this by assigning

⁷⁹ Nothing is known on the origins of the *Hreppur*, i.e. from what tradition they arose. Some, such as G. Guðmundsson, have suggested that they originated in the other Viking colonies: "Í víkinganýlendunum var þörf mikillar samheldni, því að þær voru umkringdar óvinum á alla vegu. Einnig var nauðsynlegt að sjá farborða konum og börnum þeirra, sem féllu á víkingaferðum. Samheldni og bræðralag hefur því einkennt þessi samfélög" (G. Guðmundsson 1981:65).

Jóhannesson (1974:83) states: "Figures showing the total number of *hreppar* in Iceland during the Commonwealth Period are not available, but in 1703 they amounted to 162, and there are several reasons to believe that from the Middle Ages to the present time this number has remained quite constant."

these persons to member farms, which took turns in providing for them. How long each farm had to provide for the person was determined by the wealth of the farm.

The *Hreppur* also served as a property insurance agency. It assisted in case of fire and losses due to diseased livestock.⁸⁰ If, for example, a farm's kitchen burned down, the other farmers in the *Hreppur* would pitch in to build a new one. If both kitchen and living quarters burned, then half of each was paid for. In case of disease, if more than a quarter of the livestock died, the other farmers would provide assistance.

There was, furthermore, a maximum amount each farmer had to contribute, and no farmer had to assist the same farm more than three times. The *Hreppur* had its rules and regulations. Among these was a rule that no one could move into the *Hreppur* unless he had the recommendation of another such unit. Finally, the *Hreppur* may have organized and controlled summer grazing lands in cooperation with the members.⁸¹

These institutions, the *Þing* and the *Hreppur*, show how "cooperative clusters" developed in medieval Iceland. Both institutions arise about the same time, not long after the settlers arrived. This can in part be explained by the fact that the settlers were familiar with the assembly tradition. But the different settlers had different

⁸⁰ "Í Grágás kemur skýrt fram, að hlutverk hreppa var a.m.k. tvenns konar: fátæktarframsæsla og samtrygging gegn fjárskaða og eldsvoða. Fimm menn voru valdir úr hópi bænda til að sjá um málefni hreppsins. Þeir áttu að sækja alla þá menn, er óskil gerðu í hreppnum, skipta tíundum manna og matgjöfum og sjá eða að mönnum. Framfærsla ómaga lenti því aðeins á hreppsmönnum, að ómaginn ætti enga nákomna ættingja í hreppnum, sem gæti séð honum farborða. Hreppar lutu ekki stjórn stærri heilda eða goða og voru þannig sjálfstæðir um eigin málefni." (G. Guðmundsson 1981:63)

⁸¹ It is not wholly clear from the sources when the *Hreppur* began organizing summer grazing lands. The usual claim is that they began this function in the 12th or 13th centuries, at the latest.

On the role of the *Hreppur* see Jóhannesson (1956:103-9) and Benediktsson (1974). The formation of the *Hreppur* also supports the contention that the kinship groups had broken down in Iceland, and the *Hreppur* took over some functions that kin groups had previously performed.

traditions, and therefore what emerged was actually different from all previous traditions. The local *Pings* were likely less kinship oriented in Iceland than in other places, and the *Hreppur* was a new development, not known elsewhere.

That these institutions would not span the whole country is similar to the "large-number" problem in Axelrod's theory. When a group contains a certain number of people, it becomes more beneficial for some group members to defect than cooperate. Thus, what developed early in Iceland was probably a number of each type of institution; many local *Pings* and many more *Hreppur*.⁸² The two types of institutions also fit well with the trust-rules vs. solidarity-rules distinction. The *Ping* emerged and functioned as a cluster for market activities, such as trade, and as an arbitrator for two-person dealings. These correspond to problems with trust-rules, and fit the prediction that these rules are essentially for market type orders. The *Hreppur* was as a cluster for common concerns, such as the need for private and social insurance. It corresponds to problems with solidarity-rules, and fulfils the more general prediction that such rules apply to organization type orders. It is also noteworthy that the *Hreppur* defines the relevant membership group before producing any benefits.

As Vanberg and Buchanan pointed out, this is essential for solidarity-rules groups to be able to emerge. Solidarity-rules can in some sense be thought of as rules for supplying public goods. The dilemma of the rule can be overcome by

⁸² I say probably, because the number of local *pings*, before the establishment of the *Alping*, and of the *Hreppur*, before 1096, is not known. Conjecture, as my claim is, therefore needs to fill in the gaps that exist before the periods mentioned.

forming a sort of a "club" such that only members of the club can enjoy the benefits.⁸³

The *Hreppur* was essentially a "club", although membership was compulsory for all residents of the "club" area. This monopoly status of the *Hreppur* can also explain why it was able to provide both public and private goods, or social and private insurance. By tying private and public goods a "club" may be better at attracting customers (Klein 1987; Cowen and Kavka 1990), although as mentioned, membership in the *Hreppur* was compulsory in Iceland.⁸⁴

These two institutions are also seem to have been overlapping in membership. The *Hreppur* was geographical in jurisdiction, while the *Ping* was not. Once a farm had joined a given *Hreppur*, its affiliation could not be changed. The farmer, on the other hand, could legally change his alliance to another chieftain, and therefore another *Ping*, once each year. These institutions also fit the large-number distinction that was made above, in that each *Hreppur* had fewer members than each local *Ping*.⁸⁵

⁸³ The club analogy is derived from Buchanan (1987b).

⁸⁴ On the other hand, an efficient "club" or *Hreppur* may have been able (although we have no knowledge on this) to attract wealthier people into the community and drive up property values.

⁸⁵ The actual number of *Hreppur* in the settlement period is not known. Jóhannesson (1956:103) states that in 1703 they were 162, and claims that it is reasonable to assume that there were about the same number in the 10th century. The number of *Goðar* (chieftains) was 36, before 960, and 39, after 960. The number of local *Pings* after 960 was 13. If these figures are correct, then it follows that the *Hreppur* had fewer members than the *Ping*, and that supports the theory.

In fact, little or nothing is known on the *Hreppur* before 1096, as G. Guðmundsson says:

"Elsta heimildin um hlutverk hreppa á Íslandi eru tíundarlög Gissurar biskups. Ekki er vitað með vissu, hvenær þau voru sett. Í einu hinna fornu handrita er það talið hafa gerst árið 1096, en í flestum annálum er tíundin sögð lögleidd árið 1097. Ártalinu 1098 hefur einnig verið haldið fram.... (63)

INSTITUTIONS OF THE SECOND ORDER

Then Þórður Gellir complained at the Law Rock how unsatisfactory it was for people to go to strange moots to secure justice for slayings and injuries.... As a result the country was divided into quarters, so that there were three moots in each quarter to which residents could bring lawsuits and lay charges. Only in the northern quarter was it necessary to have four moots... Afterwards, in this manner, the Quarter-Moots were established.

*The Book of the Icelanders*⁸⁶

Although there is no reason to think that the *Þings* and the *Hreppar* would not have worked fairly well in resolving intragroup conflict, we would expect conflicts to arise between members of different *Hreppar*. It is especially likely that there were a number of these conflicts, since the local Þings were not strictly geographical and probably only informal institutions at first.

It is clear from the sources that *Vorþings* arose, so no conjecture is needed here.⁸⁷ These were local assemblies that gathered about 3 chieftains and their followers. It seems, from the sources and to an agreement among the historians, that at least two of these had arisen by 930, *Kjalarnesþing* and *Þórsnesþing*. These local *þings*, the *Vorþings*, acted both as assemblies of freemen and as local courts of law.

I conjecture in this thesis, as mentioned, that these could only have arisen after the formation of assemblies that had been and were even more local than these. Or in other words, courts and assemblies that restricted themselves to smaller localities.

⁸⁶ Quoted from Ruth (1965:24).

⁸⁷ The reader may recall, from page 66, that conjecture was needed to establish the existence of the preceding local-*þings*.

The *Vorþings* are, therefore, institutions of the second order, while their postulated predecessors were of the first order.

Besides looking to these local courts, there was the possibility for the conflicting groups to fight, and this probably did occur in the settlement period, as it did later. Another possibility in problems of conflict, the solution adopted in Iceland, was to merge two or more assemblies. This would enlarge the group and, yet, also allow for some intragroup structure to be retained by having more than one chieftain in the new group. The enlargement of the first order local assembly is seen in the *Vorþing*, an assembly made up of three chieftains and their followers. The *Vorþing* besides being an assembly of all freemen in the local, also acted as a court.

Another institution, the Quarter-*Þing*, or *Fjórðungsþing*, was also established in this same time period, before 965. The Quarter-*Þing* was comprised of nine chieftains and their followers and, like the other *Þings*, served as a court. The dates of the formation of these are not known for certain, but references in the *Sagas* to *Þings* date the emergence of some forms of these lower level courts before 965.⁸⁸

What matters for our purposes is that an institutional structure to handle intergroup conflicts did appear. I postulate, inferring from my theory, that at the lowest level of the structure was an assembly formed around a single chieftain and the *Hreppur* formed around a single locality. These institutions handled problems of

⁸⁸ Actually, we cannot be confident on the dates before the year 1000. But, it is usually accepted that the *Alþing* (see below) emerged around 930 (Jóhannesson 1956). Here that date is accepted as correct. I do not, on the other hand, necessarily accept that the structure was as formalized at this time, as most historians would have us believe. The structure was not formalized until 965 and thereafter. I conjecture that the various *þings* were forming from the time of the first settlement, starting with the formation of some local *þings* and eventually the *Alþing* being formed about 930 as an informal gathering. Further, my conjecture shows the structure not being fully formalized and accepted until after the 960-5 period.

intragroup cooperation and allowed also for some intergroup cooperation. Next *Vorþing* and *Fjórðungsping* formed to establish better intergroup cooperation as the relevant groups got larger.⁸⁹

Although the enlarged court system had jurisdiction over more settlers, it still did not connect all settlers or groups. Therefore, we should still expect intergroup conflicts to arise and not be solved immediately. Followers of different chieftains belonging to different *Vorþings* or *Fjórðungspings* could come into conflict; there was yet no institution to handle these problems.

The next step in the development of the institutional structure was the formation of the general assembly, the *Alþing*. With this development the whole population of the country began to become united under one body of law, referred to as "our law" (*vár lög*). At the same time the court system was becoming more formalized. Procedural rules embodied in a constitution were being established. The functions of the *Alþing* were twofold. First, the *Alþing* served as a Law-Council. Second, the *Alþing* served as the highest court. To begin with the Law-Council likely acted as a court also but after 965 the court at the *Alþing* was divided into *Fjórðungsdóma*, or Quarter-Courts. These corresponded to the lower level *Fjórðungspings*, but were seemingly established at the *Alþing*, and the former became abandoned. The *Alþing* formed around 930, and the structure established in the period 930-965 remained more or less the same until the fall of the Commonwealth. One change took place in the period 1004-1030; the *Fimmtardómur*, or the Fifth-Court, was added. This court

⁸⁹ This corresponds to the secondary clustering suggested by Vanberg and Buchanan (discussed in the previous chapter).

became the final court, in some respects like a supreme court. It became responsible for unresolved cases and procedural cases, such as cases involving perjury or the bribing of jurors.

After the formalization of the *Alþing*, or, rather, in the early 11th century, the court system had three levels. The lowest level was the *Vorþing*, which assembled twice a year, in the Spring and the Fall. It gathered in the Spring and was there divided in two assemblies. The first, the *Sóknarþing*, served as a regular court, and the second, the *Skuldarþing*, served as a place to settle debts. It also assembled in the Fall, called the *Leiðir*, to announce to the locals what had happened at the *Alþing*.

The Quarter-Courts formed the second level of the court system. As mentioned, these sat at the *Alþing*, and the former Quarter-Þings were abandoned at about this time. The establishment of the Quarter-Courts made juries more "national" in character, since now all the chieftains appointed jurors for the Quarter-Courts.⁹⁰ Each Quarter-Court was assigned the task of resolving cases from their particular quarter.

With the formalization of the quarters an additional *Vorþing* was added in the Northern quarter because of a conflict there. Thus, the number of chieftains in that quarter became 12, and therefore 39, instead of 36, in the whole country.⁹¹ To rectify the balance of power between quarters, nine new chieftainships were established for the other quarters, but these new chieftains only had duties at the *Alþing*.

⁹⁰ As mentioned in chapter 2, there is some disagreement on the number of jurors at the Quarter-Courts and how they were selected.

⁹¹ The number of *Goðar* (chieftains) seem to have been set at 36 when the *Alþing* was formed, although this is by no means certain despite what historians claim. How many there were before 965 is not known, and there is no way to guess. On this and the structure of the court system, see Byock (1988:ch. 4) and Jóhannesson (1956).

The third level was the Fifth-Court, and in this court a simple majority was required for a decision. At the lower levels, complicated rules required super-majorities in order to render a valid decision, and these requirements may have contributed to the need for a Fifth-Court.

Aside from this official structure, there was also private dispute resolution by individual chieftains, and sometimes a few chieftains would come together with their followers and resolve cases in *Private-Pings*. It therefore seems that the abandonment of the *Quarter-Pings* resulted in the formation of extra-legal institutions, although these were essentially continuations of previous institutions (Benediktsson 1974).

The logic of the institutional emergence is as follows: on the one hand I have the postulated individual chieftain group, and on the other the *Hreppur*. On top of these the local assemblies and then the *Quarter-Pings* evolved. Finally, as the overlapping layer, we have the *Alþing*, interconnecting all groups.⁹² At the same time however, the Icelanders were beginning to restructure the boundaries between these groups to correspond to geographical boundaries, and this may have given rise to new conflicts. However, this restructuring also established clear procedural rules for handling cases and institutionalized the flow of information about legal matters and defections. Through this institution, known as the *Leiðir*, everyone should have been able to acquire knowledge necessary to distinguish between cooperators and defectors, and learn the law.

What emerged in Iceland was a form of federalism.⁹³ In some sense this

⁹² Again, the secondary clusters evolved roughly as Vanberg and Buchanan would predict.

⁹³ As Jóhannesson (1974:63) says: "To a certain extent the Icelandic Commonwealth may be likened to a union

structure is centralized, in that by the 960s "Our Law" defined the whole structure and in that the Law Council could restructure parts of the whole system. But nothing has been said about judgments, penalties, or how enforcement and it is necessary to look into these issues.

THE LAW, ITS ENFORCEMENT AND PENALTIES FOR DEFECTION

"For them, the law was a living tradition, bringing about coherence and coordination in social life. It was customary, 'the good, old law'. It was spontaneous, encapsulating the wisdom of past generations. It was the convergence of individual adjustments and experiments, a bit like a track in a difficult terrain; such a track facilitates travel because it has been formed gradually in the search for the easiest way across; by using it one avails oneself of the practical knowledge acquired by past travellers. The law was cooperative in nature rather than coercive; it was the expression, not of an individual will, but of a slowly evolving social and moral consensus about the mutual adjustment of individuals. Law was the medium through which people could communicate, not a tool in the hands of government." (Gissurarson 1990:10-11)

The law, or "Our Law", was essentially an accumulation of the laws of all the settlers. The Law-Council, or the *Lögrétta*, did not construct legislation as such, but, rather, tried to determine what the law was. The *Lögrétta* was comprised of 36 chieftains (later 48) and each chieftain's two advisors. Only the chieftains had the right to vote to decide what the law was. Since Icelanders had not yet begun to make written records, the *Lögrétta* chose a Lawspeaker, the *Lögsögumaður*, to memorize and recite the law. The Lawspeaker recited the constitution every year and all the laws

of many states (i.e. chieftaincies) where administration of law and justice embraced the entire union but in which executive power was altogether lacking."

over a three year period. As the name of the Law-Council, the *Lögrétta*,⁹⁴ suggests, the purpose was to put the law right; the Lawspeaker would recite laws that he thought were relevant and amend older ones if he found it necessary.

It is important to note that the law of the Commonwealth was Customary Law, as was all laws of that era.⁹⁵ Customary Law is a living law that is rich in details rather than in principles. The law is perceived as old, the older the better, although this does not exclude the possibility of the law's changing. Change, however, is seen as the rectification of older law rather than as the creation of law. It is therefore essential that the people in a community governed by customary law agree on what the

⁹⁴ *Lögrétta*, literally means "law rectifying". That the name has significant meaning has been argued by Línal (1984).

"It would be misleading to say that the *lögrétta* was a legislative body. The old Icelandic conception of law was different from what it is in most modern societies. Law was not statutory; it was not made; rather, it was discovered. The old Icelandic law was, in other words, law without legislation." (Gissurarson 1990:10)

⁹⁵ Icelandic law shares some features with laws in primitive societies:

"The legal system evident in Kapauku culture - and in many other primitive societies - exhibits several characteristics: 1) primary rules characterized by a predominant concern for *individual rights and private property*; 2) responsibility of law enforcement falling to the victim backed by *reciprocal arrangements for protection and support in a dispute*; 3) standard *adjudicative procedures* established in order to *avoid violent forms of dispute resolution*; 4) *offenses treated as torts* and typically punishable by *economic payments in restitution*; 5) *strong incentives to yield to prescribed punishment* when guilty of an offense due to the reciprocally established *threat of social ostracism*; 6) legal change arising through an *evolutionary process of developing customs and norms*." (Benson 1990:21)

It is particularly worth pointing out that in the Commonwealth individual rights and property were the norm. As Hastrup says: "It appears that ownership was completely individual, and that any person might own, buy, sell, or rent any piece of land. The explanation of this individual ownership lies in the nature of the settlements" (Hastrup 1985:189).

The Commonwealth law is similar, in its emphasis on the individual, to Anglo-Saxon and Irish law. Benson (1989:ch. 3 p. 38), in discussing early Anglo-Saxon law, states: "Note the striking similarity in emphasis on individual harm and property between the Anglo-Saxon (and Germanic) customary law and the laws of primitive, Icelandic and Irish societies..." Chadwick, however, states that the Irish law may have put a little less emphasis on the individual and more on the kin: "But most important [for stability]...was the fact that the individual counted for little in law. It was the kinship group which was ultimately responsible for the actions of its members. This was the basis of the stability of ancient Irish society. Beyond the boundaries of his *tuath* an individual could not rely on legal protection, unless there was some form of reciprocal agreement between different *tuatha* as, for example, when a minor king owed allegiance to an overking" (1971:113).

law is, since the motives of the accused were not considered when juries decided the guilt of defendants.⁹⁶

Witnesses stated what they had heard or seen, while the members of the jury stated whether or not, according to their own knowledge of the case, the defendant was innocent or guilty... Throughout the Commonwealth Period juries were the usual means of presenting evidence in legal proceedings...

The laws provided for specific penalties for every type of offence, and the court would only give a verdict of 'guilty as charged' or 'not guilty'. (Jóhannesson 1974:69)

The juries, typically composed of 36 citizens, only decided the issue of guilt, once this was decided the penalty was stipulated by the law.⁹⁷ There were no judges in the Commonwealth system, only juries (Líndal 1984).⁹⁸

⁹⁶ The customary law in Iceland was in this, also, similar to that of Anglo-Saxon Britain: "The essence of early English law is that it was 'popular' law. The people at large were the repositories of law; they were the judges in the public courts. Law represented custom, of which any man with a good memory might be the repository, and local opinion; it was the one quasi-democratic thing about our early society" (Brooke 1961:68).

⁹⁷ Again, similarities to the Anglo-Saxon practice is apparent: "The great original principle of the English Judicial system was that of trial in local courts popularly constituted, or as it was termed in later times, trial *per pais*, in the presence of the country, as opposed to a distant and unknown tribunal. This was at once as evidence of freedom and the surest guarantee for its permanence. But before describing the different local courts it is necessary to notice, shortly, the principle of pledges, by which provision was made that every man should be either personally forthcoming, or have some representative bound to answer for him, in every case of litigation" (Taswell-Langmead 1896:29).

⁹⁸ Where did the juries originate? Some historians have suggested that it originated in Germanic Custom: "The Anglo-Saxon court had no jury, in anything like the modern sense. Non the less, the jury is the one survivor from the days when the law was essentially unprofessional. Some of the books tell us that the jury system came over with the Conqueror, and is descended from the late Carolingian sworn inquests -- from those small groups of local worthies who gave information on oath to royal officials in the Frankish kingdoms. Others tell us that *it originated in the Danelaw, in the twelve senior thegns of the wapentake* (the Danish 'hundred'), who produced a list of the notorious scoundrels in the neighbourhood to provide a basis for criminal proceedings. This has a *Scandinavian background, and is very close in principle to the later 'jury of presentment,'* which performed the same office in the courts of Henry II. But the vital point about the origin of the jury is that it represented a compromise between the way in which courts were generally conducted in early times, and the convenience which all societies have discovered in delegating essential business to small committees. There are plenty of cases in the years immediately after the Norman Conquest of folk being collected in little groups of four or seven or twelve to give specific information. *The Danelaw thegns are the only case known before the Conquest; but there is no reason to suppose that they were unique*" [emphasis added](Brooke 1961:68).

According to this, the modern day Anglo-American jury can therefore be said to originate in Anglo-Saxon (Germanic) England, rather than in the Conquest. Pollock and Maitland (1959:44) also stress the similarities between Anglo-Saxon (both before and after the Conquest) and Germanic Custom.

