

**THE LEGAL SYSTEM
OF ICELAND**

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CHAPTER FOUR (A)

THE LEGAL SYSTEM OF ICELAND

TABLE OF CONTENTS

Preface: Facts at a Glance	4.50.7
§ 1.1. Introduction to Iceland.	4.50.9
§ 1.1(A). <i>Geography and Climate.</i>	4.50.9
§ 1.1(B). <i>History.</i>	4.50.10
§ 1.1(B)(1). <i>Discovery and The Age of Settlement (874-930 A.D.).</i>	4.50.10
§ 1.1(B)(2). <i>The Iceland Commonwealth Period (930-1262 A.D.).</i>	4.50.10
§ 1.1(B)(3). <i>Centuries of Domination: 1262-1814.</i>	4.50.13
§ 1.1(B)(4). <i>Movement Toward Independence: 1814-1918.</i>	4.50.14
§ 1.1(B)(5). <i>A Sovereign Nation Without Independence: 1918-1944.</i>	4.50.14
§ 1.1(B)(6). <i>Out of Isolation: 1945-Present.</i>	4.50.15
§ 1.1(C). <i>The People.</i>	4.50.16
§ 1.1(D). <i>The Economy.</i>	4.50.17
§ 1.1(D)(1). <i>Government's Role in the Economy.</i>	4.50.17
§ 1.1(D)(2). <i>Co-operative Societies.</i>	4.50.18
§ 1.1(D)(3). <i>Narrow Economic Base.</i>	4.50.18
§ 1.1(D)(4). <i>Inflationary Problems.</i>	4.50.18
§ 1.1(D)(5). <i>Foreign Trade Situation.</i>	4.50.19
§ 1.2. Form of Government.	4.50.19
§ 1.2(A). <i>In General.</i>	4.50.19
§ 1.2(B). <i>A Constitutional Government.</i>	4.50.20
§ 1.2(B)(1). <i>The Althing.</i>	4.50.20
§ 1.2(B)(2). <i>The Executive Branch: the President and Cabinet.</i>	4.50.21
§ 1.2(B)(3). <i>The Judicial Branch.</i>	4.50.22
§ 1.2(B)(4). <i>Local Government.</i>	4.50.22
§ 1.3. Law-Making Process.	4.50.23
§ 1.3(A). <i>Sources of Law.</i>	4.50.23
§ 1.3(B). <i>Statutory Legislation.</i>	4.50.23
§ 1.3(B)(1). <i>Preparation of Bills.</i>	4.50.23
§ 1.3(B)(2). <i>The Legislative Process.</i>	4.50.24
§ 1.3(B)(2)(a). <i>General Laws.</i>	4.50.24
§ 1.3(B)(2)(b). <i>Provisional Laws.</i>	4.50.24
§ 1.3(B)(2)(c). <i>The Budget.</i>	4.50.24
§ 1.3(B)(2)(d). <i>Constitutional Amendments.</i>	4.50.25
§ 1.3(B)(2)(e). <i>Laws Changing the Status of the State Church.</i>	4.50.25
§ 1.3(B)(3). <i>Presidential Signature on Bills.</i>	4.50.25
§ 1.3(C). <i>Treaties.</i>	4.50.25
§ 1.4. The Judicial System.	4.50.25
§ 1.4(A). <i>General Information.</i>	4.50.25

§ 1.4(B). <i>The Judiciary</i>	4.50.26
§ 1.4(C). <i>Juries</i>	4.50.27
§ 1.4(D). <i>The Individual Courts</i>	4.50.27
§ 1.4(D)(1). Ordinary Civil Courts: Baejarthing (Town Courts) and Aukadomthing (Special Session Courts).	4.50.27
§ 1.4(D)(2). Ordinary Criminal Courts: Sakadomur.	4.50.27
§ 1.4(D)(3). Sheriff's Courts: Fogetadomur.	4.50.27
§ 1.4(D)(4). Probate Courts: Skiptadomur.	4.50.28
§ 1.4(D)(5). Courts of Auction: Uppodsréttur.	4.50.28
§ 1.4(D)(6). Shipping Courts: Siglingadomur.	4.50.28
§ 1.4(D)(7). Court of Drug Offenses: Domur i Avanamálum og Fikniefnamálum.	4.50.28
§ 1.4(D)(8). The Labor Court: Félagssdomur.	4.50.29
§ 1.4(D)(9). Country's Court: Landsdomur.	4.50.29
§ 1.4(D)(10). The Church Court: Kirkjudomur; and the Synodal Court: Synodalrettur.	4.50.29
§ 1.4(D)(11). The Bar Association Board: Stjorn L.M.F.I.	4.50.30
§ 1.4(D)(12). The Supreme Court: Haestiréttur.	4.50.30
§ 1.4(E). <i>Quasi-Courts</i>	4.50.30
§ 1.4(E)(1). The State's Tax Committee: Rikisskattanefnd.	4.50.30
§ 1.4(E)(2). The Salary Court: Kjaradomur.	4.50.31
§ 1.5. Legal Education	4.50.31
§ 1.5(A). <i>General Information and Requirements for Legal Study</i>	4.50.31
§ 1.5(B). <i>The Law School Curriculum</i>	4.50.31
§ 1.5(C). <i>Orator: the Law Students Association</i>	4.50.32
§ 1.6. Admission to the Bar, Nature and Size of Practice	4.50.32
§ 1.6(A). <i>The Bar and Individual Firms in General</i>	4.50.33
§ 1.6(B). <i>Categories of Attorneys</i>	4.50.33
§ 1.6(C). <i>Requirements for Practicing Law</i>	4.50.33
§ 1.6(D). <i>Lay Representation in Court</i>	4.50.33
§ 1.6(E). <i>The Bar Association (L.M.F.I.)</i>	4.50.34
§ 1.7. Law Reporting	4.50.34
§ 1.7(A). <i>Government Gazette: Stjornartidindi</i>	4.50.34
§ 1.7(B). <i>Parliamentary Gazette: Althingistidindi</i>	4.50.34
§ 1.7(C). <i>Law Collection: Lagasafn</i>	4.50.35
§ 1.7(D). <i>Supreme Court Verdicts: Haestaréttardomar</i>	4.50.35
§ 1.7(E). <i>Labor Court Verdicts: Domar Felagsdoms</i>	4.50.35
§ 1.8. Special Features and Extraordinary Matters	4.50.35
§ 1.8(A). <i>Nordic Co-operation</i>	4.50.35
§ 1.8(B). <i>The Cod Wars</i>	4.50.36
§ 1.9. Recent Developments	4.50.38
§ 1.9(A). <i>Bear Prohibition Repealed</i>	4.50.38
§ 1.9(B). <i>Iceland Quits Whaling Commission</i>	4.50.38

