

THE ROLE OF ARBITRATION IN THE SETTLEMENT OF DISPUTES IN ICELAND C. 1000-1300

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1. Introduction

In his book *State and Society in Medieval Europe*, James Given claims that ‘[i]f we are interested in examining the dialectical relationship between state and society, in discovering the ways in which political and social structures shaped one another, we can find few other occasions where the issues are posed as clearly and as dramatically as when one previously independent region was brought under the control of an outside political organization’.¹ This is clearly the case with Iceland. In the years 1262-1264 the country became a part of the Norwegian kingdom. Following that, Iceland received two new law-books in quick succession: *Járnsíða* (1271) and *Jónsbók* (1281), which replaced the laws of the Free State (c. 930-1264) collected in *Grágás*. With these two law codes the Norwegian administrative and legal system was implemented in Iceland. The new layers of jurisdiction brought about major changes in Icelandic society; many common features of the Free State political structure disappeared virtually overnight. In the following we will discuss the most important method of settling disputes in the Free State period – that is, arbitration (*gerð*) – and its decline after Icelandic submission to Norway.

1. J. Given, *State and Society in Medieval Europe. Gwynedd and Languedoc under Outside Rule*. The Wilder House Series in Politics, History, and Culture (Ithaca: 1990), 10.

2. The role of arbitration in Iceland c. 1000-1250

The introduction of Christianity at the General Assembly in the year 999 or 1000 illustrates how effective and significant arbitration was in the Free State society. At that time, a confrontation arose between the heathen and Christian members of the General Assembly, and ‘one man after another named witnesses, and each side, the Christians and the heathens, declared itself under separate laws from the other’. They then left Lögberg, the Law Rock from which speeches were made at Þingvellir.² The Christians asked Hallr of Síða to proclaim their law, but instead he persuaded the Lawspeaker, Þorgeirr Þorkelsson Ljósvetningagoði, who was still a heathen, to do this. Þorgeirr considered the case for a day and a night. After that, he gathered the members of the assembly at Lögberg, declaring that without a compromise, ‘fights would take place between people by which the land be laid waste’. He then said ‘that we too do not let those who most wish to oppose each other prevail, and let us arbitrate between them, so that each side has its own way in something.’³ Before he delivered his decision, Þorgeirr was given pledges by the disputing parties that they would accept his conclusion. It was then made law that all people should be Christian and ‘that those in the country who had not yet been baptised should receive baptism; but the old laws should stand as regards the exposure of children and the eating of horse-flesh.’⁴ This dramatic narrative from Ari’s *Íslendingabók* (c. 1125) shows us how arbitration allowed the Free State to avoid a political split, as both Christians and those who followed the old faith agreed that the chieftain (*goði*) and Lawspeaker Þorgeirr Ljósvetningagoði, in his capacity as arbitrator, should decide which faith ‘and which laws’ Icelanders should follow.

In the following discussion I will treat all disputes alike without differentiating them, as for example between feuds and other disputes.⁵ My aim is to

2. *Íslendingabók, Landnámabók*, ed. J. Benediktsson. Íslenzk fornrit I (Reykjavík: 1968), 16: ‘nefndi annarr maðr at qðrum vátta, ok soðusk hvárir yr lögum við aðra, enir kristnu menn ok enir heiðnu’. Translation from *Íslendingabók. Kristni saga. The Book of the Icelanders. The Story of the Conversion*, transl. S. Grønlie. Viking Society for Northern Research (London: 2006), 8.
3. *Íslendingabók, Landnámabók*, 17, ‘barsmiðir gørðisk á miðli mann, es landit eyddisk af ...’at vér látim ok eigi þá ráða, es mest vilja í gegn gangask, ok miðlum svá mál á miðli þeira, at hváirtveggju hafi nakkvat sín máls’
4. *Íslendingabók, Landnámabók*, 17, ‘at allir menn skyldi kristnir vesa ok skírn taka, þeir es áðr váru óskírðir á landi hér; en of barnaútburð skyldu standa en fornu lög ok of hrossakjotsát.’
5. The sagas I am using as sources for this article include the Icelandic family sagas (*Ljósvetninga saga, Hrafnkels saga Freysgoða, Laxdæla saga, Brennu-Njáls saga* and *Eyrbyggja saga*), which describe events that occurred in the period c. 930-1030, and the contemporary sagas (*Þorgils saga ok Hafliða, Sturlu saga, Prestssaga Guðmundar góða, Guðmundar saga dýra, Íslendinga saga, Þórðar saga kakala, Þor-*