The Customary Law of the Commonwealth was a private or civil law, in that all cases were disputes between citizens. As Gissurarson says:

"In the Icelandic Commonwealth almost all law was what we would now call civil law and, consequently, all court cases were civil cases, that is an individual pitted against an individual. In other words, there were no criminal offenses, that is the state, or the public, prosecuting an individual." (Gissurarson 1990:16)

However, the penalty of outlawry is a form of public sanction, as will be discussed below.

To confirm his recitation of the inherited law, the Lawsayer required simple majority in the *Lögretta*. But all chieftains had to agree to the amendment of a law,⁹⁹ and all free-men had the right to protest against such an amendment within the next three years.¹⁰⁰

It is also noteworthy what Jones (1984) states on the Scandinavian connection to the Danelaw and the origin of the jury system:

"[A]nd though the Danelaw's political independence lasted fifty years at most, its separate, i.e. Scandinavian, quality was recognized not only by Alfred and his English successors, but by the laws of Knut in the early eleventh century and by Norman lawgivers after the Conquest... (421)

Dönsk tunga was spoken in parts of England long after the end of Danish rule there, and in parts of Scotland even later...(422)

The Scandinavian basis of law and legal custom in the Danelaw was frequently and handsomely acknowledged by the law-makers of all England.... This was not just a matter of terminology, though such Scandinavian or anglicized terms as *lahslit*, 'breach of law', *lahcop*, 'purchase of law', *sammæle*, 'agreement', *boileas*, 'unantonable', *festerman*, 'surety', *sacleas*, 'innocent', and the like, bear witness to concept as well as vocabulary; but the notion of law itself was at times distinct from that of England... But the most striking example of Danelaw legal usage will be found in the Wantage code of Ethelred the Unready, which describes the legal assemblies or courts of the Five Boroughs; first, the court of the Five Boroughs considered as a unit, presided over by an ealdorman or king's reeve; second, the court of each separate Borough; and, third, the wapentake court. All this is strongly reminiscent of the supra-Things and local Things of Scandinavia and Iceland; but the resemblances do not end there. In each wapentake there were twelve leading men, thanes, with a special responsibility for law - the so-called jury of presentment. These twelve were required to take oath on holy relics that they would neither accuse the innocent nor shield the guilty, after which they were empowered to arrest any of ill fame then at odds with the reeve. In Stenton's words: 'The sworn jury is unknown to pure Old English law, and it is safe to follow the long succession of scholars who have seen in the twelve leading thegns of the wapentake an institution derived from the juries of twelve familiar in the Scandinavian north...' (423)

See also Stenton (1943:494-518).

⁹⁹ Línal (1984) argues for unanimous votes on new laws.

¹⁰⁰ Noting, again, similarities between Iceland and Anglo-Saxon practice (or maybe rather the Teutonic heritage),

Whether this right of protest actually ever had any effect is not known, but it seems safe to assume that compromise between the "official" legal authorities and private citizens was common. In support of this claim I note that the Lawspeaker was required by law to consult with at least five knowledgeable people if he had any doubts as to what the law was or should be. If any one did not accept the law, he essentially "resigned" from Our Law, and it seems that the Icelanders were keen to compromise rather than risk that. This becomes especially clear in the way Christianity was accepted. The country was divided equally on the issue of religion, and yet Christianity was approved as the official religion in the year 1000. In general, the *Sagas* and other sources give evidence of an attitude of compromise in Iceland (Líndal 1984).

It is important to note that even after the law was recorded in writing in the early 12th century, the Lawsayer still was required to recite the law and amended it as he thought necessary. The written "text" never became an "external expression" of the Commonwealth, but rather the "text" was "an integral part of the definition of the social reality," (Hastrup 1985:208). Further, as Byock (1988:27) notes, "alongside the provisions in *Grágás* there surely existed a body of customary rule and law whose operation we at times witness in the sagas." Líndal (1984) goes even further, claiming

and further showing differences in interpretation, Taswell-Langmead states: "Concerning the constitution of this assembly [the *Witenagemot*], there exists considerable difference of opinion. It is admitted that in the local *gemots* every freeman had a right to attend. In the *gemot* of his own mark or township - whose modern representative is the parish vestry - every Teutonic freeman was entitled a voice. So every freeman, whether eorl or ceorl, had a voice in the folkmoot of the shire, the shire-moot or country court of later times. But here the divergence makes itself manifest. According to one view every freeman had also the right to attend the National Assembly, although this right had practically gone out of use at an early period. The *Witenagemot* was 'democratic in ancient theory, aristocratic in ordinary practice,' a view which to a certain extent, is supported by the high authority of Kemble. according to another view the central assembly was never formed on the model of the lower courts as the folkmoot of the whole nation, the ordinary freemen never rising higher than their respective shiremoots; but yet, constructively, the *Witenagemot* represented the whole people, whose rights, as against the King, were all vested in this assembly" (1896:25-26).

that the unwritten Customary Law was to the end of the Commonwealth the Law of Iceland and the written texts were mere tools of assistance.¹⁰¹ Yet, codification did change the nature of the law (Líndal 1984):

"When the law had been codified, it slowly began to change. It became more a lifeless collection of statutes than a living heritage preserved in the minds of 'the wise men'...." (Gissurarson 1990:11)¹⁰²

The jury determined the guilt or innocence of the accused. If the accused was found guilty, the law provided the terms of punishment; it was not up to the jury or any judge to decide that.¹⁰³ Basically, a rule of strict liability applied in Iceland; determining the intention of the defendant would have been too costly. As Gissurarson says:

"The rule of strict liability, which certainly applied in ancient Icelandic society, may also be interpreted as a response to high information costs. To discover and ascertain motives and intentions requires a much more complex judicial apparatus than is available in primitive societies. Hence, in primitive societies acts count, not intentions; to each illegal act corresponds a prescribed punishment, and the court or the jury only has to classify an act." (Gissurarson 1990:19)¹⁰⁴

¹⁰¹ G. Guðmundsson claims that relying solely on Grágás on what the law was would be mistaken: "Í fyrsta lagi er varasamt að byggja á Grágás, eins og hún væri lög í eiginlegum skilningi. Í rauninni er hún aðeins minnisgreinar lagamann þeirra tíma og enginn trygging fyrir því, að rétt sé skráð í smærri atriðum" (1981:32-3).

"Similarly, Pollock and Maitland surmised that 'written Anglo-Saxon laws [of Ethelbert down through Cnut] ... are mere superstructures on a much larger base of custom'" (Benson 1989:ch. 3 p. 37). See also Pollock and Maitland (1959:27).

¹⁰² Gissurarson is basically reproducing Líndal's comments on this issue (see Líndal 1984). The experience in central and southern Europe seems to have been the same: "When old custom was written down, its failure to fit new circumstances became more obvious." (Reynolds 1984:338)

¹⁰³ "The law was a stable structure. It was highly elaborate, prescribing the correct legal procedures in detail, and the appropriate punishments for illegal acts. Nonstatutory like the English common law, it differed from it in that the main source was not judicial precedent, but custom.... They believed that the rule existed prior to the new case; their only task was to find it" (Gissurarson 1990:11).

¹⁰⁴ Although it is generally claimed that the rule of strict liability applied in the Commonwealth, there are dissenting voices. Konrad Maurer is one who disagrees (see Líndal's note on *Váðaverk* in KLNLM, vol. 22). Miller

Witnesses supplied the means of proof in Iceland, both witnesses of the act and character witness.¹⁰⁵ The ordeal was never important in Icelandic courts. As

Miller states:

"The unavoidable sense of the sources is that in Iceland the ordeal was not a very important feature of the formal legal system. The medieval Icelandic laws....limited ordeal to cases of paternity, adultery, and incest or marriage in violation of the prohibited degrees of kinship, but even in those instances the ordeal often appeared as supplementary to the more routine procedure of witness testimony or panel verdicts. (Miller 1988:192)¹⁰⁶

(1990:65-66) states in referring to the statement "there shall be no such thing as accidents" from Grágás, that "this does not mean, as von Amira thought, that in matters of doubt a wrong should be deemed intentional. It simply means that accidents are not to provide a basis for a cause of action. The claim of accident is a defense to an action for an intentional wrong. This is confirmed by the rest of the same provision which states that the people to decide on the defendant's submission of lack of intention 'are to be drawn from the prosecution panel with which he [the wrongdoer] is prosecuted, and five neighbors are to be drawn from it'."

¹⁰⁵ The Icelandic juries, in determining the guilt or innocence of a defendant, may have done so in a way similar to that of Anglo-Saxon juries:

"What was the function of these 'peasants learned in the law'? If we look closer, we find they did almost everything except what a modern jury does. They provided local knowledge. They answered such questions as: Who has held this land in living memory? Is this man a notorious criminal? They were witnesses and counsel, so to speak. They also, in theory, stated the law, although they must normally have had to submit to guidance on this point. But they did not normally say whether the party in a criminal suit was innocent or guilty. With a becoming humility they confessed they did not know. Indeed, in many cases it must have been extremely difficult to discover" (Brooke 1961:69).

¹⁰⁶ "The sagas, however, suggest that the possibility of recourse to ordeal in Iceland might have been a little more in the air than the laws indicate. The greater portion of Icelandic dispute-processing took place outside the formal confines of the law. The sagas show ordeals being offered, demanded, and administered in context of negotiations and arbitrations stipulated to by private agreement of the parties. Ordeals are thus extended to include cases of theft, simultaneous death, plots to kill, and....homicide, when it was uncertain exactly who in a group of people involved in a melee had done the killing. ...[W]e do not see the ordeal imposed on unwilling litigants by coercive authority. For the most part it is a matter of private arrangement, of disputants' choice." (Miller 1988:193)

All penalty was either in the form of restitution or fines (Benediktsson 1974).¹⁰⁷

Restitution, or *Útlegð*, was used for lesser offenses, while fines were demanded in more serious cases. Fines, or *Sekt*, were either sentences of lesser outlawry, *Fjörbaugsgarður*, or greater outlawry, *Skóggangur*. A person sentenced to lesser outlawry was required to leave the country, the protection of "Our Law," for three years. Someone sentenced to greater outlawry was to leave the country permanently, and could be rightfully killed after three months. Both types of outlaws lost their property, which was distributed by the *Féránsdómur*. Only the guilty person's property, not that of his wife or other family members, could be confiscated, as long as the family member could show legitimate ownership.

Enforcement of judgments was private, in that the victim was responsible for enforcing a judgement in his favour.¹⁰⁸ In most cases the law specified when payment of a judgement should take place, and failure to pay on time was itself a criminal offense. To make the system more effective, the payment of a judgment usually required witnesses or consultation with the aggressor's chieftain, and, in addition, the victim could sell his judgement to someone stronger than himself.¹⁰⁹

¹⁰⁷ It should be noted that some Icelandic legal concepts had different meaning in the Commonwealth than they did in later times. The concept *seki*, for example, which may be translated to English as either guilt or a fine, really had the former meaning in the Commonwealth. When, therefore, I refer to a fine I am really referring to the older meaning of guilt. Guilt, i.e. a fine, was associated with two forms of outlawry, lesser and greater. The Icelandic word *útleð*, is another example, which literally translates into English as outlawry, did not have that meaning in the Commonwealth. *Útleð* in the Commonwealth referred to a monetary fine, a form of restitution. On further notes on terminology and fines in the Commonwealth, see Ingvarsson (1970).

¹⁰⁸ Enforcement was private, as in Ireland: "The obligations and rights of each freeman within a tuath [the assembly] were defined clearly and enforced by customary law, although there was nothing even approaching a police force to enforce the law. The power of custom appears to have been adequate" (Chadwick 1971:113).

¹⁰⁹ Benson offers an interesting discussion on the relation between reciprocity and individual rights:

If the property of the outlaw was valued at more than the victim had a right to, complicated rules governed the distribution of what remained. The distribution of the remainder was so arranged as to provide incentives, usually monetary incentives, for others in society to see that the enforcement of the judgement was carried out. It seems that the Icelanders were keen not only on compromise in major disputes on what the law was, or should be, but in disputes between individuals compromise was also common. According to Miller, despite having "had a complex court structure, most disputes did not lead to adjudicated outcomes" (1984:99). In customary legal systems, this preference for compromise is widespread. Bonefield states that "indeed compromise rather than judgement more often settled disputes in the [English] manor court. Few cases were actually decided" (1989:533).¹¹⁰

"Because the source of recognition of customary law is reciprocity, private property rights and the rights of individuals are likely to constitute the most important primary rules of conduct in such a legal systems. After all, voluntary recognition of laws and participation in their enforcement is likely to arise only when substantial benefits from doing so can be internalized by each individual. Punishment is frequently the threat that induces recognition of law imposed from above, but incentives must be largely positive when customary law prevails. Individuals must expect to gain as much or more than the costs they bear from voluntary involvement in the legal system. Protection of personal property and individual rights is a very attractive benefit" (1990:13)

"Reciprocities are the basic source both of the recognition of duty to obey law and of law enforcement in a customary law system. That is, individuals must 'exchange' recognition of certain behavioral rules for their mutual benefit" (1990:12).

¹¹⁰ Despite similarities in Icelandic and Anglo-Saxon law, there are also differences: "In contrast to early Anglo-Saxon laws, Icelandic law made no distinction in wergeld values among free men or women. The corpse of a chieftain and a servant, male or female, had the same price. Such was the theory; practice was otherwise. The amount the kin were actually able to collect for the victim of a killing was intimately linked to the social standing of the victim, his popularity, and to the wealth and power of his kin and affines." (Miller 1990:27) As Miller suggests, though, looking exclusively at the law would lead to misunderstandings, because the *Sagas* often give differing account.

TRANSMISSION OF INFORMATION

One problem for the theory of cooperation arising in relation to the large-number problem, is that of the transmission of information about rules and defectors. As long as the cooperative groups are small, persons have little problem in acquiring the relevant information about defectors. The larger the group, however, the harder it becomes for people to acquire this information. An especially acute problem is the identification of defectors from other groups. Also, some sort of information-relaying mechanism is necessary to inform people as to what the rules or laws are. Apparently, institutional devices are required to cope with these problems.

In Iceland, as mentioned, the *Leiðir* or Fall assembly served these purposes.

All freemen attended such gatherings in their locality to get news about what had happened at the *Alþing*. The announcements there identified defectors from all groups and clarified the law. Clarification of the law took two forms. First, new laws were introduced which all freemen had the right to accept or protest against. Second, by hearing judgments, people could infer the legal principles being used.

Defectors from other groups could also be identified through the sponsorship function of the *Hreppur*.¹¹¹ In order for anyone to settle in a new community, he was required to provide references. Presumably these references were both recommendations and served as some form of status identity.¹¹²

¹¹¹ The sponsorship function of the *Hreppur* is discussed in Jóhannesson (1956:103). The only problem with this discussion is that there is no mention of how new settlers were sponsored.

¹¹² This is similar to the Frankpledge system in England: "This healthy system tended to reduce or prevent the introduction into any society of anyone who did not have credentials transferred from a previous peaceful participation in a surety association." (Liggio 1977:274)

Although these institutions serve to bridge gaps left by Vanberg's and Buchanan's theory, these are not required by theory. Rather, these institutions complement the Axelrod-Vanberg-Buchanan theory, and in no way exclude other possible institutions.

REINTEGRATION OF DEFECTORS

Another question that deserves attention is that of how defections are to be dealt with. There are two types of defections, deliberate and unintended. The first does not pose much of a problem, since presumably cooperators would want to rid the group of intentional defectors and would be unconcerned as to what became of them. The second poses a problem, since if someone did defect by mistake, the group might prefer "forgiving" the person to permanently cutting him off. The problem that emerges here can not be answered by Axelrod's tournament, because we now want to consider the defector's intentions instead of only his actual behaviour.¹¹³ With a TIT-FOR-TAT strategy the defector would only be punished once, if he resumed cooperative behaviour immediately after the mistaken defection. But if the defecting actor now mistakenly responds to the punishment by defecting again, we have the possibility of a breakdown. If communication between actors is allowed, the defector could admit his mistake and offer reimbursement, and cooperation should be able to resume.

¹¹³ A strategy of TIT FOR TWO TATS possibly has some relevance here, see Axelrod (1984).

How were defections handled in medieval Iceland? The law established specific and detailed instructions as to the proper punishment of deviant behaviour.¹¹⁴ The laws decided what was reasonable and unreasonable, and what remedies should had be in each particular case. In general, the lesser the offense, the lesser the penalty. Payment of money or livestock was usually required. But the more serious the offense, the more likely a form of outlawry would be required. District outlawry was the punishment for offenses against a community as a whole. Next was lesser outlawry, or *Fjörbaugsgarður*, and the highest penalty was that of full outlawry, or *Skóggangur*.

In addition, the aggressor's property was confiscated. For lesser outlawry, all property belonging to the aggressor except his land was confiscated by the *Féránsdómur*. The exclusion of land of the lesser outlaw from confiscation, was intended to allow the aggressor to be readmitted as a full citizen at the end of the three years. All of a full outlaw's property was confiscated, since he was not expected to return (Hastrup 1985).

If making someone an outlaw resulted in his children becoming orphans, the district became responsible for providing for them. But even a full outlaw could be readmitted into the protection of "Our Law." To be readmitted the outlaw had to declare before witnesses that he would kill three other full outlaws, and then be able to prove he had done so. Succeeding in this, he was readmitted.

¹¹⁴ On the whole issue of crimes and punishments in the Commonwealth, see Ingvarsson (1970).

Violations for which outlawry was the penalty were both private and public offenses. The private element of the offence were dealt with through confiscation; public offence was dealt with by the penalty of outlawry. The public element of the offence was the violation of "Our Law". This is illustrated by the obligation of the plaintiff to execute a full outlaw brought before him;¹¹⁵ the plaintiff who refused faced the possibility of being outlawed himself for threatening "Our Law". This is clearly an example of what Axelrod calls a metanorm.

SUMMARY

The analysis above suggests that the theory of the emergence of cooperation, as developed by Axelrod (1984) and Vanberg and Buchanan (1988), fits the historical case analyzed rather well. The major points demonstrated are the following:

i) The theory predicted that cooperation could evolve and spread, provided that only two individuals started cooperating. When account was taken of the large-number problem (interacting randomly), the theory predicted that many cooperative clusters would emerge instead of one large group. The historical study shows how such clusters or groups emerged in Iceland.

ii) The distinction that Vanberg and Buchanan made between trust-rules and solidarity-rules, or clusters of the market type and clusters of the organization type, was

¹¹⁵ This is similar to Anglo-Saxon law: "Among the punishments for felony crimes were exile or banishment from the jurisdiction and outlawry or declaration of wolfshhead, providing for execution on sight if a felon returned to the jurisdiction." (Liggio 1977:274)

shown to have relevance for the theory presented. I showed that trust-rules are not afflicted by the "large-number" problem, while solidarity-rules are.

The historical study showed that Icelanders handled different types of rules by forming two different types of clusters. The *Pings* were clusters of the market type and the *Hreppar* of the organization type. I further noted that, as the theory predicted, the *Hreppar* had fewer members than the *Pings*, therefore supporting the theories prediction with respect to the "large-number" problem.

iii) Vanberg and Buchanan suggested that for cooperation to emerge among many clusters, all that was needed was for any two groups or any group members to start cooperating, and group cooperation would then spread. This they called "secondary clustering", because what would emerge would be overlapping groups or a hierarchial group structure.¹¹⁶

The historical study showed how "secondary clustering" occurred in Iceland, showing itself in the institutions of the *Vorþing*, the *Fjórðungsping*, and the *Alþing*.

iv) In the last two sections of this chapter I discussed possible problems in my theory, namely those of the transmission of information and the reintegration of defectors. I further showed how institutions and rules emerged in Iceland to solve such

¹¹⁶ Benson (1989:ch. 3 p. 40-1) shows how the Anglo-Saxon court structure was also hierarchial: "There was, in fact, a hierarchial structure for courts reminiscent of the Icelandic system. Four members of the neighborhood pledge group or tithing (forerunners of townships) were specified to serve as 'suitsors' of a 'hundred court,' along with four members of all the other neighborhood pledge groups within the jurisdiction of that court.... A dispute between individuals who were not in the same hundred court jurisdiction was handled by a 'count court.' ... Above the county court there was, apparently, a third court 'which were, so to speak, hudreds in themselves, so that disputes between individuals that did not reside within the jurisdiction of a particular county could be handled ... Note that there is no indication of appeal. The hierarchy was not anything like modern courts where appeal can, under limited circumstances, be made from one level to the next. They were simply increasingly inclusive so that jurisdictional rules were like those of the Kapauku [a primitive tribe] -- dispute was handled by the least inclusive group that encompassed the parties in a dispute."

problems. It was suggested that these institutions, not predicted by the presented theory, complement the theory.

Although I have presented a coherent explanation of how cooperation could emerge in a non-cooperative situation, and supported these arguments with a historical example, it should not be concluded that this is how cooperation always emerges. The Axelrod-Vanberg-Buchanan theory, which I have also referred to as mine, and the historical study only show how cooperation can emerge.