The Legal System of Iceland 4.50.5

§ 1.10. Annotated Bibliography. 4.50.39

Appendix. Icelandic Lawyers: Demographic Statistics. 4.50.52

CHAPTER FOUR (A)

THE LEGAL SYSTEM OF ICELAND

PREFACE

FACTS AT A GLANCE¹ (all 1986 statistics unless otherwise stated)

AREA AND PEOPLE

Area: 102,845 km (39,709 mi)

Nationality: Icelanders (noun); Icelandic (adjective)

Population: 244,000

Density: 2.4/km²; 6.1/mi

Annual growth rate: 1%

Capital: Reykjavik (pop. 84,500; 122,800 including suburbs)

Ethnic background: Homogeneous mixture of descendants of Norwegians and Celts

Language: Icelandic

State religion: Evangelical Lutheran (95%)

Education: 99% attendance; 99.9% literacy

Health: Infant mortality rate: 6.1/1,000 (1983); Life expectancy: men 73.9 yrs, women 79.4 yrs

GOVERNMENT

Type: Constitutional republic, independent since 1944

Branches:

Executive—president (head of state), prime minister (head of government), cabinet (currently there are 9 ministers, but the number can vary)

Legislative—bicameral parliament (the Althing)

Judicial—Supreme court, district and special courts

Political subdivisions: Provinces, municipalities and rural districts, counties

Political parties: (1983 voting strength) Independence Party (IP) (38.7%), Progressive Party (PP) (19.5%), Social Democratic Party (SDP) (11.7%), People's Alliance (PA) (17.3%), others (12.8%)

ECONOMY²

Currency: Icelandic kronur (IKr)

Fiscal year: calendar year

Exchange rate: \$1 (U.S.) = 41.5 IKr (Oct. 85)

Gross national product: \$2.17 billion (1984)

Total annual budget: \$577.2 million (1984)

Average annual inflation rate: 1980-1984: 50%; 1985: 30% (est.); 1986: 10-15% (est.)

Per capita income: \$9,040 (1984)

Trade:

Exports (1984): \$743.3 million (75% fish)

partners—EEC 30%, US 28%, EFTA 15%, USSR 11%

Imports (1984): \$843.8 million

partners—EEC 47%, EFTA 21%, US 7%, USSR 4%

Work force (1982): industry and commerce 43%, services and government 34%, fisheries 14%, agriculture 9%

VOLUME FOUR**Part I****CHAPTER FOUR (1)****THE LEGAL SYSTEM OF ICELAND****§ 1.1. Introduction to Iceland.**

The nature of a country's legal system is a product of many factors, not the least of which are those of an historical, cultural, religious, or geographical nature. All too often the emphasis is placed on history, as a writer will embark on such discussion with the standard phrase "to really understand the legal system of _____ one first must understand its history." With respect to Iceland, one must begin with geography, for in Iceland geography was (and still is) the prime determinant of all else, including history.

§ 1.1(A). Geography and Climate.

A third larger than Ireland and about the size of Virginia,³ Iceland is an island situated in the North Atlantic Ocean just a stone's throw south of the Arctic Circle, 800km northwest of Scotland, 1,000km west of Norway, and 4,200km northeast of New York. Its closest neighbors are Greenland, 300km to the northwest, and the Faeroe Islands, 400km to the southeast. Iceland was formed by relatively recent volcanic activity, and nearly 80% of its land area consists of uninhabited glaciers, lakes, a mountainous lava desert, and other treacherous terrain.⁴ Straddling the Mid-Atlantic Ridge, Iceland is a volcanologist's paradise. Volcanic activity continues unabated as witnessed by recent eruptions at Surtsey (1963-67), Heimaey (1973), and Mt. Hekla (1980, 81).⁵ This juxtaposition of glaciers and volcanoes accounts for Iceland's popular nickname: The Land of Ice and Fire.

Nearly all of Iceland's 244,000⁶ people live on a narrow belt of cultivable land along the coastline, with the majority clustered on the southwest coast where the capital city of Reykjavik is located. With 122,800⁷ Icelanders living in Reykjavik and its suburban communities, just over half of the nation's entire population is found within an eight kilometer radius.