discuss how conflicts in general were settled. A conflict is defined here as a dispute about rights and interests between individuals or groups. It arises when the injured party reacts and tries to defend his right. The dispute may develop in many ways, and the end is marked by a *lasting* settlement.

In the Icelandic Free State, chieftains and householders were bound to one another by strong mutual ties of friendship (*vinátta*). The householders were expected to support their chieftains in their political struggles. In return, the chieftains were expected to uphold the peace in the regions they controlled, settling conflicts between their friends and supporting them in disputes with friends of other chieftains.⁶

In a conflict with a friend of another chieftain, the householder would go for help to his own chieftain, who would then take over the case. The soundness of the case or the underlying circumstances were of secondary importance; because of the mutual ties of friendship the chieftain was obliged to give aid to his friend. Refusal to do so would send out a signal to all his other friends that his support in the future was uncertain – a particularly serious matter because in the Free State society, householders could change chieftains if they felt their current chieftain was not going to give them the aid they needed. Conversely, a chieftain who could protect his friends would in future gain more support, because more householders would want to become his friends. Thus, the outcome of disputes significantly affected the status and the honour of chieftains.

When a conflict arose, mediators usually appeared on the scene. Mediators were persons who, because they were not directly involved in the conflict, could impartially present information about the development of a conflict between the disputing chieftains and help them reach a decision. The main aim of the mediators was, however, to get the chieftains to guarantee a temporary truce (*grið*) until they could hold a meeting (*sættarfundr*), or get them to send the conflict to arbitration (*gerð*) and to keep the peace until the decision was made known.

Mediators can be divided into three groups: chieftains, church people (this group obviously was absent from the Icelandic family sagas), and finally, householders. In relatively minor disputes, it was primarily householders who mediated. Many of them were friends of one chieftain and at the same time friends or relatives of another chieftain. If the chieftains clashed, a conflict of loyalty arose, and it was the householders' task to act as mediators. They could not support one friend in a conflict against another

gils saga skarða and *Árna saga biskups*), concerning events that took place in the period c. 1120-1290.

6. J.V. Sigurðsson, *Chieftains and Power in the Icelandic Commonwealth*, transl. Jean Lundskær-Nielsen. The Viking Collection 12 (Odense: 1999), 165-70. For the importance of friendship in the Free State society, see J.V. Sigurðsson, *Den vennlige vikingen: Vennskapets makt i Norge og på Island ca. 900-1300* (Oslo: 2010).

friend: ‘we are friends of both and are obliged to intervene’.⁷ In major disputes, chieftains are mentioned as mediators; they rarely mediated in minor cases because this was not considered a task worthy of their status or one that was likely to increase their honour. The servants of the Church, bishops, abbots, and priests, seldom participated in mediation, and most of the cases in which they mediated involved the most powerful chieftains. In many big conflicts, it was often a bishop who either mediated alone or was leading a group of clerical mediators. There were also instances of chieftains, churchmen and householders mediating jointly.

William I. Miller and especially Jesse Byock stress the idea that those who mediated were benevolent men (*góðgjarnir menn*).⁸ Yet mediators did not necessarily have to be kind. They often mediated because they were friends or relatives of the adversary parties and were thus unable to support one against the other without breaching the obligations that **kinship or friendship** placed on them.