Further, I used the theory to inform the history, not to prove it. I have stuck with the available historical evidence and only where it was missing have I allowed the theory to inform a conjectural story. My conjecture may be selective and therefore disputable, but it is not fictional.

I have, in this chapter, offered an alternative explanation of the Commonwealth's emergence. I have also rejected the story given in Landnámabók and Íslendingabók, the story repeated by most historians, as unconvincingly constructivist. Instead I used Líndal's (1969) claim that a more evolutionary explanation was needed.

CHAPTER

FIVE

FROM A DECENTRALIZED ORDER TO MINIMAL STATES

Grágás provides a wealth of detail about Old Icelandic society... Nevertheless, reliance on written law has its limitations. Although *Grágás* gives much information about Icelandic governmental and social institutions, it rarely specifies how these elements fit together. It is one thing to know the proposed composition of a court or an assembly; it is quite another to understand how bodies and gatherings actually worked when they met in open fields in medieval Iceland. (Byock 1988:27)

Having explained the early evolution of the institutional structure of the Commonwealth in the previous chapter, in this chapter I look at the evolution of some of these institutions. Some of these, such as the chieftain-farmer relationship, changed during the course of the Commonwealth period. These institutional changes might explain the demise or end of the Commonwealth experience.

But before explaining these changes in the institutions of the Commonwealth it will prove useful to explain how, or rather why, the institutional structure seems to have worked as well as it did, during the early Commonwealth period.

A DECENTRALIZED ORDER

"The political arena of the early Commonwealth can be seen as a competitive market of thirty-nine firms of similar sizes. Each firm involved contracts between the chieftain and his liegemen for the joint production and protection of property rights. The power of a chieftain was constrained in various ways. He could not tax his followers like a feudal lord, and there was some flexibility: A farmer was free to cancel his contract with a chieftain and take up association with another." (Eggertsson 1990:308)

As shown in the previous chapter, a decentralized system of law and legal enforcement evolved in Iceland in the period 874-1006. The system was based on two local institutions or local communities. On the one hand was the *Hreppur* and on the other the local *þing*. The former was an autonomous organization which controlled affairs of interest to the local community as a whole. The latter was the lowest level of a hierarchial yet decentralized order of law and law enforcement. The second level of the hierarchy was the *Fjórðungsping*, and after 965, the *Fjórðungsdómar*. In 1005 the *Fimmtidómur* was established above of these second-level institutions. From that date onwards the institutional structure of the Commonwealth was well established.

The evolution of the institutional structure itself suggests that there were disputes and problems with violence early on. If only disputes of insignificant scale

had occurred then it would seem strange for legal and court system on a national level to have arisen. It seems safe to assume that there were frequent disputes, especially when settlers sought to claim suitable land for farming. Immediately after the arrival of the first settlers, *Viking* raids may have given rise to a need for local law enforcement. This may explain why the institutional structure arose so quickly. As local communities or chieftainships were organized the *Vikings* may have responded by raiding different communities.¹¹⁷ Each community then responded by extending its protection to other groups via reciprocity, thus creating the hierarchical institutional structure.

The establishment of the *Fjórðungsdómar* at the *Alþing* to replace the short-lived *Fjórðungspings* and, especially, the introduction of the *Fimmtardómur* suggests that problems of law enforcement continued. The latter institution seems to have been introduced because the previous system occasionally failed to resolve cases brought before them. Since super-majorities of jurors was required at lower level courts, a change to a simple majority requirement seems to have been needed to overcome unresolved cases. But, for whatever reason, there must have been significant numbers of unresolved disputes or the introduction of the Fifth Court would not have been necessary.

The "unofficial" replacement of *Fjórðungspings* by *Fjórðungsdómar*¹¹⁸ not only

¹¹⁷ In effect, the *Vikings* by doing so could be considered to have realized the advantage of random interactions. As explained in chapter two, a cooperative group can only grow so large and then the problem of large-numbers imposes itself, unless reciprocity is practiced.

¹¹⁸ The whole issue concerning the *Fjórðungspings* and the *Fjórðungsdómar* is unclear in the sources. The first ambiguity concerns the dates of these formations. Most historians suggest that both of them were established at about the same time (see Lárusson 1932:29; Jóhannesson 1956:68-70; Benediktson 1974:178-9). According to these both

suggests a number of major disputes,¹¹⁹ but that the system required different institutional arrangements to achieve a balance of powers. This was in part achieved simply by moving these courts to the *Alþing* site, so that cases could be resolved in a neutral setting. At the same time, though, the boundaries of the quarters were changed to correspond to geographical boundaries. A farmer living within one quarter was required to choose one of nine chieftains living in the same quarter (one of twelve in the North). Also at this time, a local *þing* was added in the Northern Quarter. From the 960s onwards there were 13 local-*þings* in the Commonwealth and 39 full chieftains presiding over them. To counter resultant imbalances in the numbers of chieftains the *Alþing*, nine "chieftainships" were created. These chieftains (chosen each year by the others) only sat at the Law Council and did not preside over local-*þings*. After these reforms, the 36 full chieftains were in charge of appointing jurors at the *Fjórðungsdómar* but, later, at the Fifth Court all 48 chieftains appointed the jurors.

The addition of three new *Goðar* in the Northern Quarter is puzzling. Sometimes, this change is explained as having been made for geographical reasons (Byock 1988:66). Because of the size of the Northern quarter and distances, one additional local-*þing* was added in the quarter. Although there may be something to this, other factors were more compelling. If geography lay behind this change then it

institutions would have been established in the period 955-970. The *Fjórðungþings*, according to this view, were formed one for each geographical quarter, but almost immediately became abandoned or ignored in favor of the *Fjórðungsdómar* at the *Alþing*. It seems to me that this explanation is unconvincing and too constructivist and that a more evolutionary explanation is in order. I postulate, instead, that the *Fjórðungþings* were informally established sometime before the 960s, but then after some experience with them the change to *Fjórðungsdómar* was initiated about 960-5. I contend therefore that it is only with the *Fjórðungsdómar* that both institutions became formal and the quarters strictly geographical.

¹¹⁹ On the disputes, see Jóhannesson (1956:68-9).

seems that local-*þings* would also have been added in some of the other quarters. The Western Quarter, is where travelling was the hardest and the Eastern quarter has the longest distances. The growth of the population or the number of free-farmers in the quarters probably had more to do with the addition of *Goðar* in the Northern quarter.

Although no quarter-by-quarter population estimates are available for the tenth or early eleventh centuries, the population counts of 1096 and 1311 are considered fairly accurate by most historians. The number of tax-paying farmers in those years were the following:

Table 5.1. Number of Tax-Paying Farmers by Quarters.¹²⁰

Quarter	1095	1311
Southern	1200 26%	998 26%
Western	1080 24%	1100 29%
Northern	1440 32%	1150 30%
Eastern	<u>840</u> 18%	<u>564</u> 15%
Total	4560	3812

If these figures are reliable, they show that at the dawn of the eleventh century the Northern Quarter would have been the most populous by far. The increase in local-*þings* in the Northern Quarter is therefore most likely due to growth in the population. If the number of tax-paying farmers in 960 was equivalent to their number in 1095, then the number of free-farmers per chieftain would have been the following:

¹²⁰ Reproduced from figures in Gelsing (1981:7-8). See also Jóhannesson (1956) and Sigurðsson (1990).

Table 5.2. Tax-Paying Farmers pr. *þing* and *Goði*.

Quarter	Southern	Western	Northern ¹²¹	Eastern
pr. <i>þing</i>	400	360	480/360	280
pr. <i>Goði</i>	133	120	160/120	93

Although I have no way of explaining why these numbers were the required ones for a balance, it seems that balancing of the power base was the cause for the reform of the 960s. In the table above I averaged the numbers of farmers per chieftains and *þings*, but in actuality there may have been some imbalances between chieftains in a given local or quarter. Balancing of numbers is the most plausible cause for the addition of the new local-*þing* and the geographical restrictions of the quarters.¹²²

The legal and judicial structure that evolved in the Commonwealth can therefore be thought of as a balanced system. Each chieftain has approximately equal number of *þingmenn* and each local-*þing* is attended by approximately equal number of people. Hierarchically the system is also numerically balanced, except at the *Alþing*, where some quarters had larger representation of *þingmenn* than others.¹²³ On the other hand,

¹²¹ Pre-960s/post-960s.

¹²² The unequal number of *Goðar* in the quarters after 960-5 also supports the contention that the *Fjórðungþings* had been informal or irregular gatherings before that time. It is only when the formalization is attempted and when the *Fjórðungsdómar* formed that disputes arise concerning the balance of power. From this it seems that the *Fjórðungþings* may have become somewhat more or better accepted in all areas except the North. But, see also Jóhannesson (1956:70-1).

¹²³ Historians, Ingvarsson (1986:132) for example, claim that a chieftain would ask that every ninth of his *þingmenn* accompany him to the *Alþing*.

the power of the Northern chieftains at the *Alþing* was exactly equal to that of chieftains from any other quarter. The chieftains, whether nine or twelve, from each quarter could only control a quarter of all institutions at the *Alþing*. It was not apparently too problematic that the Northern Quarter had the most numerous delegation of *þingmenn* at the *Alþing*. The *Sagas* nowhere mention that disparities in the numbers from each quarter caused problems, although numbers sometimes did matter when individual chieftains argued or fought.

Aside from the figures showing the numbers of tax-paying farmers in the Iceland, in 1095 and 1311, it is hard to estimate the size of the population. Historians estimate the size of the population in Iceland around 1100 at 40-80,000.¹²⁴ Over time the population estimates are as follows:¹²⁵ In 930 around 20-30,000, in 960 around 40-50,000, in 1095 around 50-60,000, and in 1311 about the same. These figures suggest that the largest population growth was in the thirty years between 930 and 960, when the population doubled. This estimate reinforces my claim that the institutional reforms of the 960s were mainly the result of the increase in population.

¹²⁴ Although the number of tax-paying farmers is known, it is hard to estimate how many people lived on their farms. Historians have used the numbers 6 to 17 as representing a typical household. Further, finding out about the relative number of tenant farmers is almost impossible. Most estimates therefore rely on using 14th-18th century figures to estimate backwards. Population estimates vary in the secondary literature. The *Sagas* are not clear on this, since they only mention the number of tax-paying farmers. On this see Gelsing (1981:7-10), Byock (1988:2 and 82), and Jóhannesson (1956:46-49). Gelsing (1981:8) estimates the population at 30-35,000 in 930, around 80,000 in 1095, and around 67,000 in 1311.

¹²⁵ What I accept from the estimates of the historians.

THE MINIMAL STATE

The description given above of a balanced system is analogous to Robert Nozick's (1974) description of the emergence of the minimal state. Essentially, his argument is that an invisible-hand mechanism will give rise to a state or a federation of states will emerge in any orderly stateless society. Although Nozick's purpose in advancing his theory is different from mine, his theoretical analysis is useful here.¹²⁶

Nozick postulates that in the state-of-nature firms or organizations will arise and offer protective services, which he calls Protective Associations (PA's). Individuals in this state-of-nature are more or less peaceful, but occasionally some individuals, either deliberately or by mistake, violate other individuals' rights.¹²⁷ Entrepreneurs, observing these violations, offer to provide protection to victims and innocent bystanders and, establishing the PA's. The PA's need not limit their services to offering only protection, but may also offer comprehensive legal and judicial services. At the outset, therefore, we may see many competing PA's, offering differing forms of protection and judicial services.¹²⁸ In this world of competing PA's it is likely that the PA's will require its members to give up the private right of retaliation. If members did not do so then private retaliation might confuse issues of policing and

¹²⁶ Nozick's aim is to show how a minimal state can arise from a state-of-nature without violating libertarian constraints or natural rights. In doing so he first shows how the minimal state arises and then why the constraints have not been violated. Since my aim is like his first task, of explaining, and unlike his second task, of justifying, I focus only on the first two chapters of his book. For criticism of Nozick's explanation and justification of the minimal state, see Murray N. Rothbard, editor, *The Journal of Libertarian Studies: An Interdisciplinary Review*, vol. 1, no. 1, Winter 1977, (articles by Rothbard, Randy E. Barnett, Roy A. Childs and John T. Sanders).

¹²⁷ Although Nozick's uses the term 'right' we need not interpret these rights as natural rights. Instead they can be thought of as violating property or person, such as stealing or physical assault.

¹²⁸ For an interesting and imaginative vision and arguments of such competition, see Friedman (1989).

judicial enforcement. Thus, an injured individual would immediately contact his PA and the PA would try to apprehend the wrongdoer and bring him to justice.

What happens when the wronged and the wrongdoer belong to competing PA's? In "clear cut" cases the PA of the wrongdoer would allow the wrongdoer to be brought to justice, for otherwise, its reputation of fairness would be harmed. In "hard" cases, on the other hand, what happens is not so obvious. Nozick poses three possibilities: First, the agencies fight and one always wins, thereby gaining membership and driving the other out of the market. Second, the PA's fight, but because they are geographically concentrated each tends to win battles closer to their geographical center. The result is "states" with borders, since individuals prefer to shop at the PA in their locality.¹²⁹ Lastly, The PA's fight, but are equally successful and, therefore, a cooperative solution emerges. They could, for example, establish a 'supreme court' to decide 'hard' cases (Nozick 1974:16-17).

All three solutions result in the formation of a Dominant Protective Association (DPA). As Nozick says: "Out of anarchy, pressed by spontaneous groupings, mutual-protection associations, division of labour, market pressures, economies of scale, and rational self-interest there arises something very much resembling a minimal state or a group of geographically distinct minimal states" (16-17). It should also be noted that Nozick's description of the outcome resembles my description of the institutional structure of the Icelandic Commonwealth.¹³⁰

¹²⁹ These 'states' are analogous to nation states and the conflicts analogous to conflicts between nation states.

¹³⁰ Gissurason (1990:16) also argues for this analogy: "The competitive chieftainships in the Icelandic Commonwealth shared some features with the competitive protective associations described by Robert Nozick in his

THE MINIMAL STATE AND TIED SALES OF PUBLIC GOODS

Nozick claims that the DPA is a natural monopoly, but this is not obvious. It does appear that if a PA has gained a territorial advantage in membership then it would be harder for other PA's to compete with it in price. There are some economies of scale in the provision of protective services. On the demand side, it appears that the larger the PA, or DPA, the more valuable its services are. A DPA may therefore have a comparative advantage over competing PA's, although this does not exclude several DPA's in different areas within a given territory.

However, a problem for the DPA may emerge. As a DPA in a given area or territory grows larger, there emerges an optimum point at which non-joining individuals may find it more beneficial to remain non-aligned than paying fees to the DPA. Even though Nozick postulates that the DPA would offer services to these individuals free-of-charge, it seems that such behaviour would result in no profits. In fact it has been argued that the profit-maximizing solution of the DPA would be inefficient because of this free-rider problem (Mumy 1987:285-89).

This inefficiency could be removed if the DPA offered other services to their clients. Mumy (1987) suggests that if the DPA offers tied goods to its clients an efficient outcome could emerge. However, this solution is available only on a qualified basis. First, the tied good must complement the private/public good offered in the first place (Klein 1987). The public good must complement rather than be a substitute for the protective services offered. Secondly, the public good offered must be a non-

much-discussed *Anarchy, State, and Utopia*."

rival good, and yet excludable to non-members. The members would consume the public good together and non-members would not consume it. Thirdly, the two goods must be offered together, i.e. be tied. An individual wanting to buy protective services also has to buy the public good, and vice versa. As I will show in the following sections such tie-ins were a feature of the *Goði-þingmann* relationship.

Why would individuals buy the tied goods? It is assumed that the public good to be tied is in great demand. The DPA can offer this public good at the same costs as others could, i.e. the DPA is competitive. Since the DPA has a cost advantage in providing protective services the DPA can tie in the public good such that individuals buying both goods together pay less than they would pay if the goods were bought separately. At the same time it is more profitable for the DPA to offer both goods together, since it thereby overcomes the free-rider problem and therefore extracts rents from its members (Klein 1987; Mumy 1987; Cowen and Kavka 1990).

I should note here that although Nozick's theory is analogous to my explanation of the emergence of the minimal 'state,' this is a mere analogy, not an identity. Nozick begins his analysis in a Lockean state-of-nature with no or hardly any institutional structures, and his solution emerges from that state. In the Icelandic "state-of-nature" some institutional structures already exist. In Iceland after 930 a shared monopoly already existed in the law, whereas no such legal monopolies are a part of Nozick's process. It is therefore easier for minimal 'states' to emerge in the analysis here than in Nozick's and it should be easier to maintain them. Nozick assumes that

DPA's are natural monopolies or have cost advantages. In my analysis this assumption is not necessary because of the legal restriction on the number of chieftains.

THE *GOÐI-PINGMANN* RELATION

Among the institutional changes that occurred during the course of the Commonwealth was a change in the chieftain-farmer relationship. The two following sections I present the historical development of this relationship through my theoretical spectacles. The first section shows the institutional relations at the beginning of the Commonwealth era and the changes in this relationship that took place before the introduction of Christianity. The latter section analyses changes that occurred in the period 1000-1096, the beginning of taxation.

The Heathendom Period

The *Sagas* do not detail the early development of the institution of the chieftainship. A chieftain in the pre-*Alþing* period was rather wealthy, well respected, and owned a temple. The term for the chieftainship, the *Goði*, suggests that the chieftain may originally have been the community's religious leader.¹³¹ The *Sagas* also suggest that these chieftains were those people that originally began the *þing* tradition

¹³¹ That the *Goði* may have been a religious leader to begin with is, as mentioned, disputed. See, for example, Lárusson (1932:13-14) and Jóhannesson (1956:72) in support of the religion interpretation and Benediktsson (1974:172-3) who opposes it.

in Iceland. Early on, therefore, there was a leadership role for these chieftains, they represented local farmers.¹³²

With the establishment of the *Alþing* and *Vár Lög* the *Goði-þingmann* relationship is incorporated into the institutional structure. The law required that all free-farmers align themselves with a chieftain; implicitly the law required that all other people on the island be so aligned through this association with certain farmers.

According to the *Grágás* the free-farmer had a right to follow the chieftain of his choice. Once a year the farmer could switch his allegiance from one chieftain to another.¹³³ Why would a farmer need this choice?

First, his current chieftain might be doing a poor job of keeping the peace in his *þingmenn* "area." There were several potential reasons for ineffective peacekeeping: The chieftain may have been a colourless leader, such that his threats or enforcement were unconvincing, or he might be poor, unable to reimburse his followers for their participation in the enforcement of judgements. Secondly, the farmer might need such a choice if his current chieftain was a poor representative for any of the above mentioned reasons. Third, there might be a conflict of interest between the chieftain and the farmer. For example, they might sue each other. Finally, the chieftain may have been weak either in wealth or following as compared to surrounding chieftains.

¹³² On the early development of the chieftainship, its religious role and its origin, see Benediktsson (1974).

¹³³ The farmer in aligning himself with a chieftain became the chieftain's *Þingmaður* (or *Þingmann*). In becoming a *þingmaður* the farmer was obliged to attend *þings* with his chieftain, if requested, and contribute to payments of the *þingfararkaup*. *Þingfararkaup* was paid to those *þingmenn* who the chieftain had chosen to attend the *Alþing* with him. The revenue for the *þingfararkaup* was raised by having the other, non-attending, *þingmenn* pay a *þingmann*-fee.

But why would the chieftain care whether he lost followers or not? Surely the right to sit in the *Lögrétta* did not depend on whether the chieftain had any followers or not. Did the chieftain's rights at the local-*þings* or quarter-*þings* depend on this?

Although the chieftains, even those without followers, could use their voting rights, they needed followers from which to appoint jurors. A chieftain without followers could not appoint members to the jury, unless he could happily rely on followers of other chieftains. In many, or even most, cases this may not have been of any consequence to the chieftain. But if he himself was involved in a lawsuit he would surely prefer some of his own followers to be on that jury, rather than only the followers of other chieftains.

Furthermore, if the chieftain had any followers at all he would have preferred to have more of them rather than less, since the more numerous his *þingmenn*, the better his ability to enforce judgements.¹³⁴ Under the institutional structure of the Commonwealth, and described in the laws of *Grágás*, the chieftains and farmers mutually needed each others support.

Although the number of a chieftain's *þingmenn* may have been determined by the revenue/cost ratio and the extent to which the level of personal connection could be retained, the scope of the chiefdom was determined differently. The scope of the chiefdom was determined by the size of the area in which most, if not all, of the

¹³⁴ This is not to say that there may not have been some optimal number of followers, after which any increase in their number had decreasing or even negative returns. Such factors as the level of personal connection and wealth may have bound the optimal number.

chieftain's followers lived. This was determined in turn to some extent by the ease or difficulty of travelling to the chieftain. The *Sagas* provide another clue to how such scope became determined in the pre-Christian era. The *Goðar* were owners of temples and people in the surrounding area would seek to carry on their religious activities in these temples. There may have been a connection between which chieftain a farmer chose and the temple he chose to attend. The chieftains may not have been the only ones to have kept temples, since it is unlikely that 36 temples would satisfy the religious needs of a population in excess of 30,000. But even if some of the wealthier farmers also built temples, these farmers in turn were aligned to chieftains of their choice. As Jóhannesson (1974:227) says:

During the heathen era the people attending a temple were also the followers of the priest-chieftain (*goði*) 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, although in theory individuals were free to declare their allegiance to whatever chieftain they decided to support. Accordingly, the temple may be said to have imposed limitations upon the following of a chieftain.