Iceland's weather is as much a product of its position in the ocean as it is of the island's northern latitude. The influence of the Gulf Stream moderates the climate with damp, cool summers and relatively mild but extremely windy winters. Summer is short, and spring and fall are even shorter. The transition from winter to summer and back to winter can be imperceptible. The average temperature in Reykjavik is 11°C (52°F) in July and -1°C (30°F) in January.⁸ Rapid changes in weather are common throughout the year. A popular expression is "if you don't like the weather just wait a few minutes, it'll change." Even with the moderating influence of the Gulf Stream, Iceland's weather makes life there rough at times, particularly during the long winter months. For the early settlers the bad weather often proved deadly, and weather-related deaths still occur today, even in a

nation so attuned to such dangers.

Perhaps the most striking climatic feature resulting from Iceland's northern latitude is the length of days and nights in summer and winter. For several days during mid-summer in northern Iceland the sun shines twenty-four hours a day, never falling below the horizon, and in southern Iceland it dips below the horizon only briefly. Similarly, winters are characterized by excessively long nights and short days, with mid-winter daylight spanning less than four hours.

Given its geographic isolation, and the climate associated with its location, it is hardly surprising that geography has played an important role in Iceland's history, culture, economy, and its external relations. These will be discussed in greater detail below.

§ 1.1(B). History.⁹

§ 1.1(B) (1). Discovery and The Age of Settlement (874-930 A.D.).

Iceland was one of the last inhabitable areas of the earth to be occupied by man. There is some evidence¹⁰ that Iceland may have been visited by the Greek explorer Pytheas of Massilia around 300 B.C. More reliable evidence tends to confirm the Irish cleric St. Brendan's account of a voyage to Iceland in the middle of the sixth century A.D. In fact, accounts of the Vikings themselves suggest that Irish settlers, generally monks, may have predated the Vikings by as much as two centuries. Nevertheless, popular sentiment in Iceland accords discovery of the island to Norse seafarers around 850 A.D., and settlement to the Norwegian Ingólfur Arnarson in 874.¹¹

During the Age of Settlement, which occurred between 874-930, as many as 10-20,000 people from western Norway, the Scottish Isles, and Ireland settled in Iceland.¹² This wave of immigration was precipitated by several historical events.¹³ First there were the Viking raids on Ireland and the Scottish Isles. These Vikings came mainly from southwestern Norway, where land was scarce. Many Vikings stayed on after the raids, establishing colonies and intermarrying with the Celtic population. Later, in the ninth century, King Harald Fairhair conquered many of the independent Viking shires in Norway, unifying them under common rule. Many Norsemen became disaffected with King Harald's rule, particularly the high taxation, and fled to their relatives in Ireland and the Scottish Isles, while others went straight to Iceland. Finally, in the early part of the tenth century the native Celtic people began expelling the Viking colonists from Ireland and the Scottish Isles. Not especially welcome back in Norway, these Vikings found they had nowhere else to go but Iceland; so they went, taking with them their Celtic wives, mixed-race children, and Irish slaves. These refugees from King Harald's domination and Celtic persecution fathered the Iceland that we know today as a thriving, independent nation.

Aside from simply being an inevitable consequence of historical events, this exodus westward was also part of an already existing pattern of Viking exploration and colonization. Using Iceland as a base these same Vikings would soon colonize Greenland, and become the first white men to set foot in North America.¹⁴

§ 1.1(B) (2). The Icelandic Commonwealth Period (930-1262 A.D.).

Iceland's first settlers came in very small groups and the only cohesive element was the family structure. There were no formal institutions guiding societal behavior. The

population was scattered fairly evenly around the country and there were no communities to speak of. This balance of power meant there were few clear winners when force was used to settle a dispute. Consequently, Icelanders very early on looked for some means to settle disputes peacefully. There developed a position of power tantamount to "local chieftain" known as a *godí*. These *godar* ruled over an area known as a *godord* and a constituency known as a *thing*. Members of each *thing* were called *thingmen*. The *godar* served not only as secular leaders, but religious leaders as well. The relationship between a *godí* and his *thingmen* was not territorial so a *thingman* did not have to move to switch alliances to another *godí*.¹⁵

Eventually it became obvious that some system of rules was necessary for peaceful co-existence within and between the various *godord*. An Icelandic named *Ulfjǫtur* was sent to Norway to study law and construct a legal code suitable for Iceland. Three years later he returned with a code¹⁶ based on the *Gulathing Law*, the law of southwestern Norway.¹⁷ These laws were adopted in 930 A.D. at a national assembly of the various *godar*. This assembly was known as the *Althing*¹⁸ and met annually at *Thingvellir* in southwest Iceland.

Under the new law code, called *Grágás* (meaning Grey Goose), Iceland was divided territorially into four quarters and every quarter into nine¹⁹ *godord*; every three *godord* were clustered to form a *thing* with three *things* in each quarter. The quarters were known as the north, south, east, and west quarters. The only permanent official in this system was the *lögsögumadur* or law-speaker, who was elected every three years and whose job it was to memorize and recite the law code aloud (the code was not committed to writing until the year 1117) at the annual meeting of the *Althing*, a third of the laws each year.²⁰ The highest institution within the *Althing* was the *Lögrétta*, a legislative body composed of all the *godar* plus two advisors for each. The law-speaker was President of the *Althing* and presided over the *Lögrétta*. Only the *godar* were allowed to vote in the *Althing* and most decisions were made by majority vote. In case of a tie the law-speaker could cast a tie-breaking vote.²¹ Interestingly, a *godord* was considered a marketable property and a *godí* could transfer title in his *godord* by sale, gift, or inheritance. Thus seats in this parliament were literally for sale,²² and this free-market aspect of the system eventually contributed to the system's collapse.²³