Both Byock and Miller further argue that mediators risked becoming objects of revenge or possibly being killed if one of the disputing parties was displeased with the outcome.⁹ Such a conclusion is only possible, however, if one accepts their definition of ‘mediator’. According to this perception, if a householder went to a chieftain to ask him to put an end to a conflict, the latter thereby became a mediator. In my view, however, the chieftain in such a situation was not a mediator but an active participant in the dispute, who was thinking primarily of his own prestige and that of his friend. That chieftain could be a mediator, but only if he did not look out for his own or his householder’s interest and instead, actively sought to be impartial and to persuade the parties to resolve their dispute peacefully. I think it best to confine the position of mediator to those individuals who tried to persuade the parties to resolve disputes through arbitration, direct negotiations or some other method. In arguing that it was common for people to achieve high status because of their activities as mediators, Miller points to such examples as the chieftains Guðmundr dýri and Jón

7. *Ljósvetninga saga með þáttum. Reykdæla saga ok Víga-Skútu. Hreiðars þáttur*, ed. B. Sigfússon. Íslensk fornrit X (Reykjavík: 1940), 136: ‘[e]n vér erum beggja vinir ok skyldir til at ganga vel í milli’.
8. J.L. Byock, *Feud in the Icelandic Saga* (Berkeley: 1982), 90, 102, 260-61; J.L. Byock, *Medieval Iceland. Society, Sagas, and Power* (Berkeley: 1988), 110-11, 177; W.I. Miller, ‘Avoiding Legal Judgment: The Submission of Disputes to Arbitration in Medieval Iceland’, *The American Journal of Legal History* 28 (1984), 95-134, at 102-03.
9. Byock, *Medieval Iceland*, 5-6; W.I. Miller, ‘The Central Feud in Njáls Saga’, in J. Tucker (ed.), *Sagas of the Icelanders. A Book of Essays* (New York: 1989), 292-322, at 305, 308-09.

Loptsson.¹⁰ In my opinion, however, such men were primarily arbitrators, not mediators.

This can be seen clearly in a conflict between the chieftains Hvamm-Sturla and Páll Sölvason around 1180. Páll's wife tried to gouge out one of Hvamm-Sturla's eyes. She did not succeed, but she did wound Sturla in the face. After mediation, Sturla was granted self-judgement, and he asked for a compensation of 240 hundreds – the equivalent of 240 cows. Páll did not accept this and turned to Jón Loptsson, the most powerful chieftain in the country, for help. Jón took up the case and forced Hvamm-Sturla to reduce his demands. Afterwards, he invited Hvamm-Sturla's son, Snorri, to become his foster son, invited Sturla to the anniversary of the church in Oddi, and presented him with gifts. Then the compensation were altered and reduced to 30 hundreds,¹¹ or in other words, an eighth of the sum originally claimed. Jón Loptsson was powerful enough to convince the conflicting parties to accept his judgements as an arbitrator.

We might expect the role of mediator to be highly valued in the sagas. I have, however, only noted one person who was praised for his efforts as a mediator, the chieftain Guðmundr dýri († 1212). Guðmundr was also involved in the final negotiations leading to the settlement of the dispute, meaning that in the sagas I have studied there is no example in of mediation being considered praiseworthy as an activity independent of arbitration.

Sending a case to arbitration was not a particularly formal process. The parties first had to give the arbitrator(s) permission, through a handshake (*handsal*), to pronounce a judgement. Usually, each party nominated an equal number of people to look after their interests. The arbitrators were expected to effect either a verdict (*gerð*) or a reconciliation (*sátt*). If the parties in a dispute tried to influence an arbitrator, according to *Grágás* this should not be honoured; moreover, the wrongdoer was to be punished with three years' exile (*fjörbaugsgarðr*). *Grágás* also states that the arbitrators had to come to a decision. If there were only two arbitrators and they failed to agree, they should draw lots. The arbitrator who won had to swear an oath before making the declaration. They could also pass responsibility to a third judge of their choice. The fact that these paragraphs were set out in *Grágás's Þingskapabáttur*, which had to be recited every year by the Lawspeaker at the General Assembly,¹² shows the importance of arbitration in the Free State society.

10. Miller, 'Avoiding Legal Judgment', 102-03.

11. *Sturlunga saga* I, ed. J. Jóhannesson et al. (Reykjavík: 1946), 114.