Thus temple associations may have aligned certain farmers with particular chieftains.

Owners of temples may have received revenues, a temple-fee, from the farmers that attended their temples.¹³⁵ The fee may have been there mainly to reimburse the

¹³⁵ All historians do not agree on whether there was a temple-tax or not. Benediktsson (1974:172-3) is one who doubts it. But whether there was a temple-tax or not, one thing seems clear and that is that owners of temples would have requested the attending farmers to contribute to the temple somehow. Whether they did so through a tax or through voluntary contributions has no major significance for my argument. It is obvious that the tax would be a required payment, but it could also be contended that the contributions were voluntary in name only. The chieftains, if they in fact owned some of the temples, would have been in a advantageous position to require "voluntary" contributions, or else would not represent their non-contributing followers equally.

owner for building and service expenditures. The amount of this fee may also have determined the size of the temple's following. Thus, the fee, if it ever was in fact collected, may have affected the farmer's choice of both a chieftain and a temple.

All this, of course, does not exclude the possibility that a farmer could choose a chieftain whose temple he did not attend. Occasionally a farmer may even have chosen a chieftain living quite far away. Other factors may have entered into these decisions, such as previous residence, family ties and intermarriage links.¹³⁶

This connection between the temple attendance and chiefdom membership may have influenced the zeal with which a chieftain would represent his farmers. If a particular farmer chose chieftain A but continued to attend chieftain's B temple and thereby pay temple-fees to B, A may have had less of an incentive to represent this farmer to the best of his ability than he would have if the farmer paid him fees. Thus, the chieftains may have seen an advantage in offering tied goods. The chieftain could have claimed a share of the farmers award of damages or in his property,¹³⁷ if award was won as a condition of representation, but, furthermore the chieftain could have insisted that the farmer belong to the chieftains temple in order for the chieftain to take the case. This would be especially true of chieftains who had already built their reputation and following.

My argument, or explanation, for the decline of the Commonwealth does not depend on the existence of this temple-fee, although it does depend on revenue-seeking by the chieftains. As will become clearer later in this chapter and in chapter 6, my argument relies on the establishment of taxation in 1096.

¹³⁶ Both Hastrup (1984) and Byock (1988) present examples of chieftains and farmers living far apart.

¹³⁷ See Byock (1988) on chieftains demanding, and getting, shares of damages and properties of the farmers.

New chieftains, who had newly acquired a chieftainship through inheritance, sale or gift, might find the tie-in worked to their disadvantage. The new chieftains often needed to establish a reputation to keeping "inherited" *þingmenn* and to attract new ones. They may therefore have had to offer their services at lower costs, i.e. without tie-ins.

In 960-5 the *Alþing* restricted chiefdoms within certain geographical boundaries. This divided the island into quarters, and required that farmers within each quarter choose a chieftain within their quarter. This restriction, it seems, was ignored, especially later in the Commonwealth.¹³⁸

The Pre-Tithe Period

By the year 1000, when Christianity was accepted, the institutional structure in place was founded on the reciprocal relationship between the chieftains and their *þingmenn*. Until 1096 no institutional changes greatly altered this relationship, but there were some changes in this relationship nonetheless.

In 1000, when Christianity was accepted as the "national" religion,¹³⁹ heathen worship was not outlawed, but temples and other public forms of heathen worship were outlawed.¹⁴⁰ Instead of temples, churches were built. It may be that some

¹³⁸ A partial explanation is found in the authority of the *Lögretta* to issue exceptions from this geographical requirement, i.e. the *Lögretta* could agree to let a farmer choose a chieftain from outside their quarter.

¹³⁹ "National" only in the sense that Christianity became the official religion of the people of Our Law. The islanders of this time had little sense of a separate Icelandic nationality, although they did distinguish between people living in Iceland and those living elsewhere ("foreign residents") (Líndal 1974:214).

¹⁴⁰ Many of the heathendom practices were outlawed in 1006, 1030, and especially in the 12th century. See Hastrup (1984) on these single laws.

temples were converted into churches. The owners of churches must have insisted on charging a fee to reimburse them for church related costs.¹⁴¹ The tie-in sales of the chieftain services, if they began in the heathendom period, would therefore continue after the acceptance of Christianity.

The churches that were built were all local churches. No official or independent Church was established at this time. The local churches were privately built and privately operated, and in many respects their owners ran them as their private service firms. In heathendom the *Goðar* had been the masters of the temples, and in Christianity many *Goðar* became priests in their own churches. Some wealthy farmers, as in heathendom, also built private churches and many became their own priests. Not all of the *Goðar* and wealthy farmers became priests, and sometimes these community leaders owned more than one church each. In these cases their sons, freed-slaves, or labourers were educated to become priests at these churches. Some even hired foreign bishops to sing masses at their churches. All in all, the church that emerged in Iceland was a private and decentralized church.

In 1056 the *Alþing* selected an Icelandic bishop for all of Iceland. Ísleifur Gizurarson had been sent abroad by his father, Gizur Hvíti (the White), for studies.

¹⁴¹ As mentioned, the existence of a temple-tax is somewhat disputed and some, like Benediktsson (1974:172-3), claim that it is fictional. Benediktsson claims that the temple-tax story is inferred from the later acceptance of the Tithe-tax and wrongfully so. I contend that whether there was a temple-tax or not some form of revenue was needed for the church owners. Whether this revenue was gained through a formal tax or through contributions is really not of major concern here. If revenue was gathered by temple owners in the heathendom period then this must have been continued in the Christendom period, before the Tithe, since otherwise why would the heathen temple owners have accepted the new religion? Jóhannesson (1974:169) supports this view:

The introduction of a new religious system is not, in itself, likely to have caused chieftains to relinquish their claims to temple tolls. As the new religion took hold in the country, the chieftains no longer had to maintain the old temples; instead, these men were placed in charge of Christian churches. It would have been quite logical for them to use the temple tolls under a different name for the maintenance of churches. This form of taxation must have ceased when the Tithing Law was introduced, or, as is more probable, the tolls continued to be levied under some new name.

Upon his return he was selected as bishop and given a seat in the *Lögrétta*, the Law Council.¹⁴²

Ísleifur, although elected the bishop, was not provided with a church or any means of income by the *Alþing*. As bishop of Iceland Ísleifur had some authority on religious matters, but had to provide his own church and means of income. He therefore settled at his family estate at *Skálholt*, and built a church there from which he sung masses. Ísleifur also started a school at his church, as did some other chieftains.

Although the *Alþing* accepted Christianity and elected a bishop, the *Alþing* granted only limited authority to the bishop. For example, Canon Law was not accepted in Iceland until after the Commonwealth period, although the *Alþing* gradually adopted individual legal provisions conforming to Canon Law.

Other institutional changes in the 11th century included the introduction of the Fifth Court at the *Alþing* and a treaty with the king of Norway.¹⁴³ The former, as described in chapters 2 and 4, was a form of a high-court to force a solution to unresolved cases. The latter was an agreement between the people of Our Law and the people of the Kingdom of Norway. The treatise concerned the legal status or rights of the two peoples in each other territories. The treatise stipulated that Icelanders had to pay a landing-tax, *landaurar*, when arriving in Norway.¹⁴⁴ This

¹⁴² Ísleifur's father Gizur had been a *Goði* and as such was one of those advocating the acceptance of Christianity at the *Alþing* in the year 1000. Ísleifur would of course have inherited his fathers *Goðorð* at his death as well as most of his property. It seems though that Ísleifur's seat in the Law Council was not that of his fathers but rather a special seat created by the *Lögrétta*.

¹⁴³ On the establishment of the Fifth Court see chapter 4.

¹⁴⁴ Some historians have used this as supporting Iceland's dependence on Norway in trade matters. I have

agreement was made with King Ólaf *Helga*, the Saint, but had to be renewed by each new king. On the Icelandic side, two chieftains from each quarter had to swear to the treaty (Líndal 1964:28).

The first major change in the institutional structure came in 1096, when taxation was established. The Tithe, or *Tíund*, was initiated by Gizur Ísleifsson, then bishop of Iceland. This change initiated a form of rent-seeking that led to the "decline" of the Commonwealth and eventually brought the Commonwealth to an end.¹⁴⁵

SUMMARY

The implications of the historical sketch above are as follows: First, the institutional apparatus of the Commonwealth was based on a reciprocal relation between the *Goði* and his *þingmenn*. The farmers were not only required by law to align themselves with a chieftain but, further, it was necessary for the farmers to align themselves with a chieftain in order to have a voice and representation in legal and judicial matters. The chieftains had a strong incentive to represent as many farmers as possible, for otherwise his chieftainship was almost useless and the chieftain's own status weak. We also saw in chapter 4 how the whole institutional structure emerged as a hierarchical structure of reciprocal relationships. The Commonwealth was built on reciprocity, and, therefore the explanation for its decline and fall will be found in the deteriorations of reciprocal relationships.

already alluded to this in chapter 2 and will offer further discussion in chapter 6.

¹⁴⁵ I provide a theoretical explanation of rent-seeking and analyze the acceptance of the Tithe and its results in chapter 6.

We have seen in this chapter how a tendency contrary to reciprocity may have been inherent in the chieftain-farmer relation from the start. Although the farmer was supposed to enter into this relationship voluntarily, in reality the farmer's choice was restricted. Because of the position of the chieftain as an owner of a church the chieftains may have been able to limit the farmers' range of choice of allegiance. Furthermore, the chieftain's position was slowly but firmly becoming strong enough for him to extract rents from the farmer by selling tied goods. The chieftains may also have demanded a large proportion of the damages awarded to farmers and portions of the farmer's property in return for representing the farmers in law-suits and in the enforcement of judgements.¹⁴⁶

A question still remains, though, as to why competition between chieftains did not erode the constraints chieftains imposed on the farmer's range of choice of representative. Two co-determinant factors were significant in the 10th and 11th centuries. First, at the outset the chiefdoms and chieftain's delegations were probably of almost equal size. Secondly, because of their sale of tied goods the chieftains may have been able to gain a local monopoly status.

Thus, the chieftain's advantage would be hard to overcome. Farmers switching their allegiance probably had little or no effect on the local monopolies. Seemingly, the only way to overcome the chieftain's advantage would be an organized effort on

¹⁴⁶ See Byock (1988) on some case studies of the *Goði-binmann* relationship. Byock argues that this may have been a determinant factor in wealth accumulation by chieftains.

the part of the farmers, with the cooperation of at least one chieftain.¹⁴⁷ Such conspiracies apparently did not materialize.¹⁴⁸

Instead, other factors affecting the wealth status of the chieftains eventually overcome this dilemma. Aside from acquiring income and wealth from the farmers, the chieftains themselves engaged in farming and in trade. Although the chieftains differential success in farming and trade produced some inequality among them, the share each received of taxes lead to more inequality.¹⁴⁹ The Tithe, established in 1096, became the greatest "investment" opportunity for the chieftains in the 12th century, and it eventually broke down the reciprocical relation between chieftains and farmers.

¹⁴⁷ Another factor concerning the workability is the matter of distances. Iceland is about 40,000 miles² in size and, therefore, each of the 39 chieftains had about 1,000 sq. miles in territory. More important though, is the fact that the farmers were scattered around most of this area and therefore any organized effort against the chieftains would have been even harder to establish.

¹⁴⁸ The discussion here should not be interpreted as if we are condemning the advantages of the chieftains in their relations with the farmers. Rather we are simply trying to explain the structure as it was. Further, it well may be that the smooth working of the Commonwealth's institutional structure depended on this advantage, or rather on the equality of the chieftains. I will analyze these more fully in chapter 6 and offer some conclusions there and in chapter 7.

¹⁴⁹ Ther is some dispute as to the timing of when the *Goðar* became wealthier. Jóhannesson (1956:82) claims that the *Goðar* were financially disteressed in the 11th and early 12 century, but admits that the introduction of taxation later provided them with revenues. Karlsson (1975:36-38) emphasizes that the introduction of taxation provided certain families with wealth and power advantages immediatly.

CHAPTER

SIX

THE POLITICAL ECONOMY OF RENT-SEEKING AND THE END OF THE COMMONWEALTH

Bishop Gizur was loved more intensely by the whole population, than any other man, to our knowledge, has ever been in this country. As a result of his popularity, and his and Sæmundur's recommendations, and by the advice of Markús the lawspeaker, a law was passed that everyone should count and appraise his property; and swear that the evaluation was correct, whether land or chattels, and then pay tithes thereof. It shows the great power of the man that the people as a whole obeyed him; that he succeeded to complete the appraisal of all real and personal property in Iceland under oath, and collected tithes thereof. A law was also passed which made this compulsory as long as Iceland was inhabited.

*The Book of the Icelanders*¹⁵⁰

In the previous chapter I discussed the *Goði-þingmann* relationship and how this relationship changed during the course of the Commonwealth. An important aspect of this was rent-seeking. The term, "rent-seeking," denotes the monetary income

¹⁵⁰ Quoted from Ruth (1965:31).

the chieftains derive through their relations with farmers. Although the chieftains were simply trying to get income greater than their expenses, i.e. trying to profit from the situation, the term profit-seeking does not capture the essence of this behaviour.

This chapter, therefore, describes the theory of rent-seeking and distinguishes rent-seeking from profit-seeking. This theory is then used to explain the decline and fall of the Commonwealth. Finally, I discuss the alternative views of historians on the end of the Commonwealth, and explain and distinguish my own view.

THE THEORY OF RENT-SEEKING

The term rent-seeking is first used in publication in Anne O. Krueger's article "The Political Economy of the Rent-Seeking Society," (1974). Seven years earlier Gordon Tullock (1967) had offered the first systematic discussion of "rent-seeking" activities without using the term "rent-seeking." These articles analyzed situations where restrictions on trade, most notably government restrictions, predominate.¹⁵¹ Restricted markets offer different behavioural incentives than unrestricted markets. It should be emphasized though that profit motives do not differ much from one situation to the other (Buchanan 1987a:17). Restricted market situations are not actually markets, since the market is by definition unhampered by imposed regulation. Rent-

¹⁵¹ Tullock's article "The Cost of Transfers" (1971) deals, as the title suggests, with the costs to government transfers. This article was written before the term "rent-seeking" was coined, but would otherwise, in all likelihood, have been titled "Rent-Seeking and the Cost of Transfers." Tullock, in his article, was pointing to the additional costs involved in transfers; costs additional to the simple middle-man cost.

The term "cost of transfers," as used by Tullock in 1971, is therefore as applicable to the case here, as is the term "rent-seeking." I have chosen to adopt the latter term, instead of the former, for two reasons: First, because it more properly emphasizes my point; the negative social impact of the transfers and the "hidden" costs to them. And, secondly, because I believe Tullock would insist on its use (see Tullock's chapter on "Rent Seeking and Transfers," in Tullock 1989:73-77).

seeking is predominantly found in these non-market situations, although it can occasionally be found in some market situations (Tollison 1987:145).

The term "*rent*" refers to "that part of the payment to an owner of resources over and above that which those resources could command in any alternative use. Rent is receipt in excess of opportunity cost" (Buchanan 1980a:3). "Rents" does not refer to the "rent" collected by landlords or paid by renters. Rent appears both in market and non-market situations, or in profit-seeking and rent-seeking situations. Profit-seeking is distinguished from rent-seeking by contrasting the consequences of rents-seeking with the consequences of profit-seeking. These consequences are, of course, unintended, since the individuals in both situations behaving alike and have the same motivations.

The institutional settings where rent-seeking occurs generally maximize social waste and minimize social benefits.¹⁵² The institutional settings where profit-seeking occurs, on the other hand, maximize social benefits and minimize social waste. Profit-seeking occurs in the unhampered market and rents "emerge from the *increments* to value that are *created* by entrepreneurs who put together new resource combinations, or who meet new demands" (Buchanan 1987a:17). Rent-seeking occurs in non-market settings in which "there are no increments to value created. Instead, the value that potential rent-seekers attempt to secure is artificially created through interferences with resource adjustments" (Buchanan 1987a:17-18). Rent-seeking, as distinguished from simple profit-seeking, can therefore be defined as "expenditure of scarce resources to

¹⁵² See Buchanan (1980a:4-5). Also Tullock (1989:55) states "My suggestion is that we use the term 'rent seeking' (and I always have) solely for cases in which whatever is proposed has a negative social impact."

capture a pure transfer," (Ekelund and Tollison 1981:19).¹⁵³ In a monopoly, for example, output is "fixed" or can be restricted and so would the rents at that monopoly price. Aside from the usual dead-weight loss associated with monopoly another "loss", rent-seeking, occurs where firms spend resources to acquire the rents. If competitive bidding is allowed then the resources spent on rent-seeking may equal the actual rents to be gained from the monopoly. In less competitive situations the rents may not be totally dissipated.

Although rent-seeking is most likely to occur when states (governments or monarchs) grant monopolies or other privilege through licensing, it may also occur by private collusion (Tollison 1987:145). Oligopolies, for example, are engaged in rent-seeking when they use competitive advertising. Other examples of rent-seeking behaviour occur in the Mafia and when siblings compete for an inheritance. Rent-seeking is not limited to producers or firms. Rent-seeking by individuals or groups can occur wherever there are artificially contrived transfers or the output level is not competitive.¹⁵⁴

Rent-seeking can also be seen as a two-stage game or process (Tollison 1987:153). The first stage is the creation of artificial barriers in the market, i.e. the creation of a non-market out of a market. Individuals at this stage try to control the political apparatus that "creates, enforces, and assigns rent flows" (Tollison 1987:153).

¹⁵³ A similar definition is given by Tollison (1987:145): "Perhaps the most useful way to think about rent-seeking is in terms of using real resources to capture a pure transfer."

¹⁵⁴ For a good introduction to rent-seeking see Mueller (1989) and Buchanan (1980a). Other works on rent-seeking to look at are Buchanan, Tollison and Tullock, eds., (1980), Rowley ed., (1987) and Rowley and Tollison eds., (1988). Some interesting applications of the rent-seeking model are: Ekelund and Tollison (1981), and in Buchanan and Tollison (1984).

The second-stage of rent-seeking occurs with the competition for rents in particular instances.¹⁵⁵ Here, in non-market situations with artificial barriers already in place, individuals compete to get rents or positions in the rent flow. The two stages of rent-seeking are equally important and are in a sense two sides of the same coin. To my story here they are also of equal importance. In the first stage, Icelandic institutions evolved or were created to ensure rent flows, while in the second stage the chieftains and others competed for these rents, undermining the Commonwealth.

Now, I examine the historical details of the end of the Commonwealth in light of the above theory of rent-seeking.

THE WEALTH AND POWER STRUGGLE

Although occasionally assuming pretensions of rulers, the *stórgoðar* were unable to establish effective regional states. Especially in the last decades of the Free State, their careers tended to be short and their hold on power became insecure as their feuds increased. Rather than setting up effective administrations dependent on sheriffs, bailiffs, and other functionaries of a central political hierarchy, individual leaders usually did not have the time or the authority to replace older forms of government. (Byock 1988:74)

Most historians support the "political struggle" theory.¹⁵⁶ The political struggle blamed for the end of the Commonwealth is said to start late in the 11th or early 12th century. At that time the Church had its first Icelandic bishop, Ísleifur, and succeeding him was his son Gizur. Bishop Gizur is not only credited with establishing the Church

¹⁵⁵ Tollison (1987:153) defines this second-stage as "rent-seeking behavior" in "the competition to capture the rents that inhere in particular instances of monopoly and regulation."

¹⁵⁶ See for example LÍndal (1964), Olgeirsson (1954), Sigurðsson (1989), Þorsteinsson (1953;1966;1980), and Karlsson (1972;1975;1980.)

as an institution, i.e. providing it with a church building along with farm land to provide income, but with providing it with a secure means of future income, taxation. The Church's land and building was at *Skálholt* and later bishops lived there and participated in trade, farm production and teaching in a Church school. In 1096 the *Alþing*, through the advocacy of the bishop and the Lawsayer, accepted a form of taxation, the Tithe (*Tíundargjald*). The Tithe replaced the requirement for free-farmers to house and feed poor people, providing the *Hreppur* itself with income necessary to care for the poor. This tax also replaced voluntary contributions by parish members to local churches. The Tithe was a property tax, assessed 1% of the farmer's wealth.

After collection the tax was divided into four parts; one part was sent to the Church (the bishop), one to the *Hreppur* (for the poor), one to the local church (to reimburse building costs and maintenance), and one to the local priest (his salary). The two latter fourths actually went to the owner of the church-building, who then provided the church-building and paid the priest. The owners often became priests at their own local churches, until the Church (the Pope and the bishops) restricted this late in the 12th century.