Laws passed by the *Lögrétta* were applied by a system of five levels of courts. At the lowest level were arbitral panels selected for specific disputes, half the panel chosen by the plaintiff and half by the defendant. At the next level were the *thing courts*, with a *thing's* three *godar* each appointing twelve judges. These thirty-six judges sat together as a large jury. The middle level court was a *quarter-thing court*, four in all, to resolve disputes between *things* but within quarters. Above this were the four *quarter-courts* of the *Althing*, consisting of all the *godar* of each quarter plus one-ninth of each *godí's* *thingmen*. These courts met during the *Althing's* annual meeting. At the top of the system sat the fifth court, which sat in the *Lögrétta* when in session. It is not known for sure just who comprised this court. The bottom four courts are believed to have required at least thirty out of thirty-six votes for a verdict to be rendered, whereas the fifth court needed a simple majority.²⁴

The most unique aspect of this system of government during the Icelandic Commonwealth Period was the absence of any form of executive branch.²⁵ Before attempting to understand how this government worked without an administrative arm, it is important to realize that Icelandic law during this period was of an entirely "civil" nature. There was

absolutely no “criminal” aspect of the law at all. Once this is understood it is possible to see how ancient Icelanders were able to do without what modern societies consider an indispensable element of self-government.

Under this governmental system, the legislature made the laws and the courts rendered verdicts on specific disputes. But prosecution and enforcement were entirely in private hands! The prosecutorial function was usually performed by the victim, or, if he had been killed, by his next of kin or another designated party.

Many cases were settled by arbitration, but if they went to court there were only two punishments available: fine or outlawry, usually the former regardless of the crime committed. This lack of any real criminal sanctions best illustrates the nature of this legal system.²⁶

Failure to pay a fine usually resulted in subsequent outlawry, and an outlaw was not in an enviable position; he could be killed without the killer being prosecuted, and anyone giving shelter to an outlaw could himself be prosecuted. Furthermore, if an outlaw defended himself by force, each injury inflicted thereby gave cause for another lawsuit and judgment against him, resulting in an ever-increasing number of people after his hide. At first glance it might appear that this system left the poor and weak defenseless against the rich and powerful. However, in addition to the system’s previously mentioned built-in sanctions against outlaws there was an additional provision that insured a modicum of justice: a cause of action could be sold to the highest bidder. Thus a poor old lady whose husband had been killed could sell to a powerful third party the right to prosecute the killer and enforce any judgment. These third party enforcers were in a position similar to loansharks in the United States today. Their success as debt-collectors depended heavily on their **reputation** for collecting on judgments, so there was considerable incentive on their part to insure that delinquent debtors and outlaws were dealt with adequately. By the same token when a defendant saw a well-armed enforcer with a good reputation coming to enforce a fine, his incentive to pay increased several-fold.²⁷

It may be difficult for a student of modern law to believe that a legal system could exist for any period of time without a “State” to back it up. But this unique Icelandic system did in fact work, at least for 332 years. It was not a perfect system. There were frequent examples of the law being defied, sometimes successfully.²⁸ But then what nation **can** claim that its laws are not frequently violated, sometimes successfully? The amazing lesson to be learned from this system is the extent to which the sanction of mere public opinion, coupled with a threat of personal reprisals, formidable or not, can induce lawful behavior.²⁹

This period of Iceland’s history was characterized by numerous blood-feuds. Godar across the country gradually consolidated power, drawing into their godord thingmen seeking the protection these strong godar had to offer. More power beget more wealth, allowing these godar to buy up smaller godord and bring within their own godord even larger areas of land and larger numbers of thingmen. The balance of power that existed early in the Commonwealth Period eventually gave way to a handful of powerful families ruling large districts of the country, and what had been internecine squabbles led to small civil wars.³⁰

The insuing chaos led some Icelanders to seek Norwegian help, that country already having close religious, cultural, racial, and economic ties with Iceland. Norway’s King Haakon IV was more than willing to become involved in Iceland’s internal affairs, and in fact already had made efforts to bring Iceland under Norwegian domination. One of the

driving forces behind King Haakon's actions was the refusal of Icelandic godar to acknowledge the Norwegian Archbishop's jurisdiction over the Icelandic clergy. With no central executive branch of government to coordinate resistance to Norwegian subversion the fragmented Commonwealth was easy prey, and in 1262 the Icelanders gave up their independence through a treaty known as the Old Covenant, in which they submitted to King Haakon's sovereignty.³¹

§ 1.1(B) (3). Centuries of Domination: 1262-1814.

To many Icelanders the period in their history from 1262-1814 might just as well be forgotten. This period was marked by unrelenting foreign domination and a lack of any real national identity. By comparison, the Commonwealth Period represented the high watermark of Icelandic cultural achievement. The Icelandic Sagas, written towards the end of the Commonwealth Period, were a source of great national pride, and remain the finest examples of early Norse literature in existence today.³² These Sagas recorded the great achievements of the early Icelandic settlers and emphasized the virtues of courage, pride, and honor. With this historical legacy, the long period of foreign domination that followed was a bitter pill for most Icelanders to swallow. Over these centuries economic and cultural advances were slow. Perhaps the greatest cause of the nation's failure to develop economically and culturally was the nation's failure to propagate. In fact, the nation's population actually dropped from about 60-80,000³³ at the end of the Commonwealth Period to a mere 38,000³⁴ in 1800, a notable decline that can be attributed to a number of factors.³⁵