12. *Grágás. Stykker, som findes i det Arnemagnæanske haandskrift, nr. 351 fol. Skálholtsbók og en række andre haandskrifter*, ed. V. Finsen (Copenhagen: 1883), 'gerð', 'sátt'; K. Maurer, *Vorlesungen Über Altnordische Rechtsgeschichte V* (Osnabrück: 1938), 678; *Kulturhistorisk leksikon for nordisk middelalder* (Oslo: 1976), 226-28.

It was mostly chieftains, more rarely churchmen (usually bishops) or householders, who were chosen to give arbitration judgements. In other words, arbitrators were people who were at least as powerful as or more influential than the parties involved. In most cases the arbitrators were the chieftains' friends and/or relatives. Chieftains participated in about three-quarters of the cases I have studied, churchmen in one-quarter, and householders in about one-fifth of the cases referred to arbitration.¹³ Since chieftains were involved in most of the disputes, it was natural for them to want a ruling to be made by someone as powerful as or more influential than themselves, such as other chieftains or bishops.

Arbitrators were not bound by formal rules of evidence; they were to give their verdict on the basis of what was reasonable. In a small society such as Iceland, the arbitrators presumably knew the details of the conflicts, how they had arisen and developed, and therefore did not need witnesses.

According to *Grágás*, arbitrators were only supposed to punish with compensatory fines (*bót*); they were not allowed to punish with outlawry (*skóggangr*), three years' exile (*fjörbaugsgarðr*) or the loss of land or **chieftaincy**, unless the parties involved had previously agreed to this. It was customary for those involved to agree on the type of punishment before the case was referred to arbitration. The arbitrators merely had to decide the extent of the punishment. This is shown, for example, in the conflict between Þorgils and Hafliði around 1120. Hafliði was to 'determine as large a fine as he wished for his injuries, excluding all degrees of outlawry, chieftaincy and estates, as had been stipulated from the first'.¹⁴



The most frequent punishment handed out in arbitration cases and in cases where there had been direct negotiations was the compensatory fine. Before fines were set, it was customary to compare the damage suffered by the parties involved and to compensate for the difference. There were no clear standard fines for the various types of injury or insult, but rather each case was judged on its merits. The size of the fine depended on the amount of prestige attached to the case by the parties involved.

The use of gifts in connection with settlements of small conflicts is rarely mentioned in the sagas. It was more usual in big conflicts for gifts to be used to secure the end of hostilities. One example is the dispute between Þorgils and Hafliði c. 1120. After Þorgils had paid the fine to Hafliði, he gave him

13. In some disputes both churchmen and chieftains sat in on the arbitration. In such instances, I have counted the case in both groups.
14. *Sturlunga saga* I, 48: 'gera fé svá mikit sem hann vildi fyrir áverkana, en frá skilðar sektir allar ok goðorð ok staðfesta, sem boðit var í fyrstunni.' *Grágás. Stykker*, 'fjörbaugsgarðr', 'skóggangr'; Ó. Lárusson, *Yfirlit yfir íslenska rjettarsögu* (Reykjavík: [1932]), 47; L. Ingvarsson, *Refsingar á Íslandi á þjóðveldistímanum* (Reykjavík: 1970), 96-122, 140-41.

honourable gifts, five stud-horses together, a gold finger-ring and a sheepskin cloak. ... Hafliði then said: ‘Now I see that you mean to respect our agreement and from now on we shall be more on our guard against quarrelling’. And they fulfilled that, for as long as they lived they were always of one mind in important cases.¹⁵

The agreement took place in a social context. It defined or redefined the status and duties of those involved and their supporters. After conflicts, new alliances were often formed, such as the one between Þorgils and Hafliði. Those who were previously enemies became friends.