RENT-SEEKING IN THE COMMONWEALTH

Thus the introduction of tithes paved the way for an increasing accumulation of wealth by a relatively small number of people, even if still in the name of the Church. This again laid the foundation for serious conflicts over church

lands, which contributed to the general breakdown of Icelandic society. (Hastrup 1985:193)¹⁵⁷

[I]t was the system of funding the church that ultimately provided the apparatus for some men to skim the production of their neighbours. (Miller 1990:5)¹⁵⁸

It is my contention that the acceptance of the Tithe in Iceland is an example of rent-seeking. The Church by proposing the tax secures a steady and guaranteed income for itself, as Pope Gregory had demanded, and in doing so offers the "lawmakers", the chieftains, the same. The Chieftains had previously gotten income from various contributions, such as the church fee, the *Alping* fee (*þingfararkaup*), legal fees, trade fees, etc., but the Tithe offered them a higher and steadier income. But even if the Church and the chieftains (along with church owning farmers) had a self-interest in accepting the tax, the tax paying public should not have. Historical sources do not clearly describe the original Tithe, i.e. we do not know if the Tithe was originally only a tax on land or if it had a broader impact, as it had later (Stefánsson 1975:60-61). If the tax was limited in scope to begin with, then the free farmers may not have seen much to bother about. Actually, they may have preferred to pay one simple tax instead of various fees.¹⁵⁹ The farmers may have accepted even a tax wider in scope for this reason, and because the tax provided a stable structure to provide tax-

¹⁵⁷ For an excellent historical discussion on the details of this, see Karlsson (1975:31-49) and Stefánsson (1975:109-37).

¹⁵⁸ For further discussion on the Tithe, its assessment, wealth accumulation, and the consequences, see Jóhannesson (1956:202:212).

¹⁵⁹ It is actually not all that clear whether all the various fees (or contributions) were discontinued with the introduction of the Tenth. It is known that various fees were collected by chieftains and other leaders in the 12th and 13th century. See Sigurðsson (1989) and Ingvarsson (1986:172-191).

funded services. The only thing the *Sagas* make clear is that the farmers were anti-tax; this becomes clearer later in the Commonwealth. Previous chapters show that the most plausible explanation for the farmer's acceptance of the tax was the farmer's lack of choice. The chieftains had been gaining the upper hand in their relation with the farmers ever since the formation of the *Commonwealth*. By the end of the 11th century, the chieftain's position, taking into account their alliance with the Church and wealthy church owning farmers, had gotten so strong that they could interpret the law in any way they wanted, as long as all of them agreed. Eggertsson implies this, saying:

"During the early Commonwealth, the law appears to have functioned well, but toward the end of the period the chieftains either ignored the law or manipulated it for their personal ends." (Eggertsson 1990:310)¹⁶⁰

The Church and the Chieftains were sure to exempt themselves from the taxation whenever possible. All properties given to God or intended for religion purposes were exempt from taxation and so was the institution of chieftainship. The Church and the chieftains were supposed to pay taxes on other properties, but to a

¹⁶⁰ Other historians support a similar view:

"The law was not a set code that everyone was expected to obey, but a group of rules that individuals could use to their advantage or turn to the disadvantage of others. The sagas show characters routinely breaking the law when they thought they could get away with it, and it may well be that people acted in precisely this way" (Byock 1988:21).

And Karlsson states:

"The laws indicate that a man could plead his own case in court without the intervention of his *goði*. But in practice this led to difficulties, principally because a just cause and correct pleading in court were seldom sufficient to secure the execution of justice. In order to carry out a judgement a strong hand was required, and many had to turn to their *goði* for this. In addition, it seems to have been far more common in the twelfth century for quarrels to be settled by arbitration than by judgement. Arbitration was used to stabilize peace rather than to assure that justice be done; accordingly, the man who was more powerful came away with the better half of the bargain. There is clear evidence that it was considered better in dispute to have the support of powerful men than to have a just cause. It is therefore safe to say that in general justice and security were in the hands of the *goðar*." (1979:55-6)

large extent circumvented these rules. The tax-law, for example, exempted local churchplaces, the *staðir*, from taxation. Owners of local churches went on to declare most of their property as *staðir* and declared their families as guardians of the property.¹⁶¹ Even the institution of chieftainship was tax-exempt, although chieftainships were marketable commodities.¹⁶²

The description above corresponds to the first-stage of rent-seeking; the "competition to control the political apparatus that creates, enforces, and assigns rent flows," (Tollison 1987:153). Although the political structure was firmly in place in the Icelandic Commonwealth before the Tithe was introduced, the introduction of the tax itself restructured these institutions. Before imposition of the tax, the chieftains were the sole political authority in the country, but after the tax's introduction the Church and wealthier farmers contended with them for this power (Stefánsson 1975).¹⁶³ If

¹⁶¹ Miller sums this point neatly: "Chieftaincies...were not tithable, nor was property donated to a church, even if that church was owned and under the sole control of the person making the contribution. This last exemption could be used by churchowners to insulate effectively all their property from tithes. From this exemption, coupled with the fact that one-half of the amount collected from others went to the churchowner for the maintenance of the church and of its indentured priest, we can begin to discern why there is no mention in the sources of resistance to the tithe by the rich and powerful, who in fact recognized and took advantage of the loopholes." (1990:36)

¹⁶²The commodity nature of the chieftainship is best illustrated in that it could be traded, given as a gift, inherited, etc. On the other hand though, just buying the chieftainship was no guarantee of power. Every chieftain had to be able to convince some free-farmers to follow him or accept his leadership. In failing to gain following the chieftainship was almost worthless.

¹⁶³ As other historians have stated:

"Many studies have stressed the control of *staðir* as the principal source of wealth for the *stórgoðar* in twelfth- and thirteenth-century Iceland. This conclusion is sound in certain respects, but when accepted as a general rule it becomes misleading. The tithe did not establish the *goðar* as leaders. Traditions of leadership were firmly in place when in the late eleventh century the chieftains used their lawgiving power to reap benefit from a new form of revenue, one that also offered a nontaxable shelter for existing wealth. On the other hand, some families, particularly the Oddverjar and the Haukdælir in the south, profited to an inordinate degree from the management of *staðir*. The increased wealth such families derived from control of church property hastened the evolution toward increased social complexity" (Byock 1988:94).

And, Byock continues in a footnote to this paragraph:

"Björn [P]orsteinsson has been instrumental in drawing attention to the importance of *staðir* for these chieftains of the postconversion centuries who in modern studies are often called church *goðar* (*kirkjugoðar*). His emphasis on class structure, however, may be misleading... Gunnar Karlsson...notes that both *stórbændr* and

unanimity among the chieftains was required for the acceptance of the new tax-law, then the Tithe as it was actually accepted, was probably the only possible form of general taxation that could be agreed upon. Some of the Southern chieftains (*Oddverjar* and *Haukdælir*) controlled the institution of the Church. These chieftains, by getting the others to accept a portion for the Church, would therefore receive more revenue than the others. The other chieftains, in turn, had no way of getting a tax accepted without the approval of the Church. A stalemate would likely have resulted, if not for the exemption of all chieftain's from taxation. These exemptions as mentioned above included the local ecclesiastical institutions (*staðir*) and the chieftainship (*goðorð*) itself. Furthermore, in the 12th century Northern chieftains demanded, and got, another bishop for the Northern part of the country. The Northern bishops at *Hólar*, were independent of the ones at *Skálholt*. Since not all *staðir* were owned by chieftains, but, rather, many were owned by wealthy farmers they too could be relied on to support the new tax. It is therefore likely with this coalition of the Church, chieftains and the wealthier farmers was powerful enough that it did not really matter what the other free-farmers thought.

The assignment of rents was therefore decided by the tax-law. Now a second-stage of rent-seeking occurred, with competition for rents in particular instances.¹⁶⁴

stórhöfðingjar owned *staðir* and that possession of *staðir* alone did not assure the authority of a *stórgoði*" (1988:note 33 p. 94).

And Miller (1990:26) also supports this:

"During the turmoils of the last decade of the commonwealth, the big players in the power politics of the period resorted to raiding. The two most lucrative sources of wealth, in addition to the productive capabilities of their own lands and livestock, were the gains from controlling the access of little people to the law and their own access to tithes, which...was a function of being a churchowner rather than a chieftain."

¹⁶⁴ Tollison (1987:153) defines this second-stage as "rent-seeking behavior" in "the competition to capture the rents that inhere in particular instances of monopoly and regulation."

CONCENTRATION OF POWER

"The eventual breakdown of the system was preceded by (1) a strengthening of the relative position of the chieftains vis-a-vis their liegemen, and (2) the merger of the thirty-nine competitive firms (chieftains) into a few oligarchic firms." (Eggertsson 1990:308-9)

The second-stage of the rent-seeking occurred when chieftains tried to acquire more sources of revenue within the structure created. In other words, they now spent real resources to capture pure transfers. This took the form of bringing under their control more followers (*þingmenn*), local churches (*staðir*), and chieftainships (*goðorð*). By getting more followers the chieftains made other chieftains comparatively weaker in strength and wealth. To get followers a chieftain had to offer some "services" in turn for the tax he got from the farmer. Aside from providing church services and aid to his followers, the chieftain distributed gifts. At given levels of revenue, at some margin, this would become uneconomical. The chieftains therefore began to acquire more *staðir*, and finally sought to control and acquire other chieftainships. By controlling more *staðir* and chieftainships, the competition for tax-payers was lessened and returns would potentially have been higher. By controlling more than one chiefdom, the chieftains established Greater Chiefdoms (*Stór Goðorð*).¹⁶⁵

The first known Greater Chiefdom developed in Northern Iceland in the early 11th century. The chieftain there owned two chiefdoms, probably acquiring them through marriage or inheritance. In the 12th and 13th century Greater Chiefdoms

¹⁶⁵ The historical facts in this paragraph and the next one are derived largely from Sigurðsson (1989) and Karlsson (1975).

became common, and, finally, all the chiefdoms became concentrated in five Greater Chiefdoms. Some of these could properly be called states (*ríki*) rather than chiefdoms, since their chieftains became rulers (or war lords), and the boundaries of most chiefdoms even became geographically fixed. Sigurðsson (1989:139-40) has summarized this concentration of power neatly:

"The earliest phase in the process of power concentration probably started in the 11th century, and involved the first stage in the formation of lordships consisting of a territorial unit called a *ríki*. A *ríki* was a district with fairly fixed boundaries, comprising at least three to six *goðorð*, and one or two vorthing-parishes. During the 11th century, *ríki* were established by the Haukdælir in Árnesþing, the Ásbirningar in Hegranesþing, and the Svínfellingar and the Austfirðingar in Austfirðingarfjórðungur. Only the results of the first phase of power concentration are known; but the available information, sparse though it may be, indicates that it ran a slow, peaceful course.

The second phase of power concentration started in the early 12th century, and involved the establishment of a *ríki* by the Oddverjar in Rangárþing. This was shortly after the introduction of a tithe was approved at the Althing in 1096/97.

The third phase in the concentration of power and the formation of *ríki* came in the last quarter of the 12th, and the first quarter of the 13th century. The development of *ríki* in Eyjafjörður and Þingeyjarþing started at the end of the 1180's, and was finalised in 1215 when Sighvatur Sturluson gained control of the district's six *goðorð*. At the beginning of the 13th century, Snorri Sturluson, Sighvatur's brother, established a *ríki* in Borgarfjörður, covering area on both sides of the boundary between the Sunnlendinga and Vestfirðinga quarters.

To the best of our present knowledge, the concentration of power in Árnesþing, Rangárþing, Hegranesþing and Austfirðingarfjórðungur involved a long, steady process. In other districts, such as Eyjafjörður together with Þingeyjarþing, and Borgarfjörður, the process started later and went at a faster rate, the latter being partly due to the use of pressure and coercion. The only exception was the unruly district of Vestfirðir, which for a long time exhibited no more than a tendency toward the formation of a *ríki*. It was not until the late 1240's that Þórður kakali, later succeeded by Hrafn Oddsson, managed to exert stable control over Vestfirðir.

By 1220, most of the *ríki* had taken shape, and the fourth and final phase of the process was initiated. Five families - the Ásbirningar, the Sturlungar, the Haukdælir, the Oddverjar, and the Svínfellingar - controlled almost all of the 39 *goðorð*. Conflicts now involved *ríki*, not *goðorð* as before. The power

struggles of this period resulted in the creation of the *stórríki*, which contained two or more *ríki*, or nine *goðorð* and three vorthing-parishes."

Aside from controlling more *staðir* and chiefdoms through blood relations, chieftains also established small "armies" and fought for control of other chiefdoms. But one chieftain's killing of another chieftain was not enough to gain control of the latter's chiefdom. The triumphing chieftain had to offer "services" or gifts to the followers of the fallen chieftain so they would accept his leadership. The gain of another *staður* or chiefdom therefore not only resulted in a gain of revenue for the triumphant chieftain, but also increased his expenses.

Despite the law stating that the farmers were free to choose a chieftain to follow and change their allegiance each year, it seems that with the advent of the political struggle this choice all but disappeared.¹⁶⁶ A chieftain holding two out of three chieftainships in a local-*þing* really had an exclusive say on local matters. Thus, the farmers had little choice but to accept the chieftain's word as law. Of course, the farmers might have revolted so the chieftains made sure that at least a majority of the

¹⁶⁶ "In treating the relations of farmers to *goðar* historians have on the whole stressed the farmer's legal freedom to choose his own *goði*....

In the twelfth-century Sturlunga sagas there is one example of a farmer who changed his *goðorð* of his own free will. This shows that it was possible to exercise this right; but it is no proof that the relationship between the *goðar* and thingmen was in general a matter of the farmers' free choice. It can be assumed that hereditary custom often decided what *goðorð* a man was in. But it is also clear that the authority of a *goði* was to a certain extent territorially defined. There are, to be sure, clear examples that a *goði*'s thingmen did not always form a consistent district in which no one else lived, but to a large extent the authority of the *goði* was restricted to one defined area. For defense against robbers men depended on the *goði* who lived in their district, whether they were his thingmen or not. There are also examples of *goðar* refusing to allow other men in their district than those they could depend on. Thus the *goðar* had their own areas of influence within which everyone - both their own thingmen and those of other *goðar* - had to respect their will. Under these circumstances the right to attach one's self to another *goði* meant little in practice. On the other hand, the *goðar* were dependent on neighbouring farmers in so far as they needed their support in defense and in fighting. When most of the *goðorð* in Iceland were assembled in the hands of a few powerful chieftains in the beginning of the thirteenth century, it is likely that this was due to some extent to the failure of farmers to support the less powerful *goðar*" (Karlsson 1979:56).

farmers were comparatively satisfied with his rule. This the chieftain would do by distributing gifts, upholding order, and representing his followers against other "states."¹⁶⁷

In some cases a chieftain controlled not only a few local-*þings*, but the majority of chieftainships in a Quarter-*þing*. In most cases the local or quarter-*þings*, were simply put off, and only the *Alþing* itself survived. At times even the *Alþing* was unworkable because some chieftains would not attend.¹⁶⁸

This concentration of power, wealth-seeking and the state of war (with relatively small casualties) was the major reason for the fall of the Commonwealth. The major contenders in this struggle were the chieftains, the Church, and the Norwegian kings.

¹⁶⁷ "The driving-force behind this process was the chieftains' desire for power and prestige, involving both economic and political motives. The chieftains' economic base was of great significance in determining subsequent developments; those who managed to control substantial resources of wealth were able to establish a *ríki*."

It was mostly by means of gifts that each chieftain endeavoured to retain, and enlarge, his group of thingmen. A gift worked a strong spell; the recipient had either to give a gift in return, or else work for the donor. This practice gave a wealthy chieftain the means of enlarging his group of followers. Once the chieftain-vassal relationship had been established, the chieftain was obliged to maintain it, either by distributing new gifts, or by holding a feast for his followers. In the end, it was the chieftains' ability to mobilize the economic resources and manpower of their *ríki* that determined whether or not they survived the increasingly bitter and destructive power struggle during the final period of the Free State.

The chieftains' economic power base was strengthened by their control of the local ecclesiastical institutions, the *staðir*, and the churches of the wealthy farmers. Snorri Sturluson is a case in point: he managed to acquire several *goðorð* and vast economic resources, mainly through his control of the *staðir* and the churches of the wealthy farmers, and this enabled him to establish his *ríki* in Borgarfjörður. Riches begot riches. The *goðar* could then 'buy' more farmers, which made it possible for them to expand their economic activities, and thereby establish their standing as *stórgoðar*. The concentration of power was paralleled by a corresponding concentration of economic resources. The difference in wealth between the 12th century *goðar* and the 13th century *stórgoðar* was huge. As an example, the sons of a leading 12th century *goði* called Hvamm-Sturla all became *stórgoðar* in the 13th century: Hvamm-Sturla's sons were at least ten times wealthier than their father, with power proportional to their wealth" (Sigurðsson 1989:141-2).

¹⁶⁸ "The development of *ríki* led to the use of new methods of government by the *stórgoðar* in the 13th century (the greater chieftains), who usually took Norwegian practices as their model. Trusted men served as their advisors, and probably also as their representatives in the local government, while other followers acted as bodyguards and police, capable of exerting coercion where necessary. Both groups functioned as the extended arm of the *stórgoðar*. The power base of the *stórgoðar* also changed when the *ríki* evolved. In former times, the farmers had been relatively free to elect a *goði*. Now, however, all the farmers within a *ríki* were, in reality, subjected to one *stórgoði* as his thingmenn. That which at an earlier stage had been essentially a leadership based upon family and friendship, now became a territorial, political domination. At the same time, the *stórgoðar* gained control over the judicial activities in their district, and decided all the cases arising between their thingmenn. The local and regional things declined. The *stórgoðar* aimed at ever-increasing power and influence" (Sigurðsson 1989:141).

All wanted more power and wealth. The Church demanded control over its own affairs, both in judicial and financial matters. The Church demanded its own internal law and tried to gain control, sometimes successfully, of *staðir*. Some of the chieftains were allied or related to the bishops, and therefore took the Church's side. The other chieftains saw that a more independent and wealthy Church could only come at their expense. These chieftains resisted the expansion of the Church, and some made alliances with the Norwegian kings. The kings were ready, especially in the 13th century, to make temporary alliances to gain foothold in Iceland.¹⁶⁹

The free farmers, especially the wealthier ones, participated in the political struggle both by helping with other actors and acting independently to secure their own advantage. To participate in the struggle they needed revenue, initiating their own form of taxation and the offering of gifts to farmers.

The supply of money from mints or other sources was always limited in Iceland, and as time went by money became even more scarce. To pay the tax the free farmers generally paid in commodity money, such as skins, wool, cows, pieces of metal, etc. This meant that the Church and other receivers of the tax engaged in

¹⁶⁹ There is some disagreement as to how important the institution of the Church itself was in this struggle. All the historians admit that it did play a role, but the question is how much this role was. Stefánsson (1975) has given it the most important status. A more fair summary of what the facts do allow us to conclude is found in Miller: "The history of the Icelandic church and the story of the fall of the commonwealth are undoubtedly connected but in no certain way. Our evidence allows us to identify other factors that contributed to the advent of Norwegian rule, but it does not allow us to privilege any one explanation. A confluence of factors was at work. One of the key changes in the social order during the course of the last half of the twelfth and into the thirteenth century was the consolidation of much official and unofficial power into fewer and fewer hands. By the 1220s most of the *goðorðs* had come into the possession of five or six families. They were able to rule territories, effectively depriving the *bændr* of any legal right to choose their Thing attachment. The process by which these families ascended and others declined is obscure. The usual explanations link the process to the greater accumulations of wealth made possible by access to tithes and donations to the church." (Miller 1990:39)

trade to monetize these commodities. The chieftains had always been involved in trade-related activities and in assessing the value of goods ("price-controls"), and their involvement in trade was not new. The Church, on the other hand, had not existed as an institution before the tax; in becoming an independent institution, it needed for the first time to participate in trade. Since the Icelandic Church was part of the Norwegian archbishops area, it naturally traded with Norway. As the Norwegian kings controlled the Norwegian church, they also controlled trade with the Commonwealth. This, along with the fact that Norway was one of the bigger market for Icelandic goods, may explain why the Norwegians came to monopolize Icelandic trade.

Despite this monopoly, trade continued between the two countries except during periods of hardship in Norway. But by 1200 some markets changed for Icelandic goods and inflation took off. This explains the trade hostilities in Iceland in the early 13th century. In 1215 the chieftains in Southern Iceland set prices (price controls) on various goods so that the Norwegian traders refused to sell. The Icelanders then raided the Norwegian ships, and so provided disincentives for other merchants to trade with Iceland and involved the Norwegian king directly in trade matters, as the merchant's protector. Earl Skúli, then ruler of Norway, is said to have proposed an invasion of Iceland. Through the persuasive efforts of some Icelandic chieftains he relented.

ECONOMIC DECLINE?