Although the Old Covenant led to Norwegian domination of many aspects of Icelandic life, it provided that Iceland was to retain its own legal system. Thus, despite economic and cultural stagnation, Iceland's law continued to develop at a rapid pace. Between 1271 and 1273 a legal code known as *Járnsida* was adopted by Iceland's four quarters, acting through their Althing representatives. *Járnsida* was soon to be followed by another code known as *Jónsbók*, passed by the Althing in 1281.³⁶ These law-books had a great impact on the development of Icelandic law, and in fact the oldest Icelandic statutes still in force today date back to these codes.³⁷

Beginning with King Haakon's rule in 1262, there followed a succession of foreign rulers. In 1319 Norway and Sweden were united under a single king and the Icelanders swore allegiance to the new king the following year. Sweden and Norway went their separate ways in 1371, but in 1380 Norway united with Denmark under the Danish crown. In 1397 all of Scandinavia came under Danish rule as part of the Union of Kalmar. This Nordic unification set the stage for the close interrelationships between the various Nordic legal systems that still exist today. The Union of Kalmar ended in 1523 with the departure of Sweden, which possessed and took Finland with it.

The union between Norway and Denmark continued until 1814, when the end of the Napoleonic Wars brought considerable political change to Northern Europe. In the Treaty of Kiel, the Danish King was forced to cede Norway to the King of Sweden, not only as punishment for Denmark's former alliance with France,³⁸ but also to strengthen Swedish power vis-a-vis the Russians, who had conquered Finland.³⁹ In the same treaty, the bonds between Iceland and Norway were severed and Iceland was given to Denmark. The logic behind this transaction was hard to see since Iceland had much more in common with Norway than it did with Denmark.⁴⁰ Although the King of Sweden and Norway soon

made a claim for the return of Iceland he did not press the matter, and Iceland remained under Danish rule.⁴¹

§ 1.1(B) (4). Movement Toward Independence: 1814-1918.

When they saw themselves orphaned off from Norway to Denmark in 1814, Icelanders began to feel a long overdue resurgence of nationalism. They pointed to the Treaty of 1262 and claimed their country had never really been a part of Norway in the first place; rather it had merely declared allegiance to the same king, there being a practical difference.⁴² Since theirs remained a sovereign state even under the Treaty of 1262, Icelanders refused to accept that they could now simply be traded away like personal property. Although the Danish King gave short shrift to this claim, Icelanders had at least become vocal in their desire for a new political arrangement.⁴³

Although the Danish King had abolished the Althing in 1800, he caved in to the strength of the newly-emerging Icelandic nationalist movement and allowed the Althing to be reestablished in 1845. Jon Sigurdsson, the pre-eminent figure in Iceland's independence movement, led the Icelanders in their demands for greater reforms, reforms which were eventually forthcoming. A new constitution and limited home rule were granted in 1874, the thousandth anniversary of Norwegian settlement of Iceland, and almost complete home rule was obtained in 1903.

After 1903 the relationship between Iceland and Denmark had reached the point where the next logical step was Icelandic sovereignty. Political activism in Iceland increased tremendously⁴⁴ and the political parties became bitterly divided over an emerging proposal for Icelandic sovereignty.⁴⁵ While Icelandic nationalists demanded full independence, the Social Democratic Party (SDP) favored an Icelandic-Danish union, with joint citizenship between the two countries.⁴⁶ Although the SDP was later castigated for having betrayed the national interest and weakened Iceland's bargaining position,⁴⁷ little more than token opposition was voiced when both the Althing and a national referendum of Icelandic voters approved the new "Act of Union."⁴⁸

§ 1.1(B) (5). A Sovereign Nation Without Independence: 1918-1944.

Under the Act of Union of November 30, 1918,⁴⁹ Iceland was recognized as a sovereign state, albeit under a common Danish King. This returned the Icelanders to the position in which they thought they had been when they entered into their relationship with Norway in 1262. The practical effect was that Iceland governed itself internally while Denmark provided for Iceland's national defense and handled its foreign affairs.⁵⁰ Within the Act of Union was a provision permitting unilateral termination of the union between Iceland and Denmark in twenty-five years (1943) should the parties be unable to agree to the Act's revision before that time. The parties could not call for revision until the end of the Act's twenty-second year (1940).⁵¹ The onset of the Second World War played an unforeseen role in the Act's demise.

On April 9, 1940, the Germans invaded Denmark and effective communication between Iceland and Copenhagen was cut off. Within twenty-four hours the Althing vested the Icelandic cabinet with the power of the Head of State, and for all practical purposes Iceland's future as an independent nation was determined; the disruptions of war ruled out any normal discussion between Iceland and Denmark regarding extension of the Act of Union.

Iceland would have liked to sit out the war quietly. However, the nature of modern warfare had changed the world forever. Iceland's remote location would no longer prove to be a buffer from hostilities. In fact, with America's emergence from isolation, Iceland now sat overlooking the most strategic sealane in the world. The British realized this, and knew that the Germans also realized it.⁵² To forestall a German invasion of Iceland, the British landed there first on May 10, 1940. Although this landing was seen by some Icelanders as no less of an "invasion" than the German occupation of Denmark, the vast majority of Icelanders viewed it as a necessary evil, and certainly preferable to a Nazi invasion.⁵³

The following year, although America still had not officially entered the war, it was eager to assist the British in their war effort. In July 1941 the U.S., Iceland, and Britain negotiated an agreement that would substitute American for British troops in Iceland, freeing the latter for service in the front lines. This agreement called for the American troops to leave Iceland at the end of the war, and the Americans did in fact do so. On October 25, 1945, the United States turned over to the Icelandic government the 25,000 acre military airfield the U.S. had built at Keflavik.⁵⁴ Although a few troops remained behind to help the Icelanders establish a commercial airport at Keflavik, even these were pulled out in 1947.