In a society without any central power capable of guaranteeing legal rights or of punishing offenders, everyone had to defend himself against opponents with the aid of friends, relations and in-laws, but primarily via the support of his chieftain. A chieftain’s goal in this power game was to increase his prestige and honour by having his demands accepted. As we have seen, this higher status would make him stronger in the next case, and as a result more householders would want to become his friends. It was the arbitrators’ task, meanwhile, to find a solution that would satisfy the disputing parties so that they could withdraw from the conflict without a loss of honour. Arbitrators were under pressure, not because they were related by ties of blood or friendship to those involved, but because it was important in the political culture of the Free State to make a ruling that both parties could accept and would not regard as an insult. Arbitrators knew that if they were involved in any future cases where the roles were reversed, they risked being given a similar punishment. At the same time, it was important for the disputing parties not to go against a judgement that chieftains had given, since this would be an insult and could lead to enmity. Arbitration was a face-saving mechanism. It gave the parties an opportunity to withdraw from critical, dangerous situations with their honour intact.¹⁶ A further advantage of settling conflicts in this way was that it was done quickly and safely and, in most cases, to the satisfaction of the parties involved.

One of the few exceptions is the dispute between the chieftains Einarr Þorgilsson and Hvamm-Sturla. They were in conflict in a number of cases over a period of about fourteen years. It began around 1157, when Einarr’s sister had a child by the chieftain Þorvarðr Þorgeirsson, Hvamm-Sturla’s in-law. The three of them attempted to hide the paternity from Einarr. Nevertheless, Einarr asserted that Þorvarðr was the father of the child, an accusation which Þorvarðr denied and for which he was willing to bear hot iron. Bishop Klængr Þorsteinsson was to decide the outcome of the ordeal. The

15. *Sturlunga saga* I, 50: ‘virðuligar gjafir, stóðhross fimm saman ok fingrull ok feld hlaðbúinn ... Hafliði mælti: “Nú sé ek þat, at þú vill heilar sættir okkrar, ok skulum vit nú betr við sjá deilunum heðan í frá”. Ok þat efndu þeir, því at þeir vǫru ok ávallt einum megin at málum, meðan þeir lifðu’.

16. Byock, *Medieval Iceland*, 108-09.

ordeal by fire showed that Þorvarðr was innocent. After that, the bishop imposed a fine on Einarr.¹⁷

Later, Einarr discovered the truth and found out that Hvamm-Sturla had known about the affair. He raised the matter at the General Assembly, and after a failed attempt at mediation, the dispute went to court. Einarr had not paid the fine that Bishop Klængr had imposed on him. Hvamm-Sturla then had the case considered by another court. The outcome of the cases was that both Einarr and Sturla were sentenced to three years' exile.¹⁸ After this they confiscated each other's property. On his way to the General Assembly the following year, Einarr looted and set fire to Sturla's farm, Hvammur. The case was referred to arbitration at the assembly, and Bishop Klængr Þorsteinsson gave a new arbitration verdict, with which Hvamm-Sturla was dissatisfied.

Thus the conflict went on, more or less continuously, for some fourteen years, with mediation, arbitration and agreements that were not adhered to; it culminated in a battle between Hvamm-Sturla and Einarr in 1171, which Einarr lost. Their friends mediated as before, and finally the parties agreed that Jón Loptsson and Gizurr Hallsson, the two most powerful chieftains in the country at the time, should give a new arbitration verdict in the dispute. This satisfied both the chieftains involved. After the verdict given at the General Assembly of 1172, the disputing parties were reconciled.¹⁹