Others theorize the decline of the Commonwealth was caused by an overall decline of the island's economy. This theory was originally based on a clause in the

agreement of 1262/64 between the Icelanders and the Norwegian kings. This agreement, referred to as the Old Covenant (*Gamli Sáttmáli*), guaranteed that the king of Norway, now king of Iceland, would have 6 ships sail for Iceland every year. Some historians have interpreted this as suggesting that Iceland's foreign trade had declined dramatically, to such an extent in fact that the islanders made the agreement solely to restore trade.¹⁷⁰

Historians have therefore looked at the records to determine whether there was such an economic decline. The two factors most often used to support the theory of an economic decline are: Firstly, that Icelanders owned almost no ships after the year 1100, and thereby had lost control of the island's trade relations. Secondly, certain export markets for Icelandic goods either declined or even disappeared. Historians, such as Gelsinger (1981), claim that the number of ships in the ownership of Icelanders declined steadily throughout the Commonwealth period.¹⁷¹ Some have claimed that Iceland's lack of forests and the great expense of ships abroad explains the dwindling of Iceland's fleet. But trees were imported for other purposes, and could also have been imported for shipbuilding. The claim that ships were expensive is not supported by the record. Shipbuilding was becoming more sophisticated and cheaper.¹⁷²

¹⁷⁰ A somewhat typical statement of this argument is made by Gissurarson:
"[T]he Icelanders were not primarily making the pact with the Norwegian king in order to achieve domestic peace: they were trying to avoid economic isolation. After all, this later became the fate of the Icelandic colony in Greenland with which all contact was lost in the early 15th century," (1990:18). See also Línal (1964).

¹⁷¹ Þorsteinsson (1953), although claiming this is a non-issue, confirms that Icelandic ownership declined throughout the period. He goes a little further, though, and claims that the Icelandic shipping fleet did not recover until the 19th century (1953:132). See also Línal (1964).

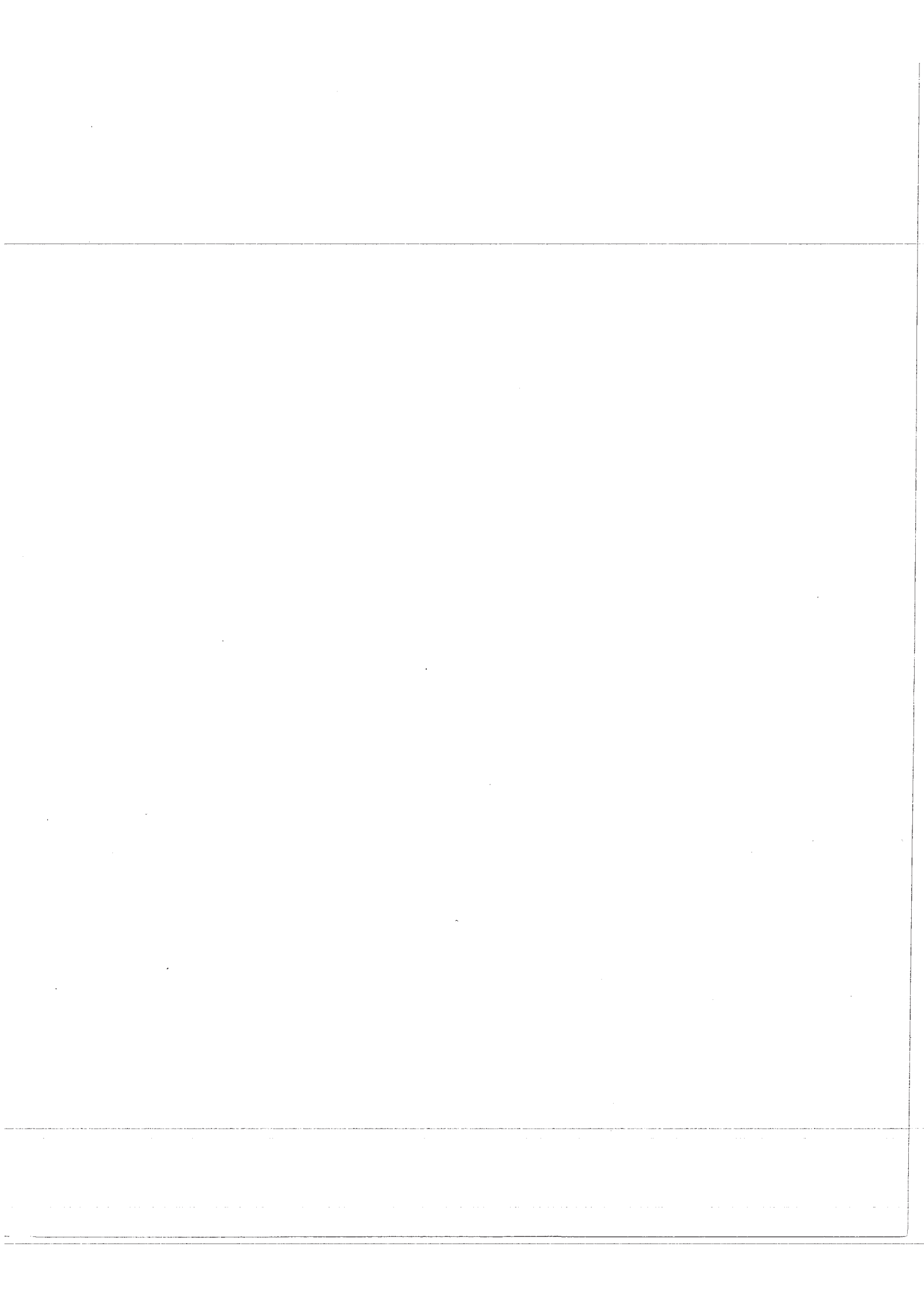
¹⁷² The advance in ship-building is mainly due to a changed method of building them:

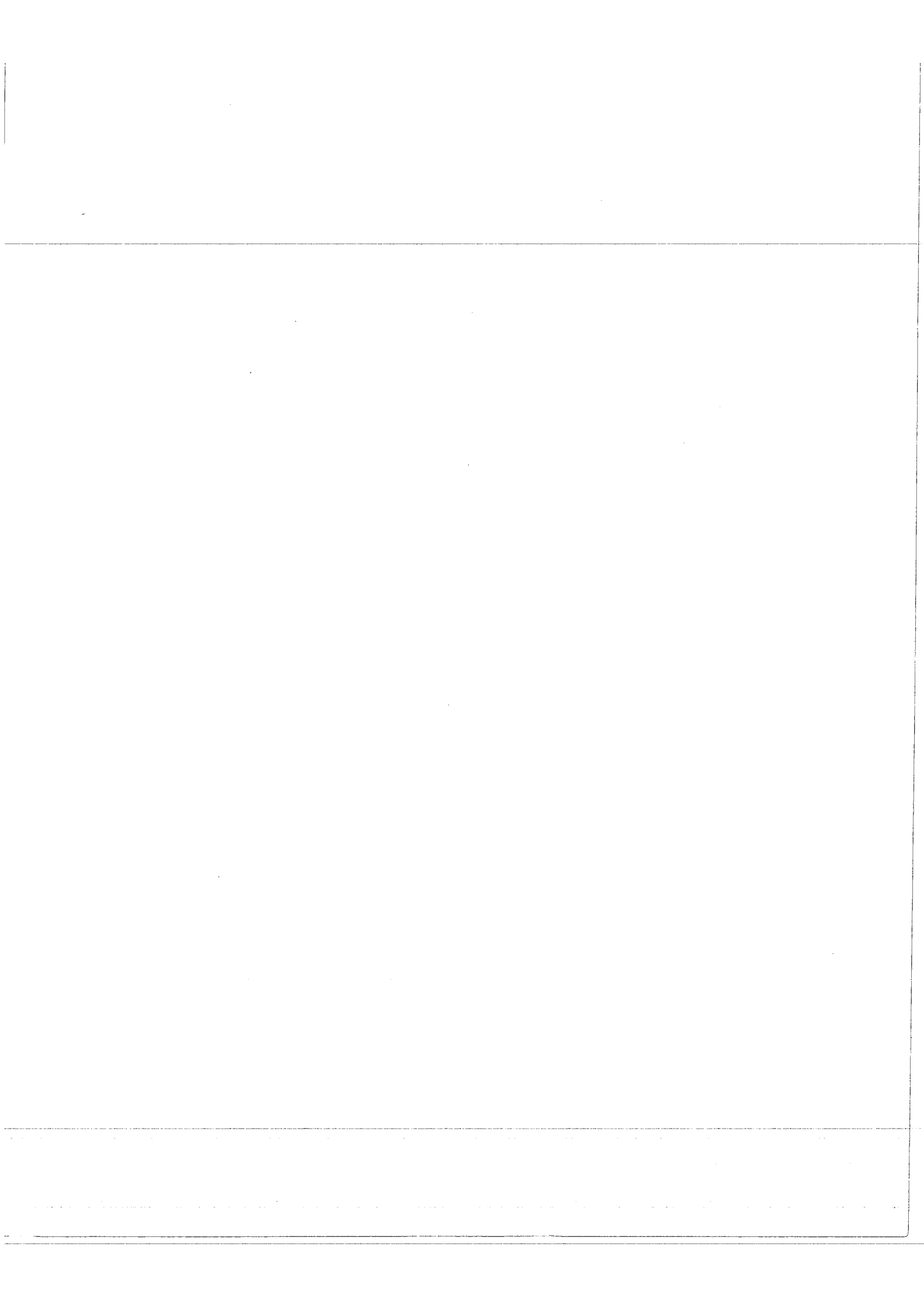
Gelsinger claims "around the beginning of the eleventh century, land probably became a better investment because the shortage of free labour would have grown less extreme as the population expanded" (Gelsinger 1981:160). This may explain why Icelanders stopped investing in new vessels, but would not explain why this would have caused an economic decline. Gelsinger fails to explain why the lack of ship ownership in Iceland would have any effects on trade or the economy. The lack of shipownership in Iceland should not have had much or any effect on the level of trade. Norwegian and other merchants, an economic class Iceland never developed, owned ships and traded with the islanders. If there had been an unfulfilled need to trade, surely the islanders could have and would have bought their own ships.

Gelsinger and others claim that the records confirm that fewer and fewer foreign ships, mostly Norwegian, arrived in Iceland each year. It is doubtful, as these historians suggest, that the *Sagas* would record every ship arrival, the records certainly confirm this contention. But, since the records seem to mention the number of ship arrivals mainly in years when a high number of them arrived and when only a few or none arrived, it might be just as plausible that when a proper number of arrivals did occur that was not noteworthy. In any case, it should be expected that fewer ships

"Clearly, the date and location of the change from skin-first to skeleton-first ship construction is a major problem in economic history. The new method would build an adequate ship at much less expense. Wreck or destruction of a ship by pirates or in a war would mean less loss of capital than formerly and the returns on successful trade would be proportionally increased on the lower investment.... in the delta of the Po a boat 10.5 meters long, built skeleton-first, has been found and dated by pottery to the eleventh century.... at present it appears that in the century or so before the first crusade a simplification of the shipwright's art provided ships which were far cheaper, and therefore presumably more numerous, than had been earlier. The ability of the crusaders to maintain themselves for nearly two hundred years in a hostile context so far from their home bases may partly be explained in this way." (White 1986:288-9)

See also White (1976:167) and Jones (1987).





would arrive each year, unless one wants to claim that the foreign trade was actually increasing. The reason for expecting fewer arrivals is mainly that the ships were getting bigger, carrying as much as three times the load of earlier vessels.¹⁷³ Sea voyages were not only becoming more profitable because of cheaper ships, cheaper both in building and operating costs, but voyages were also becoming safer, with the advance of the magnetic compass.¹⁷⁴

It is also doubtful, as Gelsing and others claim, that the Icelanders were in any way dependent on trade or that they ever really traded that much. The island was in most ways a self-sufficient economy, although, of course, Icelanders would have and

¹⁷³ That the ships were getting bigger is now well established by archaeological finds. In discussing the ship find at Roskilde, Hodges says:

"Wreck 1 from Roskilde was the ship of the future. This was a heavy boat about 16.5 m long and 4.6 m in the beam, and was probably a *knarr*, the kind of vessel used on the voyages to Iceland and Greenland. It too had fore and aft half decks with a central hold that could have accommodated nearly 30 tons, causing the ship to draw 1.5 m of water, compared with the metre that wreck 3 would have drawn fully loaded. This load-draughted boat required two pairs of oarsmen fore and aft, but it was primarily a sailing boat that docked and was, we assume, seldom man-handled, unlike those that preceded it." (1982:99)

And he continues, a few paragraphs later:

"The implications of this are twofold. First, one merchant meant as many as twenty crew members before the tenth century. Secondly, bearing the crew in mind, cargoes must have been very limited; on the basis of Ellmer's calculations, in the order of 8 tons or less before about A.D. 1000. Quite clearly bulky goods were out of the question." (Hodges, 1982, 100)

The historian Peter Sawyer also confirms this for Scandinavia in particular:

"These heavier vessels reflect a change that apparently occurred in Scandinavian ship design towards the end of the Viking period when heavier, more rigid craft replaced the light, flexible boats of earlier times. This was partly a response to changing needs, for in the eleventh century there was a growing demand for deeper ships capable of carrying relatively heavy loads." (1971:80)

It is also possible that Iceland enjoyed a similar experience of the Shetlanders:

Boatbuilding in Shetland seem to have started as a kind of assembly line. Norwegian boats for the Shetland market were built with minimum of fastenings, marked, dismantled and shipped as kits to be put together and fastened in Shetland." (Christensen 1984:86)

¹⁷⁴ As White claims:

"Another great advance both in safety and in profit was caused by the arrival of the magnetic compass in Europe from China in the last decade of the twelfth century; within a few years it was widely employed" (1976:167).

And, further:

"In Europe the mariner's compass appears in Alexander Neckham's *De naturis rerum*, which was in wide circulation by the end of the twelfth century, and in Guiot de Provin's *Bible* composed between 1203 and 1208. By c. 1218 Jacques de Vitry considered the compass 'valde necessarius...navigantibus in mari'. By 1225 it was in common use even in Iceland." (White 1964:132)

probably did gain from trade. The fact that grain, for example, could only be produced in very limited amounts in Iceland does not mean that the island was therefore dependent on trade. It is probably more accurate to say that Icelanders learned to get by without its use. As for other goods, Icelanders quickly learned to utilize all that nature would give them. As for meat, it is more likely that the island was an exporter of it than an importer.¹⁷⁵

The main production goods for trading purposes, whether within the country or abroad, were various wool products. *Vaðmál and Varafeldir*, for example, were the main export goods (as well as being units of account). Byock summarizes the mainstay of the economy well:

"As the Icelanders, from early on, specialized in the exploitation of sheep by-products, exports were chiefly raw wool, different grades of homespun cloth, and a type of rough woollen cloak (*varafeldir*). Through this specialization they obtained, at least in one area of production, a comparative advantage that lowered their costs, making it feasible for them to participate in international trade. The goods were produced by a widespread cottage industry, and woollen products became a useful vehicle of exchange within the country. Along with merchandise derived from sheep raising, some trade was conducted in other farm products, for example, horses, hides, and sometimes cheese. Also there was a limited trade in sulphur and exotics such as white falcons." (1988:96-97)¹⁷⁶

Production of the main export goods increased during the Commonwealth, but of course production changes accompanied market changes. Around 1200 there were major market changes, the market for *Varafeldir* disappeared and the price of *Vaðmál*

¹⁷⁵ Some historians use the grain example as support for the argument that Iceland was dependent on foreign trade. They, seemingly, do not know that what grain the Icelanders were able to produce on the island went mostly into brewing ale, rather than for baking bread. On this and on local production in general, see Þorsteinsson (1953;1966;1980). On the Icelandic's dietary needs in the period, see Björnsson (1975).

¹⁷⁶ For a more thorough description of the Icelandic economy, see Jóhannesson (1956:341-410) and Þorsteinsson (1966).

declined temporarily.¹⁷⁷ Even if these market changes caused a depression in Iceland, it did not cause total economic ruin.¹⁷⁸

There may also have been some locally produced factors that could have interrupted trade temporarily. The chieftains' attempts at price-controls, for example, have been suggested to have driven merchants away:

"[T]he 13th century chieftains, by imposing severe price controls on the Norwegian traders who came to the country each summer, only managed to drive them away. It became uneconomical to trade with the Icelanders." (Gissurarson 1990:19)

Other historians have disputed this, and claim that price-controls were exceptional.¹⁷⁹

¹⁷⁷ Quoting Gissurarson again:

"[T]he Icelandic economy could simply not withstand a great fall in the value of its exports, mainly wool, in the 13th century.... It was only later when the Icelanders started exporting fish that the economy became feasible." (1990:18-19)

¹⁷⁸ It should be mentioned here that some historians have claimed that weather conditions became unfavorable in the 12th and 14th century and this in turn caused a downturn in the economy. Modern studies, though, indicate that this is not correct and that the beginning of the "little ice age" only came about later. As Stoklund says: "A fall in the average temperature can be traced from about 1300." (1984:97)

The following table from Hastrup (1985:161) comes to the same conclusion:

Climatological Periods:

- | | |
|--------------|--|
| 1. 800-900 | Generally dry and warm summers. Eastern winds dominated over the North Atlantic. |
| 2. 900-1050 | Relatively wet and cold summers. |
| 3. 1050-1130 | This period was much like the first. |
| 4. 1130-1160 | Like the second period, only worse. |
| 5. 1160-1230 | Of the same kind as the first period, but not quite so advantageous. |
| 6. 1230-1270 | Like the second period, only considerably worse. |
| 7. 1270-1330 | Slight improvement in climate, but increasing frequency of north-westerly winds.
A period of general instability. |
| 8. 1330- | Gradual worsening of conditions, leading to the 'Little Ice Age' (1600-1800). |

¹⁷⁹ Both the *Alþing* and some local *þings* occasionally did announce price lists of some goods, but whether they were ever abided by is not known. Chieftains seemingly had the authority to set prices also, i.e. price-controls, but Karlsson, at least has disputed that they ever used those powers to any degree:

"Ekki verður heldur mikið vart við afskipti goða af verslun og kaupmönnum í frásögnum frá 12. öld." (Karlsson 1979:10-11). And he continues: "Árið 1215 lögðu þrír goðar lag á varning norskra kaupmanna, og virðist þá hafa verið óvenjulegt, að íslenskir höfðingjar gerðu það." (Karlsson 1979:11)

Since no real economic statistics were recorded in the period it is hard to see that the economy did decline, in fact this lack of statistics make any claim less convincing. But even if we assume that an economic decline did occur, it seems that the reasons mentioned above could not have been the cause of that decline. Instead, a more plausible cause of an economic decline would have been found in the decline of Iceland's institutional structure. The continuous quest and struggle for *staðir*, for example, would be expected to not only interrupt trade and normal economic life, but further waste resources in the process.

Another institutional feature, laws biased against the development of a fishing industry were in effect during this period, and would have prevented the development of an alternative means of income for the Icelanders. Iceland has always been, and still is, known as an obscure fishing station in the middle of the Atlantic. The settlers immediately used this resource for themselves, and later began exports of stockfish. Mainly, though, fishing was a side employment and farming continued to be the main one. But as other nations began increasing their demand for fish products, Icelanders, as well as the Norwegians, responded with increased exports. How much these fish exports accounted for in Iceland we do not know.¹⁸⁰ But there must have some exports of fish, since at least two places in Iceland specialized in fish-processing before the end of the 12th century (Porsteinsson 1980:211-212; Miller 1990:79). Sometime before the

¹⁸⁰ We do know that Norway invaded the English market with great success, as Gelsing says: "Because of its urban development during the eleventh century and later, England had a large market for dried fish that Norway could offer in return for grain and other supplies it needed" (1981:166). At another place he says: "After the beginning of the eleventh century England provided a substansial market for Norway's dried fish and other products in return for grain, fine cloth, and other goods." (1981:157)
See also Porsteinsson (1953:136).

year 1200, though, the law was rectified such that individuals and their families were not allowed to have fishing and fish-processing as their sole occupation unless their local *Hreppur* allowed them and took responsibility for them (Porsteinsson 1980:209). Whatever the reasons for this change in the law, the change probably did prevent further development of the industry.¹⁸¹

Among historians, Porsteinsson (1953;1966;1980) has been in the forefront of denying any "economic decline" explanation as the cause of the end of the Commonwealth (See also LÍndal 1964:33). He not only claims that economic conditions were better at the end of the Commonwealth, but that even if a decline did occur, it would only have been temporary and the Icelanders would have known from experience that it would be. As evidence of "progress" both the beginning of taxation, the tithe (*Tíundargjald*), in 1096 and the ever increasing "welfare system" support it.¹⁸² Further, the rise of the Church, educational institutions, and the productiveness in *Saga* and other writing also support a theory of increased well-being. The conclusion here will be that the "economic decline" theory fails to offer supportive evidence that withstands scrutinization and is therefore rejected. The historical record does, therefore, not allow us to conclude that there was a general economic decline in the

¹⁸¹ The law was changed again in the late 13th century, after the fall of the Commonwealth, and the fishing industry "took-off" from that point on. On the development of the fishing industry in general see Porsteinsson (1953;1966;1980).

¹⁸² Porsteinsson argues that the fact of organized taxation and its expenditure are supportive of his contention that economic conditions had become better. Even so it would seem that continued taxation need not be supportive of continued "prosperity", in fact taxation might have continued in spite of an economic decline. But economic decline by itself is a doubtful cause for the fall of the commonwealth.