If Britain had not pre-empted a Nazi invasion, an interesting question is what the U.S. would have done following the inevitable German leap from Norway (also invaded on April 9, 1940) to Iceland. In the wake of the first wave of German invasions, an American legal scholar of Icelandic descent suggested that the U.S. could and should consider Iceland part of the western hemisphere and within the protection of the Monroe Doctrine.⁵⁵ He went so far as to describe Iceland as "geographically an American island."⁵⁶ Although Iceland is hardly an American island, its location on the Mid-Atlantic Ridge places it as much in the western hemisphere as in the eastern. Hence, the Monroe Doctrine well could have served as a basis for extending American protection. With the Soviet notion today of "spheres of influence," America's failure to make that argument forcefully stands as a golden opportunity missed.

The introduction of American troops into Iceland during WWII and America's full compliance with the 1941 agreement fostered a trusting relationship between the two countries that would later influence the direction of Iceland's foreign policy.⁵⁷

After the stated life of the Act of Union expired in 1943, the Althing adopted a February 25, 1944 resolution calling for an end to the Act. In accordance with the Act, from May 20-23 Iceland held a referendum of its people to determine their wishes regarding independence. An overwhelming majority voted for total independence, and on June 16, 1944, the Althing unanimously voted to terminate the Act of Union, effective the following day. On June 17, 1944, at the Lögberg on the ancient plains of Thingvellir, Iceland proclaimed itself an independent republic.⁵⁸

§ 1.1(B) (6). Out of Isolation: 1945-Present.

Following WWII Iceland began to play its own role in world affairs. In 1945 it joined the International Monetary Fund and the International Bank for Reconstruction and Development.⁵⁹ On November 19, 1946 it obtained admission to the United Nations. In September 1948 it concluded an agreement with the ICAO for providing international air navigation services in the North Atlantic.⁶⁰ These were roles Iceland had genuinely looked forward to playing.

Iceland soon found itself thrust into another, less desirable role while facing the same dilemma confronting the rest of the world. The world was dividing (or being divided) into two incongruous spheres of power: East and West. Iceland watched as Czechoslovakia and other East European countries disappeared behind the iron curtain. Despite the fact that communists filled nearly 20% of the seats in the Althing,⁶¹ Iceland was quick to side with the Western powers. It was quite happy with its newly-found independence, and saw that the best way to insure it retained that status was to throw what weight it could behind the Western democracies. In 1949 it played perhaps its greatest foreign affairs role to date⁶² by signing the North Atlantic Treaty.⁶³ Upon signing the Treaty, Iceland's Foreign Minister stated that Icelanders "would all prefer to lose our lives rather than lose our freedom."⁶⁴

With a population of less than 145,000⁶⁵ at that time, it was obvious that Iceland had little to offer the NATO alliance in the way of men or material. Thus it signed the Treaty subject to the condition that it would never have to maintain a military force of its own. As a sign of its hostility to even friendly foreign domination it also included a condition that no troops would be stationed on its soil during peacetime.

With the increased East-West tension accompanying the Cold War and the Korean conflict, Iceland began to feel increasingly vulnerable. Recognizing that the presence of American troops might be the best form of protection, in 1951 the Icelandic government invited the U.S. to re-establish a military airbase in Iceland. On May 5, 1951 the two nations signed an agreement to that end,⁶⁶ and two days later the first contingent of American troops landed at Keflavik Airport.⁶⁷ Thus, contrary to an explicit Icelandic condition on its NATO membership, foreign troops were now deployed on Icelandic soil during peacetime. Since 1951 the relationship between Iceland and the U.S. has remained on a fairly even keel,⁶⁸ and approximately 3,000⁶⁹ U.S. military personnel are currently stationed at the Keflavik base, which the Government of Iceland provides rent-free.

Two other areas of international involvement have played a significant role in Iceland's postwar foreign affairs: Iceland's membership in various Nordic organizations and the "Cod Wars." Nordic cooperation is discussed in further detail in § 1.8(A) below, and the Cod Wars are treated in greater detail in § 1.8(B).

§ 1.1(C). The People.

Iceland's geographic isolation contributes to the homogeneity of its people. It is perhaps most accurate to describe Icelanders as of Icelandic descent since there has been no great surge of immigration since the Age of Settlements in the ninth and tenth centuries. As mentioned earlier, the wave of immigrants arriving during this period were of West-Norwegian/Celtic origin, and the ethnic purity of this Viking/Celt mixture continues over a thousand years later.⁷⁰ Icelanders speak Icelandic, which today is closest of the Nordic languages to the Old Norse language and compared to other languages has changed little since the 12th century.⁷¹ At virtually 100%, Iceland's literacy rate is unsurpassed by any other nation.⁷² Although Iceland has complete religious liberty, 95% of its citizens belong to the State Church, the Evangelical Lutheran Church.⁷³ This statistic should not be overplayed, however, because religion does not play a dominant role in Icelandic society.