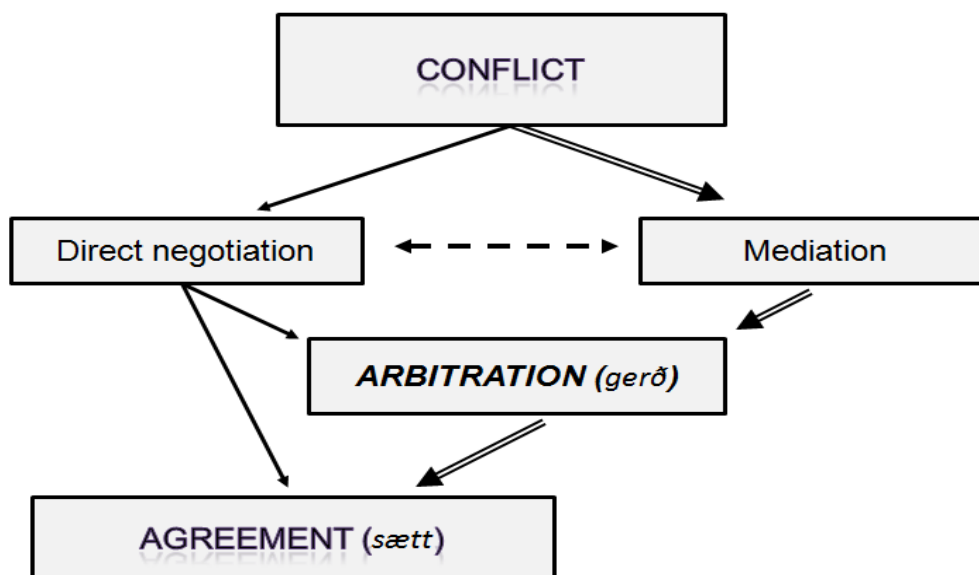


Figure 1. The main ways of settling disputes in the Free State society

17. Byock, *Medieval Iceland*, 73.
18. Byock, *Medieval Iceland*, 74.
19. Byock, *Medieval Iceland*, 94-95.



Self-judgement was related to arbitration, as can be seen from the sagas' use of the term *gera gerð* in relation to both arbitration and self-judgement. Giving an opponent the right to self-judgement was an admission that the individual in question was a powerful person, and/or indicated a desire for an agreement and possibly friendship. In return, the one awarded self-judgement was expected to be considerate and to impose a small fine.²⁰ If he failed to do so, there was a danger that the fine would not be paid and that the conflict would continue. As a rule, only chieftains were granted self-judgement. Householders were granted it in very exceptional circumstances, for example in murder cases. There are two instances of householders forcing other householders to grant them self-judgement, and one instance where a chieftain gave a householder self-judgement because he had slept with the householder's wife while her husband was abroad. The priest, later bishop, Guðmundr Arason was twice granted self-judgement.

Although William Ian Miller maintains that self-judgement was an institution peculiar to Iceland,²¹ that is not the case. For example, the kings' sagas mention this procedure explicitly in relation to the Norwegian kings.²² In the *Íslendingaþættir* (a shorter version of the Icelandic sagas often set in Norway), the king's self-judgement is often referred to without the term **sjálfðæmi** being mentioned, but it is clearly self-judgement nonetheless.²³ This was also the case further south in Europe. In disputes between kings and noblemen in Germany in the tenth century, noblemen had to submit, unconditionally, to the king's mercy. This often happened after mediation by friends of the noblemen and the king, but it also often occurred on the initiative of the king himself. These cases had to be resolved publicly, and occasionally the noblemen had to show their humility by appearing before the king without weapons. On his side, the king was expected to show his clemency by allowing the nobleman in question to keep his property. The purpose of this process was to demonstrate the king's superiority.²³

In some cases the chieftains did not accept the decision arrived at through arbitration. Then attempts at reconciliation would start afresh and would result in self-judgement or direct negotiations, or in the case's being referred back to arbitration. It might go on like this until an agreement was reached that both sides could accept. Cases involving self-judgement seldom continued. It might happen that controversies which were first dealt with through arbitration continued until they were resolved by a new proc-

20. Byock, *Feud in the Icelandic Saga*, 108-09; Miller, 'Avoiding Legal Judgment', 118-19.
21. W.I. Miller, *Bloodtaking and Peacemaking. Feud, Law, and Society in Saga Iceland* (Chicago: 1990), 371, n. 40.
22. *Heimskringla* I, ed. B. Aðalbjarnarson. Íslensk fornrit XXVI (Reykjavík: 1941), 134.
23. G. Althoff, *Verwandte, Freunde Und Getreue: Zum Politischen Stellenwert Der Gruppenbindungen Im Frühen Mittelalter* (Darmstadt: 1990), 197-203.

ess of arbitration, but in general arbitration decisions were accepted by both parties. It must be stressed that almost all major disputes in the Free State society were settled by arbitration.