Commonwealth. But, if there indeed was an economic decline, then it certainly was not the cause for the fall of the Commonwealth.

The real cause for the ship-guarantee clause in the Old Covenant of 1262-64, driving all the economic decline explanations, is that during economic downturns in Norway no trade with Iceland took place. Therefore the guarantee that the Icelanders had put into the agreement was to secure supplies from Norway during such periods.¹⁸³

THE END OF THE COMMONWEALTH

"The fall of the commonwealth in 1262-64, marked by the agreement to pay tax to the King of Norway, is the usual closing bracket for studies of early Iceland. The conventional practice is not without merit. The demise of the grand saga sensibility occurs soon enough after the political change to suggest some causal linkage. The change in governing institutions could not have had all that great an impact on day-to-day life for the greater part of the population, but the native conceptual universe seems to have soon been transformed significantly. By the early fourteenth century the creativity, the synergistic coupling of the heroic and pragmatic, that produced the sagas was gone." (Miller 1990:41)

When Hákon becomes king, in 1217, a policy for "overtaking" Iceland seems to be initiated. Hákon offered new alliances with the chieftains, made them part of the Royal Circle, obligating the chieftains to adhere to his royal rules and wishes. A part of Hákon's deal was that his chieftain allies were to convince Icelanders to pay taxes

¹⁸³ There is seemingly no evidence of "better times" in Iceland's economy after the agreement with Norway. Only in the 14th century do we (think we) know of better times, after the exporting of fish products increased drastically. The 1301 count of tax-farmers shows lower numbers than in 1097, and it seems therefore that there were fewer people in Iceland in 1300 than in 1100. The question is whether there was a linear decline in population in those 200 years, whether population had increased again by 1300, or whether the population had actually stayed the same but that the number of tax-paying farmer had declined?

to him and him alone and the king would guarantee the peace. The king was making an investment that could later bring ample returns. Chieftains in allying themselves voluntarily with the king had an obligation to obey the king's wishes and demands, and if they opposed him in any way surrendered their property to the king.¹⁸⁴ The chieftains may not have seen any advantage in fulfilling the king's wishes, since their income might be lower under his rule, and therefore most did not obey him. The king declared these "traitors" and demanded possession of their property. To present cases and in general to achieve possession the king made alliances with other chieftains, who willingly fought for him and sometimes acquired control of more property.

Throughout this struggle the structure of the Commonwealth went through radical changes. The chieftain, instead of being a representative of his fellowman, became a warlord. The chiefdom, instead of being a form of brotherhood, became an "armed tyranny."¹⁸⁵ The chiefdoms had changed and became warring states, and finally they collapsed through infighting.

In the end it was the farmers themselves, rich and poor, who chose the Norwegian king as their ruler. With the fall of a chieftain his chieftainship, or rather his followers, were up for grabs. A new chieftain could not simply overtake the chieftainship and expect the farmers to accept him. The new chieftain had to convince the farmers that he could fulfil their demands. In the 13th century, especially after

¹⁸⁴ See Jóhannesson 1958:205-225.

¹⁸⁵ Or as Miller says: "Feud between big families started to take on the characteristics of war, the chief costs of which were not born by the principals but by the people who lived in the territories they controlled. We see the powerful and pretenders to power provisioning themselves by plundering the people they sought to rule." (1990:40)

1240, the farmers turned down all new chieftains except those who were the representatives of the Norwegian king.¹⁸⁶ The spirit in this choice is well stated in a supposed answer of a farmer to a potential chief-ruler. A story is told that this new warlord asked a leading farmer if he would be accepted in the area as ruler and the farmer replied that he could only speak for himself, and that he had no problem with his current ruler, although he would prefer if there were none. Later after consulting with the other farmers in the community he added that they had decided not to accept the new ruler, that he was too warlike, not very rich and yet had plenty of debt. He further added that the farmers wanted to wait and see what the king's men offered.

The farmer's response can be interpreted to imply that because of the ruler's wealth/debt ratio they could only expect to pay higher taxes to him. Further he implies that no ruler is preferred to some ruler, but that if they do have to have a ruler then better he live further away than nearer.¹⁸⁷

¹⁸⁶ "Thus, by about 1250, the king had managed to acquire control over almost all of the *goðorð* in Vestfirðingafjórðungur, Sunnlendingafjórðungur and Norðlendingafjórðungur; the *goðorð* in Austfirðingafjórðungur were acquired in 1264. With establishment of control over the *goðorð*, the king could appoint their governors, and in fact became the farmers's overlord" (Sigurðsson 1989:140-1).

¹⁸⁷ Karlsson claims that the wealthier farmers in effect replaced the chieftains and took over their functions: "Á síðasta skeiði þjóðveldisins verður gagnger breyting.... Goðorðsmönnum fækkar, og þeir verða víða óstöðugir í sessi vegna innbyrðis átaka og áhrifa norska konungsvaldsins. Um leið eflist sá hluti bændastéttarinnarm, sem getur aflað sér tekna af umráðum kirkjueigna. Þessi hópur bænda, sem líklega hefur tekið við hlutverki goða í heimabyggðum og staðið í svipuðum tengslum við bændur og goðarnir höfðu áður gert. Það er þessi hópur forystumanna bænda, sem kemur fram fyrir þeirra hönd gagnvart stórhöfðingjum Sturlungaaldar og heldur því stundum fram, að best sé að hafa enga höfðingja." (1979:49)

A more detailed statement by Karlsson goes:

"In the thirteenth century there are a few examples of farmers being strongly independent of *goðar*. In general the *goðar* did not take power without first assuring themselves of the approval of the farmers in the district, and at times the farmers hint that it is best to have no *goði*. This has been interpreted as remnant of the old freedom of farmers, and it has been concluded that this freedom was greater before the great chieftains and large-scale wars of the thirteenth century. But closer consideration reveals that it was especially the so-called big farmers or, 'best men' whom the chieftains turned to for support, and that the smaller farmers followed the bigger ones. It is likely that these big farmers assumed the leadership over other farmers when the *goðar* became fewer in the thirteenth century and their personal contact with the individual farmers diminished. The big farmers then took the place of the *goðar* to some extent. The *goðar* could be more harmful than useful, for they were often at war and the farmers often had to support them with certain

SUMMARY

The fall of the Commonwealth can therefore be explained by the rent-seeking that took place there. As soon as structured taxation began, replacing the system of obligated contributions, rent-seeking took off. At first it took place peacefully, chieftains gaining more *staðir* and chiefdoms through family ties, gifts, power sharing, etc. But later it became an armed struggle. The chieftains gained followers and raised armies at great expense in the hope that newly acquired properties and larger tax areas would bring in even greater revenue. In the end it was political chaos resulting from this that made the farmer choose the king as their ruler.¹⁸⁸

Even though the king may not have been a better ruler than the warlords in actuality, he was supposed to have been. The Old Covenant of 1262-4 is an explicit and detailed agreement that has clauses guaranteeing a legislature for the commons and light taxation. The king, like the previous rulers, did not live up to the agreement. There was actually no need for him to do so, since all competition for the rents had been outlawed.

expenditures. The big farmers, on the other hand, seem to have been wealthy men who lived on prosperous church farms and made a profit by managing the church's property. Some of these men figured in the struggle for power between the *goðar* families, and one of the Sturlunga sagas, *Svinfellinga saga*, tells of a prosperous church farmer who killed his *goði*" (1979:57).

¹⁸⁸ It has often been suggested by some historians that the various kings in Norway always wanted to gain hold of Iceland, but that for some reason never managed to achieve their goal. Icelandic historians, earlier ones especially, tended to claim that it was patriotism on the part of the Icelanders that prevented the kings from this. But then in the 13th century the chieftains committed treason and abandoned patriotism in favor of Royal privileges. Their explanation is, of course, not convincing and has therefore been rejected by modern historians (See LINDAL 1964). But the claim concerning the kings' goal may still be salvaged though. If, as claimed, the kings wanted to gain Iceland as part of their kingdom, then the progress in technology was surely on their side in the longer-run. The kings may simply not have been able to achieve their goal in the 11th and 12th centuries because of transportation and communication difficulties. By the 13th century, however, technology, especially in shipping, had advanced so much that the goal became achievable. This advance in technology gives the kings' intentions, at least, some plausibility.

CHAPTER

SEVEN

CONCLUSION

"It is as if the universe designed an experiment to test the theories of Hobbes and Rousseau and was kind enough to provide for the presence of intelligent and sophisticated observers, the saga writers, to record the results." (Miller 1990:5-6)

"The Icelandic Commonwealth is particularly interesting because it seems to refute Hobbes' contention. It was a stateless society in the Weberian, and Hobbesian, sense." (Gissurason 1990:15)

The Commonwealth Experience.

I have in the preceding chapters presented an alternative account of the Icelandic Commonwealth. I began by discussing the concept of cooperation and its evolution, building on the work of Axelrod (1984) and Vanberg and Buchanan (1989). This evolutionary theory offered a more fruitful and convincing explanation of the rise of the institutional structure of the Commonwealth than the constructivist theory. Next,

I put the theory to the test of actually explaining the rise of the institutional structure.

I found that the theory was highly informative in application and was able to account for Iceland's institutional structure. Reciprocal behaviour on the part of the Icelanders initiated and created the cooperative institutional system.¹⁸⁹ This system began shaping about 930 and was in place by 960-5 and for almost two centuries the structure seemed to be stable and manifesting certain behavioural regularities.

The institutional structure remained almost unchanged for some 300 years, but its effectiveness deteriorated as time went on. The key to the stability of the system in the earlier half of the period are found in the encouragement of reciprocal behaviour, where the future repeated engagements are important enough to discourage defections. The system's main institutions were the *þings*, based on the *Goði-þingmann* or chieftaincy, and the *Hreppur*, a compulsory communal unit for collective action and decision making.¹⁹⁰ Despite the system having some features of centralization, such as the *Lögrétta* and the *Hreppar*, the structure is thoroughly decentralized. This decentralization is best manifested in the voluntary choice of chieftain's by the farmers and the unanimous requirement of rectification of the changes in the law; the participation of the whole population, excluding slaves and women was therefore required for the structure's operation. The system in its earliest stages was also well balanced, in the delegations followed each chieftain were roughly equal in

¹⁸⁹ Jóhannesson (1956:71) had suggested that reciprocity was what initiated the structure.

¹⁹⁰ It might be more proper to say that the *Goðorð*, the chieftaincy, rather than the local *þing* was base of the structure, since it was through the chieftaincies that the population was connected to the *þings* and the rest of the structure.

It is also interesting to note that the *Hreppar* continued to be the forum for grass-root democracy in Iceland all the way to 1809.

number. As the population expanded, deliberate attempts were made by the chieftains to accommodate this. The structure was therefore modified in the 960s, but the accommodation was only temporary and the balance it achieved was eventually lost. Along with expanding population, the chieftain's position as arbitrators and owners of temples/churches may have strengthened their position with respect to their followers. In the latter half of the eleventh century the system had likely become so skewed that the chieftains, at the Church's initiative, were able to force taxation upon the general population.

It seems that the chieftains had of necessity been keen on establishing good relations with their farmers, offering help in adjudicating, arbitrating and enforcing their legal cases and asking for little in return except the equivalent of the chieftain's foregone cost. As time went by the chieftains realized the advantage of their privileged status and combined the sale of legal and religious services for their own benefit. In so doing the chieftains sought out a better paying opportunity form of rent-seeking and in turn defected on their long term obligations to the farmers. By the last decade of the eleventh century the chieftains were able to use their position to introduce the tithe, obligating all farmers of wealth to make a yearly payment to the chieftains, other richer farmers, and the Church, of one percentile of their wealth.

In essence, rent-seeking (defection) became more profitable for the chieftains than long-term reciprocal behaviour.¹⁹¹ Reciprocity, fruitful in establishing Iceland's

¹⁹¹ In a sense the chieftains had become the ruling group that oversaw the enforcement mechanism of the law. The relations between the free-farmers no longer relied as heavily on continuous dealings between the farmers, but rather on such relations between the *Goðar*. As Tullock (1972) suggests, this new situation relies overall less on reciprocity and continuous dealings and there is always a temptation here for the rulers to defect on the dealings, even at the cost of lesser production. The temptation is greater here since larger amounts are involved. In essence, therefore, reciprocity

institutional structure, lost its importance and such behaviour diminished. This is not to say that the chieftains were able to do whatever they desired without the farmer's approval. Rather, the farmer's support became less important to the chieftains, since their choice of another chieftain became meaningless. The tied sales of legal and religious services established the chieftains as local monopolies, as minimal states. These minimal states now competed for more territory, and population, and, most importantly, more chieftaincies and *staðir*. The minimal states became fewer and fewer as the surviving ones triumphed in their advancements. By the early thirteenth century civil war on a limited scale had begun on the island and the end was near. Through the struggle for wealth and power the chieftains mostly killed each other, killing some of their armed followers also, and by 1250 only a few chiefdoms and even fewer chieftains survived. By that time the king of Norway had established a foothold in the country, overtaking some chieftainships; the king became determined to overtake them all. The king triumphed in his endeavour by the voluntary choice of the Icelandic farmers, who were tired of the continuous struggle and outdated institutional structure. In 1262 the farmers in the North and the South confirmed the agreement with the king, the farmers of the Western Quarter in 1263 and in 1264 the Eastern farmers joined the others with some reluctance, since their area had for the most part escaped the war.

I have already discussed above what went wrong in the Commonwealth, but have not offered an overall judgement of its performance. Such an overall judgement

and continuous dealings are less important after a ruling class is established, than before, and the danger of breakdown, or rather defection, are more probable. The new situation is still Hobbesian, i.e. it is still a jungle.

It may be that what is needed is for someone to police the police (the *Goðar*), i.e. a separation of powers may be what is needed, but a lack of this is hardly a cause here.

can only be discussed in a comparative way; by comparing the level of cooperation in it to some alternative, whether of that era or modern.

Probably the most amazing thing about the development of the Icelandic structure is to be found in the people that formed it. The Icelanders were, for the most part, vikings and seafarers; a group hardly known for cooperative behaviour. In fact, though, it should not be all that surprising that this group of people developed such a structure. Modern historians have come to the conclusion that the vikings were not as barbaric as the Anglo-Saxon chroniclers would lead us to believe (Jones 1984; Sawyer 1971). Yet, medieval societies, as we know them, were relatively violent, with or without the vikings. In England, for example, the period from about 800 to 1200 is a period of continuous struggle; high in both violence and killings. In Norway, also, the period from about 850-1200 is one of continuous struggle, although less so than in England. A brief comparison of the Icelandic society, especially in its earlier half, suggests that it was more peaceful and cooperative than its contemporaries. In fact Icelandic society was no more violent than the modern U.S. (Friedman 1979).

Although it would be wrong to describe the Commonwealth as a democratic society, which it surely was not, it was probably more so than its contemporaries. There was of course a "democratic" tradition in the Germanic tribes, but the English, for example, had fewer rights and less voice in their society than did the Icelanders. The Commonwealth was also much more individualistic, this showing itself in the institution of private property and equality before the law, than were contemporary societies. In comparison with modern societies, of course, Iceland falls short; there

were no voting rights, slaves and women were second class citizens, and there certainly was no right to privacy.

As for the Icelandic economy in the Commonwealth period the sources are mostly silent on that matter. Most historians, though, agree that the economy was fairly prosperous, at least early on, and even in the latter half it compared favourably with that of its neighbours (Þorsteinsson 1966). Because of the sources' silence, though, any generalization about the Commonwealth economy can, at this time, be no more than an educated guess.

ANARCHY OR STATE.

"Was the old Icelandic Commonwealth a state?Max Weber conceived of the state as an authority holding a monopoly of power in a given area. Since there was no one such authority in Iceland, the Commonwealth was clearly not a state in a Weberian sense.... Hegel conceived of the state as the force or principle which unifies a group, makes it a coherent whole. In this Hegelian sense, the Icelandic Commonwealth was certainly a state. It was defined by its culture and its law; it was a coherent whole." (Gissurarson 1990:15)

An interesting question on the Commonwealth is whether we should consider the experience as an experiment in a stateless order or not. My discussion has shown that the Commonwealth did have, what we could call, legislative and judicial branches of government, but no executive branch.¹⁹² Does this lack of an executive branch

¹⁹² The legislative branch, of course, is not the same as we have in the twentieth century. As we discussed in chapter 4 the Commonwealth's Law Council rectified the law, but did not create and pass legislation as modern day legislatures do. On this see Lindal (1984).

qualify the Commonwealth as a stateless structure, or does the presence of the other two branches mean that it has to be considered a form of a state?

Measured against Max Weber's definition of the state as holding monopoly of power in a given area, the Commonwealth is not a state; it is in Weber's terms a stateless order.¹⁹³ Anthropologists in studying primitive societies have come to the conclusion that societies made up of chieftainships or chiefdoms are not states: "Chiefdoms are neither stateless nor state societies in the fullest sense of either term: they are on the borderline between the two. Having emerged out of stateless systems, they give the impression of being on their way to centralized states and exhibit characteristics of both" (Y. Cohen 1978:73). Since the Commonwealth is made up of chiefdoms it seems that the anthropologist, too, would describe it as lacking a state. The only field that would consider the Commonwealth a state is philosophy, and then only some philosophers.

But whether the Commonwealth does or does not qualify as a stateless order according to the several disciplines, its structure was quite different from what we are accustomed to nowadays. The Commonwealth was a decentralized structure, based

¹⁹³ Others, like Taylor, define the state similarly to Weber:

"I have said that a necessary condition for a *pure anarchy* is that there is no concentration of force at all. A society of the sort I have just described, where there is a limited concentration of force but no means of enforcing collective decisions, is the closest empirical approximation and I shall call it an *anarchy*."

Some anthropologists have been unwilling to concede that even primitive societies of this kind are anarchies. This is because they give a functional account of the state, characterizing it by what it importantly does, and then argue that since these things get done in all primitive societies, including the alleged anarchies, they cannot after all be anarchic or stateless." (Taylor 1982:7)

"Just as long as the occupants of the political roles which emerge in the early development of political specialisation are not backed by organized force, so cannot enforce their decisions throughout the community, I shall say we are still dealing with a stateless society." (Taylor 1982:9)

mostly on voluntary cooperation,¹⁹⁴ and enforcements of judgements were private. In both these respects it is in sharp contrast to modern societies and it is in this that most of the interest lies on my part. This is also where I would expect that we could learn the most from.

¹⁹⁴ The exception was seen in the organization of the *Hreppar*; there cooperation was compulsory. In a sense it could be said that if the legal and judicial structure of the Commonwealth would qualify as a stateless structure, then the *Hreppar* within the structure would surely not. The *Hreppur* was to provide for all those within the unit that could not provide for themselves and had no relatives within the unit to provide for them. All free-men without landed property were also required by law to establish a "legal address" so that no doubt would surface as to who were to provide for them. Although the islanders were well-to-do they did live on a rough island where survival depended could be hard. The law on compulsory residency is therefore explainable and even justified.

The *Hreppar* were to some extent miniature states or mini-welfare states (see Gissurason 1990:17). The forced cooperation through the *Hreppar*, within an otherwise voluntary associated structure, and residency requirement also make it harder for anyone to claim that the Commonwealth was in any significant way an example of libertarianism in practice.

BIBLIOGRAPHY

- Agnarsdóttir, A. and R. Árnason. 1983. "Þrælahaald á Þjóðveldisöld," Saga, 21, 5-26.
- Alchian, Armen A. 1965. "Some Economics of Property Rights," in Economic Forces at Work. Indianapolis:Liberty Press. 1977.
- Alchian, A. and Demsetz, H. 1973. "The Property Rights Paradigm," Journal of Economic History.
- Arnórsson, Einar. 1934. Réttarsaga Alþingis. Reykjavík.
- Axelrod, Robert. 1984. The Evolution of Cooperation. N.Y.:Basic Books.
- Axelrod, Robert. 1986. "An Evolutionary Approach to Norms." Am. Pol. Sc. Review, 80, 1095-1111.
- Barry, Norman. 1982. "The Tradition of Spontaneous Order," in Literature of Liberty, 5, 1982, 7-58.
- Benediktsson, J. ed. 1968a. Íslendingabók. IF 1.
- Benediktsson, J. ed. 1968b. Landnámabók. IF 1.
- Benediktsson, J. 1974. "Landnám og upphaf allsherjarríkis," in Línadal, 1974.
- Benson, Bruce. 1989. The Enterprize of Law. unpublished manuscript, Florida State University.
- Benson, Bruce. 1990. The Enterprise of Law; Justice without the State. San Francisco:Pacific Research Institute for Public Policy.
- Berman, Harold. 1983. Law and Revolution; The Formation of the Western Legal Tradition, Cambridge, Mass.:Harvard University Press.
- Björnsson, Árni. 1975. "Almennir Þjóðhættir," in Línadal (1975).
- The Book of the Settlement of Iceland, (translated from the original Icelandic of Ari the Learned). 1898. Translated by Rev. T. Ellwood. Kendal:T. Wilson, Printer and Publisher.