Most Icelanders could trace their geneology back to the ninth century with surprising accuracy if they wished to devote some time to it. Proud of this ancient heritage, they are

anxious to protect it, and in fact the government has taken a number of measures to protect the language and culture.⁷⁴ This pride manifests itself in a strong, independent personality reflected in every facet of an Icelander's life. They are also very private individuals who seldom approach strangers for any reason. The result is that Icelanders often appear to be standoffish if not downright unfriendly. However, this is simply an exterior layer that must be penetrated by the outsider. Once beneath this front one finds the Icelanders to be very warm and friendly.⁷⁵

An Icelandic custom that forms part of the bedrock of Icelandic society is the system by which family names are derived, a system mandated by law.⁷⁶ Icelanders use the patronymic system, which gives children a family name derived from their father's first name with either 'son' or 'dóttir' tacked on the end, depending on sex of the child.⁷⁷ Thus, if Jón Gunnarsson marries Anna Magnúsdóttir, their sons will take as a second name the "family" name of Jónsson and their daughters Jónsdóttir.⁷⁸ When a woman marries she retains her maiden name. Another interesting custom is the method of listing names in the telephone directory: names are in alphabetical order by **first** name.⁷⁹ As one might imagine, this leads to endless confusion for everyone but the Icelanders.

§ 1.1(D). The Economy.⁸⁰

§ 1.1(D) (1). Government's Role in the Economy.

Although Iceland has for the most part a capitalist economy, the government plays an important role. The overall economy is so small that even a minor economic downturn can deal a devastating blow to large sectors of the market and create widespread unemployment. The potential for economic upheaval has a sobering effect on politicians of all parties, and the government response is a policy of sacrificing short-term interests for long-term stabilization. For example, a fundamental government policy is to stretch out large construction projects over several years, sacrificing a short-term construction boom for long-term full employment. This approach has allowed the government to keep the unemployment rate below 1% for many years, although it did near 1.5% in 1984.

A number of factors combine to permit extensive government control over the economy. Only within the last couple of years has a stock exchange been established in Iceland, and trading is extremely limited, the exchange consisting of only four stocks. Ownership of foreign securities is restricted. Export and import of securities is subject to government license.⁸¹ Unless an exception is created by law, foreign firms may conduct business in Iceland only through Icelandic corporations in which Icelanders own at least 51% of the stock. Ownership of foreign exchange and removal of assets from the country is tightly controlled. Various tariff barriers allow some government control of imports. Although there are a number of commercial banks in Iceland, the government-controlled Sedlabanki Islands (the Central Bank of Iceland) maintains strict control over banking procedures nationwide.⁸² In the aggregate these economic tools permit substantial central planning by the government.

Perhaps the most beneficial economic role the government plays is in providing capital for undertakings beyond the ability of private investment. As a result, complete or partial government ownership of some production facilities is not unusual.

§ 1.1(D) (2). Co-operative Societies.

A relic of the days when the Danes controlled all Icelandic commerce is the widespread presence of co-operative societies. The original intent behind these societies was to allow workers to pool their limited resources to finance their businesses and gain leverage in the marketplace. These societies are prevalent in rural areas, which for all intents and purposes means anywhere outside of Reykjavik and its suburban communities. They are found doing business in all areas of the economy.

§ 1.1(D) (3). Narrow Economic Base.

Besides a mild climate, an additional by-product of the Gulf Stream is the abundance of fish found off Iceland's coast. This rich natural resource is the lifeblood of the Icelandic economy. Few of the world's nations are so dependent on a single resource. This dependence carries with it the accompanying danger of fluctuations in world fish prices and size of annual catch.

Reliance on a narrowly-based economy is nothing new for Icelanders. One hundred years ago 99.2% of Iceland's total export receipts came from but two commodity groups: fish products (62.3%) and agricultural products (36.6%).⁸³ While Iceland has managed to end its reliance on agricultural exports, that percentage dropping to a mere 2.3% in 1980,⁸⁴ its reliance on fish exports has increased even further, up to 67% in 1984. As bad as this last figure is, it is a marked improvement over the 94.4% in 1955 and 75.4% in 1980,⁸⁵ and shows the partial success of government efforts to diversify the economy.

In recent years these government efforts have centered on attracting industry that can take advantage of Iceland's wealth of hydroelectric and geothermal energy resources.⁸⁶ In 1966 the Icelandic government reached an agreement with the Swiss Alusuisse group to establish a large aluminum smelter in Straumsvik, just south of Reykjavik.⁸⁷ Although the plant must import 100% of the aluminum ore it refines, the electricity it uses is obtained from hydroelectric sources, allowing it to be competitive in the world aluminum market. The impact of this single plant is enormous. It employs 600 people and is the largest industrial plant in Iceland.⁸⁸ In 1973 it used an astounding 54% of all electricity produced in Iceland!⁸⁹ In 1983 the aluminum refined at the plant accounted for 17.6% of the nation's total export receipts, a figure suggested that Icelanders may now be overly susceptible to the vagaries of another worldwide market.

The success of the aluminum plant recently encouraged the establishment of a ferro-silicon plant at Hvalfjörður (Whale Bay) with the assistance of the Norwegian government, which owns a 45% share in the plant, and establishment of a diatomite plant with the assistance of the Manville Corp., a U.S. company.

Although Iceland has little land suitable for farming, a large part of the island lends itself to grazing, allowing Iceland to be self-sufficient in meat and milk products. Extensive use of geothermally-heated greenhouses allows Icelanders to add some variety to a diet made up in large part of two Icelandic staples: fish and lamb. Sheep contribute to not only the national diet but also a large wool industry, which produces sweaters and other knitted goods known worldwide for their quality and originality. Government subsidization of this industry is a perennial hot political item in Icelandic politics.

§ 1.1(D) (4). Inflationary Problems.