Both the Icelandic family sagas and the contemporary sagas mention cases being prepared for courts (*dómar*); there are, however, fewer references to cases that courts actually dealt with. Although there were courts at both the local assemblies and the General Assembly, this does not automatically mean that many cases were settled with their help. The chieftains used the courts to put pressure on their opponents. Furthermore, it was up to the plaintiff to execute judgement and to make sure that the person convicted did not receive any help from his kinsmen and friends. For this reason, and because there was no central authority to deal with the enforcement of the law, the court system was not suitable for settling cases. If two equally powerful chieftains clashed with each other and one of them was granted a decision against the other one or his friend at the General Assembly, there was a danger that he would not be able to effect the judgement because of opposition from his enemy.²⁴

3. The Norwegian takeover and the decline of arbitration

After 1220, the Norwegian king Hákon Hákonsson began to play an important role in the politics of the Free State as he maneuvered to gain control over Iceland. King Hákon followed a deliberate strategy in his efforts to subjugate Iceland by binding as many Icelandic chieftains as possible to him through the *hirð* (royal retainership). In their power struggle with one another, the chieftains in the country – who at this time were about seven in number²⁵ – sought support from the king. Although with his backing they were stronger, gradually they had to pay for the king's support by handing over to him the chieftaincies (*goðorð*) they owned and controlled. Once having become the king's retainers (*hirðmenn*), the Icelandic chieftains then had to bow to the law of retainers (*Hirðskrá*), according to which it was the king or men he appointed who should settle disputes between retainers. In disputes with other chieftains who did not belong to the *hirð*, the king's re-

24. Sigurðsson, *Chieftains and Power*, 170-79.

25. For an overview of political developments in the period c. 1220-1262/64, see, for example, J. Jóhannesson, *Íslendinga saga I* (Reykjavík: 1956), 265-338; J.V. Sigurðsson, *Frá goðorðum til ríkja: Þróun goðavalds á 12. og 13. öld*. Sagnfræðirannsóknir B. 10 (Reykjavík: 1989), 41-80; Sigurðsson, *Chieftains and Power*, 71-83; G. Karlsson, *Goðamenning. Staða og áhrif goðorðsmanna í þjóðveldi Íslendinga* (Reykjavík: 2004), 334-65.

tainers in Iceland could request that the king's verdict be pronounced. This happened for the first time in 1242.²⁶

In the years 1262-1264, Iceland became a tributary land under the king of Norway. The **demise** of the Free State period was marked by the introduction of the law-books *Járnsíða* in 1271 and *Jónsbók* in 1281, which removed the *goði*-institution and introduced the Norwegian administrative and legal system. The General Assembly, which had until then functioned as a legislative and judicial institution, now became a court. After the changes in 1271 and in 1281, the Norwegian king's official administration in Iceland consisted of one *hirðstjóri* (superior commissioner). The *hirðstjóri* was the leader of the king's retinue in Iceland, which included men from all the leading families in the country. The *lögmenn* (law-men) were two in number after 1277, and the number of *sýslumenn* (sheriffs) was probably two to four.

The changes that took place after the king of Norway began to interfere in Icelandic politics, and especially those which occurred after Iceland became a tributary land in c. **1264**, altered the way disputes were settled in Iceland. Arbitration, which had been strongly linked to the power game in the Free State society, was made more or less obsolete. In the decades after the fall of the Free State, the Icelandic kin-based aristocracy was transformed into a service aristocracy, which received its power from the king, who in turn had received his from God. Because the support of the householders was no longer essential for building and maintaining power, the aristocracy no longer needed to demonstrate its ability to protect them **by engaging in arbitration**. The feasting and the extensive exchange of gifts between chieftains and householders gradually came to an end. The strong and important vertical mutual ties of friendship between chieftains and householders disappeared. Whereas the chieftains had previously been obliged to defend and assist their supporters, as the king's servants they had to prosecute and punish those who had formerly been their friends.²⁷

After the submission of Iceland, more cases were settled through the court system introduced by *Járnsíða* and *Jónsbók*. Disputes were not linked to the prestige of the aristocracy, as before. Conflicts between members of the local elite in Iceland continued after the Norwegian takeover, but these can in no way be compared with the battles between them in the years c. 1220-1260. The submission brought about peace in the country. It can actually be argued that solidarity among the king's Icelandic retainers gradually increased, both because of pressure from the crown and as a result of a com-

26. Jóhannesson, *Íslendinga saga*, 305-06.

27. J.V. Sigurðsson, *Det norrøne samfunnet. Vikingen, kongen, erkebiskopen og bonden* (Oslo: 2008), 125-46.

mon struggle against the Church in the controversy over control of local ecclesiastical institutions. In this conflict, the Icelandic aristocracy fought united, meaning that old rivalries were mostly set aside.