- Brennan, G.H. and J.M. Buchanan. 1985. The Reason of Rules: Constitutional Political Economy. Cambridge:Cambridge University Press.
- Bröndsted, Johannes. 1987. The Vikings; The Background to a Fierce and Fascinating Civilization. New York:Penugin Books.
- Brooke, Christopher. 1961. From Alfred to Henry III, 871-1272. New York:W W Norton & Company.
- Buchanan, James M. 1975. The Limits of Liberty; Between Anarchy and Leviathan. Chicago:University of Chicago Press.
- Buchanan, James M. 1977. Freedom in the Constitutional Contract. Texas A&M.
- Buchanan, James M. 1980a. "Rent Seeking and Profit Seeking," in Buchanan, et. al. (1980).
- Buchanan, James M. 1984. "Politics without Romance: A Sketch of Positive Public Choice Theory and Its Normative Implications," in Buchanan and Tollison (1984).
- Buchanan, James M. 1987. Economics; Between predictive science and moral philosophy. Texas A&M University Press.
- Buchanan, James M. 1987a. "The Qualities of a Natural Economist," in Rowley, ed. (1987).
- Buchanan, James M. 1987b. "An Economic Theory of Clubs," in Buchanan (1987).
- Buchanan, James M. 1987c. "Constitutional Economics," The New Palgrave.
- Buchanan, James M. 1989. "The Domain of Constitutional Economics," in Constitutional Political Economy, vol. 1, no. 1, Winter 1990, 1-18.
- Buchanan, J.M. and G. Tullock. 1962. The Calculus of Consent. Ann Arbor:University of Michigan Press.
- Buchanan, J.M., R.D. Tollison and G. Tullock, eds. 1980. Toward a Theory of the Rent-Seeking Society. College Station:Texas A&M University.
- Buchanan, J.M. and R.D. Tollison, eds. 1984. The Theory of Public Choice-II, Ann Arbor:The University of Michigan Press.
- Byock, Jesse. 1988. Medieval Iceland. Berkeley: Univ. of California Press.

- Chadwick, N. 1971. The Celts. New York: Penguin Books.
- Christensen, Arne Emil. 1984. "Boats and Boatbuilding in Western Norway and the Islands," in Fenton and Pálsson, 1984.
- Cippola, Carlo. M. 1972. The Fontana Economic History of Europe: The Middle Ages. London:Collins/Fontana.
- Cohen, Yehudi A. comp. 1974. Man in Adaptation; The Cultural Present. Chicago: Aldine Publishing Company.
- Cohen, R. & Toland, J. eds. 1988. State Formation and Political Legitimacy. Political Anthropology, Vol. VI, New Brunswick:Transaction Books.
- Cowen, Tyler, ed. 1988. The Theory of Market Failure: A Critical Examination, Fairfax, VA:George Mason University Press.
- Cowen, Tyler. 1988a. "Public Goods and Externalities: Old and New Perspectives," in Cowen (1988).
- Cowen, T. and Kavka, G. 1990. "The Public Goods Rationale for Government and the Circularity Problem," Unpublished manuscript, George Mason University.
- Demsetz, Harold. 1967. "Towards a Theory of Property Rights," American Economic Review, Vol. LVIII, No. 2.
- Eggertsson, Thráinn. 1990. Economic Behavior and Institutions. Cambridge:Cambridge University Press.
- Ekelund, R.B. and R.D. Tollison. 1981. Mercantilism as a Rent-Seeking Society: Economic Regulation in Historical Perspective, College Station:Texas A&M University Press.
- Eldjárn, Kristján. 1974. "Fornþjóð og minjar," in Línadal, 1974.
- Eldjárn, Kristján. 1984. "Graves and Grave Goods: Survey and Evaluation," in Fenton and Pálsson, 1984.
- Fenton, A. and Pálsson, H. 1984. The Northern and Western Isles in the Viking World: Survival, Continuity and Change. Edinburgh:John Donald Publishers Ltd.
- Foote, P. and Wilson D. M. 1970. The Viking Achievement; The society and culture of early medieval Scandinavia. London:Sidwick & Jackson.

- Foote, Peter. 1977. "Þrælahald á Íslandi," in Saga, 15, 41-74.
- Fridriksson, Fridrik. 1982. "The Rise and Decline of the Icelandic Commonwealth," M.A. Theses, Dept. of Economics, Virginia Polytechnic Institute and State University.
- Friedman, David. 1979. "Private Creation and Enforcement of Law: A Historical Case," J. of Legal Studies, 8, 399-415.
- Friedman, David. 1984. "Efficient Institutions for the Private Enforcement of Law," JLE, vol. 13, June, 379-397.
- Friedman, David. 1987. "Comment: Problems in the Provision of Public Goods," Harvard Journal of Law and Public Policy, 10(2), 505-520.
- Friedman, David. 1989a. "Viking Iceland: Anarchy that Worked," Liberty, vol. 2, no. 6, July, 37-40.
- Friedman, David. 1989b. The Machinery of Freedom. 2nd ed. Open Court Publishing.
- Furubotn, E. and Pejovich, S. 1972. "Property Rights and Economic Theory; A Survey of recent Literature," in Manne, H. ed., The Economics of Legal Relationships. St. Paul:West Publishing Co. 53-65, 1975.
- Gelsinger, Bruce. 1981. Icelandic Enterprise: Commerce and Economy in the Middle Ages. Columbia: Univ. of South Carolina Press.
- Gíslason, Gísli. 1944. Íslenskt stjórnarfar á síðustu öld þjóðveldisins. Reykjavík:Sigríður Þórarinsdóttir.
- Gissurarson, Hannes H. 1990. "Chapter One: The Libertarian Heritage," ms., University of Iceland.
- (Grágás) Laws of Early Iceland: Grágás I. Trans. Andrew Dennis, Peter Foote, and Richard Perkins. Univ. of Manitoba Icelandic Studies 3. Winnipeg: Univ. of Manitoba press, 1980.
- Grímsdóttir, Guðrún Á. 1984. "Um afskipti erkibiskupa af íslenskum málefnum á 12. og 13. öld"
- Guðmundsson, Barði. 1969. Uppruni Íslendinga. Reykjavík.

- Guðmundsson, G. 1981. Eignarhald á Afréttum og Almenningum. Reykjavík: Sagnfræðistofnun.
- Hampton, Jean. 1987. "Free-Rider Problems in the Production of Collective Goods," Economics and Philosophy, 3, 245-273.
- Hardin, Russell. 1982. Collective Action. Baltimore:John Hopkins Univ. Press.
- Hastrup, K. 1985. Culture and History in Medieval Iceland. Oxford: Clarendon Press.
- Hayek, F. A. 1964. "Kinds of Order in Society, in the New Individualist Review, 3, 1964, 3-12.
- Hayek, F.A. 1967. Studies in Philosophy, Politics and Economics, Chicago:University of Chicago Press.
- Hayek, F.A. 1967a. "Rules, Perception and Intelligibility," in Hayek 1967.
- Hayek, F.A. 1967b. "Notes on the Evolution of the Systems of the Rules of Conduct," in Hayek, 1967.
- Hayek, F.A. 1967c. "The Result of Human Action but not of Human Design," in Hayek, 1967.
- Hayek, F.A. 1973. Law, Legislation, and Liberty; Rules and Order, vol 1, Chicago:University of Chicago Press.
- Hayek, F.A. 1976. Law, Legislation, and Liberty; The Mirage of Social Justice, vol. 2, Chicago:University of Chicago Press.
- Hayek, F.A. 1979. Law, Legislation, and Liberty; The Political Order of a Free People, vol. 3, Chicago:University of Chicago Press.
- Hodges, Richard. 1982 . Dark Age Economics: The origins of towns and trade A.D. 600-1000. New York:St. Martin's Press.
- Hodgson, Geoffrey. 1988. Economics and Institutions - A Manifesto for a Modern Institutional Economics. Philadelphia:University of Pennsylvania press.
- Horwitz, Steve. 1989. The Private Basis of Monetary Order: An Evolutionary Approach to Money and the Market Process, unpublished Ph.D. dissertation, Economics Department, George Mason University.

- Ingvarsson, Lúðvík. 1970. Refsingar á Íslandi á Þjóðveldistímanum. Reykjavík: Bókaútgáfa Menningarsjóðs.
- Ingvarsson, Lúðvík. 1986. Goðorð og Goðorðsmenn. 3 Vol. Egilstöðum: Hið íslenska bókmenntafélag.
- Íslendingabók, by Ari Þorgilsson. Ed. Jakob Benediktsson. ÍF 1. 1968.
- (Íslendingabók) The Book of Icelanders (Íslendingabók), by Ari Þorgilsson. Ed. and trans. Halldór Hermannsson. *Islandica* 20. Ithaca: Cornell University Library, 1930.
- Íslensk Fornrit. Reykjavík: Hið íslenska fornritafélag, 1933- Abbreviated ÍF.
- Jóhannesson, Jón. 1958. Íslendinga Saga. vol. I. Reykjavík: Almenna Bókafélagið.
- Jóhannesson, Jón. 1958. Íslendinga Saga. vol. II. Reykjavík: Almenna Bókafélagið.
- Jóhannesson, Jón. 1974. A History of the Old Icelandic Commonwealth: Íslendinga Saga. Trans. Haraldur Bessason. Univ. of Manitoba Icelandic Studies. Winnipeg: Univ. of Manitoba Press.
- Johnson, Paul. 1972. A History of the English People. New York: Harper & Row Publishers.
- Jones, Eric L. 1987. The European Miracle: Environments, economies, and geopolitics in the history of Europe and Asia. Cambridge: Cambridge University Press.
- Jones, Gwyn. 1984. A History of the Vikings. New York: Oxford Univ. Press.
- Karlsson, Gunnar. 1972. "Goðar og Bændur," Saga 10(1972), 5-57.
- Karlsson, Gunnar. 1974. "Frá Þjóðveldi til Konungsríkis," in Línadal, 1974, vol. 2, 1975, pp. 3-54.
- Klein, Daniel. 1987. "Tie-ins and the Market Provision of Collective Goods," Harvard Journal of Law and Public Policy, 10(2), 451-474.
- Kristjánsson, Jónas. 1974. "Bókmenntasaga," in Línadal, 1974, Part 1 in vol. 2, 1975, pp. 147-259. Part 2 in vol. 3, 1978, pp. 261-350.
- Kristjánsson, Jónas. 1988. Eddas and Sagas; Iceland's Medieval Literature. Translated by Peter Foote. Reykjavík: Hið íslenska Bókmenntafélag.

- Krueger, Anne O. 1974. "The Political Economy of the Rent-Seeking Society," in AER, 64, June, 291-303.
- Lachmann, Ludwig. 1986. The Market as an Economic Process. New York: Basil Blackwell.
- Landnámabók (Book of Settlements) ÍF 1. See Íslendingabók.
- Langlois, Richard N. ed. 1986. Economics as a Process; Essays in the New Institutional Economics. Cambridge: Cambridge University Press.
- Lárusson, Ólafur. 1932. Yfirlit yfir Íslenska Réttarsögu. Reykjavík.
- Lárusson, Ólafur. 1944. Byggð og Saga. Reykjavík: Ísafoldarprentsmiðja.
- Liggio, Leonard P. 1977. "The Transportation of Criminals: A Brief Political-Economic History," in Barnett et.al., eds. Assessing the Criminal - Restitution, Retribution, and the Legal Process. Cambridge, Mass.: Ballinger.
- Líndal, Sigurður. 1964. "Utánríkisstefna íslendinga á 13. öld og aðdragandi sáttmálans 1262-64" in Úlfliótur, 17, 5-36.
- Líndal, Sigurður. 1969. "Sendiför Úlflióts," Skírnir, 143, 5-26.
- Líndal, Sigurður, ed. 1974. Saga Íslands. vol. 1. Reykjavík: Hið íslenska bókmenntafélag & Sögufélagið.
- Líndal, Sigurður. 1974b. "Upphaf Kristni og Kirkju," in Líndal, 1974.
- Líndal, Sigurður, ed. 1975. Saga Íslands. vol. 2. Reykjavík: Hið íslenska bókmenntafélag & Sögufélagið.
- Líndal, Sigurður, ed. 1978. Saga Íslands. vol. 3. Reykjavík: Hið íslenska bókmenntafélag & Sögufélagið.
- Líndal, Sigurður. 1981. "Early Democratic Traditions in the Nordic Countries," in E. Allart, et.al., eds., Nordic Democracy: Ideas, Issues, and Institutions in Politics, Economy, Education, Social and Cultural Affairs of Denmark, Finland, Iceland, Norway, and Sweden. Copenhagen: Det Danske Selskab.
- Líndal, Sigurður. 1984. "Lög og Lagasetning í Íslenska Þjóðveldinu," Skírnir, 158, 121-158.

- Maine, Henry S. 1986. Ancient Law; Its Connection with the Early History of Society, and Its Relation to Modern Ideas, Tucson: University of Arizona Press (first ed. 1864).
- Manne, Henry G. 1975. The Economics of Legal Relationships. St. Paul:West Publishing Co.
- Maurer, Konrad. 1864. "Graagaas," in Allgemeine Encyclopadie der Wissenschaften und Kunste 77, 10-22.
- Maurer, Konrad. 1882. Upphaf allshrejarrikis á Íslandi og stjórnskipunar þess, Reykjavík:Prentsmiðja Ísafoldar.
- Maurer, Konrad. 1908. Vorlesungen über altnordische Rechtsgeschichte II; Über altnordische Kirchenverfassung und Eherecht, Leipzig.
- Maurer, Konrad. 1909. Vorlesungen über altnordische Rechtsgeschichte IV; Das Staatsrecht des isländischen Freistaats, München.
- Maurer, Konrad. 1910. Vorlesungen über altnordische Rechtsgeschichte V; Altislandisches Strafrecht und Gerichtswesen, Leipzig.
- Menger, Carl. 1981. Principles of Economics. New York:New York University Press.
- Menger, Carl. 1984. "The Origin of Money." Greenwich:Committee for Monetary Research and Education, Inc.
- Menger, Carl. 1985. Investigations into the Method of the Social Sciences, with special reference to Economics. New York:New York University Press.
- Miller, William. 1984. "Avoiding Legal Judgement: The Submission of Disputes to Arbitration in Medieval Iceland," The American Journal of Legal History, vol. 28, 95-134.
- Miller, William. 1988a. "Ordeal in Iceland," Scandinavian Studies, 60, 189-218.
- Miller, William. 1990. Bloodtaking and Peacemaking: Feud, Law, and Society in Saga Iceland. Chicago:University of Chicago Press.
- Mises, Ludwig von. 1957. Theory and History; An Interpretation of Social and Economic Evolution. Washington, D.C.:The Ludwig von Mises Institute.

- Morris, W. A. 1910. The Frankpledge System. New York:Longmans, Green, and Co.
- Mueller, Dennis C. 1989. Public Choice II. Cambridge:Cambridge University Press.
- Mumy, Gene E. 1987. "What Does Nozick's Minimal State Do?" Economics and Philosophy, 3, 275-305.
- Nordal, Sigurður. 1942. Íslensk Menning. vol. 1. Reykjavík: Mál og Menning.
- North, D. C. and Thomas, R. P. 1973. The Rise of the Western World; A New Economic History. Cambridge:Cambridge University Press.
- North, Douglas. 1990. Institutions, Institutional Change and Economic Performance. Cambridge:Cambridge University Press.
- Nozick, Robert. 1974. Anarchy, State, and Utopia. New York:Basic Books.
- Olgeirsson, Einar. 1954. Ættarsamfélag og Ríkisvald í Þjóðveldi Íslendinga. Reykjavík:Heimskringla.
- Olson, Mancur. 1965. The Logic of Collective Action: Public Goods and the Theory of Groups. Cambridge, Mass.:Harvard University Press.
- Olson, Mancur. 1983. The Rise and Decline of Nations; Economic Growth, Stagflation, and Social Rigidities.
- Peden, Joseph. 1971. "Stateless Societies: Ancient Ireland," The Libertarian Forum, April, 3-4.
- Pejovich, Svetozar. 1972. "Towards an Economic Theory of the Creation and Specification of Property Rights," in Manne, 1975.
- Pollock, F. and Maitland, F. 1959. History of English Law. Washington, D.C.:Lawyer's Literary Society.
- Posner, R. 1981. The Economics of Justice. Cambridge:Harvard University Press.
- Rapoport, Anatol. 1988. "Editorial Comment on the Article by Hirshleifer and Martinez Coll," Journal of Conflict Resolution, vol. 32, no. 2, June, 399-401.
- Reynolds, Susan. 1984. Kingdoms and Communities in Western Europe, 900-1300. Oxford:Clarendon Press.

- Rowley, Charles, ed. 1987. Democracy and Public Choice. New York: Basil Blackwell.
- Rowley, C., R. Tollison and G. Tullock, eds. 1988. The Political Economy of Rent-Seeking. Boston: Kluwer Academic Publishers.
- Ruth, Roy H. 1965. The Vinland Voyages; The first written Canadian history. Winnipeg: Columbia Printers Ltd.
- Sawyer, P. H. 1971. The Age of the Vikings. New York: St. Martin's Press.
- Schotter, A. 1981. The Economic Theory of Social Institutions. Cambridge: Cambridge University Press.
- Searle, E. 1986. Predatory Kinship and the Creation of Norman Power, 840-1066. Oxford: Clarendon Press.
- Sigurðsson, Jón Viðar. 1989. Frá Goðorðum til Ríkja; þróun goðavalds á 12. og 13. öld. Reykjavík: Bókaútgáfa Menningarsjóðs.
- Stefánsson, Magnús. 1975. "Kirkjuvald Eflist," in Línal, 1975.
- Stenton, F. M. 1943. Anglo-Saxon England. London.
- Stocklund, Bjarne. 1984. "Building Traditions in the Northern World," in Fenton and Pálsson, 1984.
- Sugden, Robert. 1986. The Economics of Rights, Co-operation and Welfare. Oxford: Basic Blackwell.
- Taswell-Langmead, Thomas Pitt. 1896. English Constitutional History; From the Teutonic Conquest to the Present Time. London: Stevens & Haynes.
- Taylor, Michael. 1982. Community, Anarchy and Liberty. Cambridge: Cambridge Univ. Press.
- Taylor, Michael. 1984. "Social Order Without the State," in Holtermann & Maarseveen, eds. 1984. Law and Anarchism. Montreal: Black Rose Books.
- Taylor, Michael. 1987. The Possibility of Cooperation. Cambridge: Cambridge University Press.
- Tollison, Robert D. 1987. "Is the Theory of Rent-Seeking Here to Stay," in Rowley 1987.

- Tullock, Gordon. 1967. "Welfare Costs of Tariffs, Monopolies and Theft," in Western Economic Journal, 5, June, 224-232.
- Tullock, Gordon. 1971. "The Cost of Transfers," in Kyklos, 4, December, 629-643.
- Tullock, Gordon. 1972. "The Edge of the Jungle," in Tullock, ed. Explorations in the Theory of Anarchy. Blacksburg:Center for Study of Public Choice.
- Tullock, Gordon. 1989. The Economics of Special Privilege and Rent-Seeking. Boston:Kluwer Academic Publishers.
- Ullman-Margalit, Edna. 1977. The Emergence of Norms. Oxford:Clarendon Press.
- Ullman-Margalit, Edna. 1978. "Invisible-Hand Explanations," in Synthese, 39, 1978, 263-291.
- Vanberg, Viktor. 1986. "Spontaneous Market Order and Social Rules; A Critical Examination of F. A. Hayek's Theory of cultural Evolution," in Economics and Philosophy, 2, 1986, 75-100.
- Vanberg, Viktor. 1988. "Carl Menger's Evolutionary and John R. Commons's Collective Action Approach to Institutions: A Comparison." Center for the Study of Public Choice, George Mason University. (Mimeographed).
- Vanberg, Viktor. 1989. "Rational Choice, Rule-Following and Institutions: An Evolutionary Perspective," mimeographed, Center for the Study of Public Choice.
- Vanberg, Viktor & Buchanan, James. 1988. "Rational Choice and Moral Order," Analyse & Kritik, vol. 10, 138-160. Reprinted in J. H. Nichols, Jr. and C. Wright, eds. From Political Economy to Economics; and Back?, San Francisco:ICS Press 1990.
- White, Lynn. 1964. Medieval Technology and Social Change. New York:Oxford University Press.
- White, Lynn. 1972. "Medieval technology and change," in Cipolla 1972.
- White, Lynn. 1978. Medieval Religion and Technology: Collected essays. Berkeley:University of California Press.
- Wylie, Jonathan. 1987. The Faroe Islands; Interpretations of History. Lexington:The University Press of Kentucky.

- Þorláksson, Helgi. 1982a. "Rómarvald og kirkjugoðar," in Skírnir, 156, 51-67.
- Þorláksson, Helgi. 1982b. "Stéttir, auður og völd á 12. og 13. öld," in Saga, 20, 1982, 63-113.
- Þorsteinsson, Björn. 1953. Íslenska Þjóðveldið. Reykjavík: Heimskringla.
- Þorsteinsson, Björn. 1966. Ný Íslandssaga. Reykjavík: Heimskringla.
- Þorsteinsson, Björn. 1980. Íslensk Miðaldasaga. Reykjavík: Sögufélag.

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