Even though arbitration was no longer used to settle disputes between the social elite in the country, for a time it was still used to settle disputes further down in the social hierarchy. The saga concerning Bishop Árni Þorláksson (1269-1298) stresses that he started to act as an arbitrator soon after he became bishop.²⁸ The king's officials were not pleased about this, because they lost **income even though** they should have had a part of the fines. The episode from *Árna saga* reveals two important aspects of Icelandic society after 1260. First, it demonstrates that people in Iceland still believed that arbitration was an effective and beneficial way to settle disputes and maintain peace in the local community. Second, it shows how little time passed before the new system altered the power game in the country and before the Icelandic aristocracy accepted these changes. The episode in the saga about Bishop Árni is the last describing an extensive use of arbitration in settling disputes in Iceland. It is therefore best to conclude that after c. 1300, the use of arbitration came almost to a halt. It is a contradiction in terms that the social group which benefitted most from this way of settling disputes in the Free State period now, as the king's officials, became its biggest opponents.

4. Conclusion

Because arbitration was so effective, it helped to mould society and to determine political developments. Most cases were resolved in the course of weeks or months. This meant that there were no rival factions feuding with each other for decades as the result of some old, unresolved conflict. For society in general, it was more important that the parties should be reconciled and that the conflict be resolved than for the legal provisions in *Grágás* to be followed to the letter. After the king of Norway began to interfere in Icelandic politics, and after submission, arbitration rapidly lost its importance.

In reaching these conclusions about the significance of arbitration in the Free State society, my approach has differed in several important respects from the methodology and conclusions of Jesse L. Byock and William I. Miller. For one thing, these scholars do not discuss the period after c.

28. *Biskupa sögur* III, ed. G.Á. Grímsdóttir. Íslenzk fornrit XVII (Reykjavík: 1998), 22.

1260.²⁹ Also, although both discuss arbitration, they regard it as one of many ways of settling disputes,³⁰ and thus they do not invest it with the same importance that I do. Miller's scholarship is based almost entirely on the Icelandic family sagas, which he believes reflect the period c. 1120-1260.³¹ This approach diminishes the importance of the Icelandic Church in the dispute settlement process, however. Because Byock and Miller have not always, as I have, studied the entire process of how each conflict started, developed and was settled, their pictures of the dispute settlement process are sometimes unclear, leading them to underestimate the importance of arbitration. Finally, I have linked the dispute settlement process to the political struggle in Iceland and the chieftains' concern with their power base. From this perspective, it is clear that the chieftains were in control of the dispute settlement process and that this gave them great power and authority over the householders.

29. For an overview of the debate about dispute settlement in Iceland, see J.V. Sigurðsson, 'Noen hovedtrekk i diskusjonen om det islandske middel-aldersamfunnet etter 1970', *Collegium Medievale* 18 (2005), 106-43, at 117-19.
30. See, for example, Byock, *Feud in the Icelandic Saga*, x-xi, 74-113; W.I. Miller, 'Choosing the Avenger: Some Aspects of the Bloodfeud in Medieval Iceland and England', *Law and History Review* 1 (1983), 159-204; W.I. Miller, 'Ordeal in Iceland', *Scandinavian Studies* 60 (1988), 189-212; W.I. Miller, 'Introduction. The Social Historical Setting', in T.M. Anderson & W.I. Miller (ed.), *Ljósvefninga Saga and Valla-Ljóts Saga. Law and Literature in Medieval Iceland* (Stanford: 1989), 3-62, at 29.
31. Miller, *Bloodtaking and Peacemaking*, 51.