High inflation has been a persistent problem in Iceland. As a result, currency

devaluations are commonplace and Iceland's external debt rose to 66% of GNP in 1985.⁹⁰ The government's preoccupation with full employment is one source of inflationary pressure. A bigger problem, however, is wage indexation. The labor movement in Iceland, like most European labor movements, has had substantial success in negotiating lucrative pay and benefit packages. One element of these packages is indexation of wages to price increases. When coupled with accompanying large "real" wage increases, this not only pushed inflation skyward but kept it there. Averaging 33% annually during the 1970s, inflation rose to an average annual rate of 50% in 1981 and 1982. In the spring of 1983 it shot up further to an annual rate of 130%.⁹¹ Seeing the nation's economic fabric unraveling, in May 1983 Iceland's government suspended wage indexation for two years.⁹² Other measures were taken as well, and inflation tumbled to an average rate of 18% in the 12 months to August 1984. However, an October 1984 strike in the public sector pushed inflation back up and although fluctuating wildly quarter to quarter it averaged about 30% in 1985. Estimates for 1986 are in the 10-15% range.

§ 1.1(D) (5). Foreign Trade Situation.

Iceland conducts most of its trade business with other Western European nations. In 1983, 45% of its exports went to and 68% of its imports came from other members of the European Economic Community (EEC) and the European Free Trade Association (EFTA).⁹³ Of course Iceland's trade ties with Europe go all the way back to its founding, and continuing this pattern is not only logical but remains its safest political course, both domestically and internationally.

Unfortunately for Iceland its economy is too fragile for it to let domestic politics or foreign policy concerns play a large part in its foreign trade decisions. It must trade with "trade interests" being the determining factor. Thus, where it buys a particular product is governed primarily by what it stands to gain financially in the deal. This approach has caused Iceland to shift much of its trade from Western Europe to the U.S. and Eastern Europe, particularly the U.S.S.R. This trade shift can be traced to the end of WWII. After the war Iceland found in Russia a lucrative market for its frozen fish production, and as a destination for Icelandic exports the Soviets became second only to the British.⁹⁴ The post-war economic recovery provisions of the Marshall Plan brought the Americans into the act, at the expense of the Soviets, and soon the U.S. was a vital trading partner.⁹⁵ This reliance on the superpowers continues to a considerable extent today. In 1985 the U.S. and U.S.S.R. purchased 27% and 7% of Iceland's exports and provided 7% and 8% of its imports.⁹⁶ Iceland's strategic importance in the eyes of the U.S. is perhaps best illustrated by the latter allowing this trade imbalance to continue.⁹⁷

§ 1.2. Form of Government.

§ 1.2(A). In General.

Iceland has a democratic tradition dating back over a thousand years. It boasts the world's oldest surviving parliament, the Althing, which was first established in 930 A.D. Its legal system has an equally proud past, having been fully developed during the same period. Even during the many centuries of foreign domination (1262-1944) Icelandic citizens managed to retain substantial control over most of their domestic affairs.

Iceland's current government is based on democratic principles developed, tested, and

proven true over several centuries in both Europe and America. The nation is defined in article one of its Constitution as “a republic with a constitutional government.”⁹⁸ As will be seen in the following material, the “constitutional government” Iceland created reflects the Danish, Norwegian, and American influences that shaped its founders’ beliefs.

§ 1.2(B). A Constitutional Government.⁹⁹

In the same May 20-23, 1944 national referendum in which the Icelandic people voted to terminate their union with Denmark, they approved the draft of the new Constitution.¹⁰⁰ When on June 16, 1944 the Althing unanimously approved the abolition of the Act of Union, it also passed the new Constitutional Act calling for the new Constitution to take effect at 2:00 p.m. the next day.

The Constitution of June 17, 1944 is essentially the 1920 Constitution reworked to reflect Iceland’s independence.¹⁰¹ It establishes the authority of the various branches of government and describes their relationship with one another. Taken as a whole the document strikes a balance between individual freedoms and state authority. Although it provides for religious, economic, and political freedoms, these freedoms are not without an occasional caveat allowing the state to limit individual liberty in the interest of society as a whole.

A comparison with the U.S. Constitution serves to highlight an interesting feature about the Icelandic Constitution. The former takes a broad, sweeping approach seemingly designed to create a timeless document, on the assumption that the details will take care of themselves. The latter takes an approach focused more on the country’s immediate situation, describing in surprising detail the day-to-day workings of government.

§ 1.2(B) (1). The Althing.

As previously stated, the Althing is the world’s oldest parliament. In 1930, at the ceremony held to mark the one thousandth anniversary of the Althing’s founding, Great Britain’s representative remarked that if England was the Mother of Parliaments then Iceland was the Grandmother of Parliaments.¹⁰²

The Althing is a modified bicameral legislature: the public elects a single house of sixty-three members in the general election;¹⁰³ then the Althing divides itself into an Upper Chamber of twenty-one members known as the Efri Deild, and a Lower Chamber of forty-two members known as the Nedri Deild.¹⁰⁴ For certain purposes the Althing sits as a single body known as the United Althing. Each Chamber and the United Althing elects its own “Speaker of the House.”¹⁰⁵ Althing members are elected for four-year terms in a single quadrennial election that re-seats the entire body.¹⁰⁶

Seats in the Althing are distributed in a manner that combines elements of both a federal system and a proportional democracy. Iceland is carved into eight geographic constituencies or districts which are each guaranteed a certain number of representatives, varying between five and fourteen—the number originally apportioned roughly based on district populations in the middle of this century. These districts are guaranteed the established number of representatives regardless of their current population or vote. Yet a pure democratic approach is taken *within* these geographic areas, where members are elected by proportional representation.

The manner of selecting representatives described above only accounts for fifty-four of

the Althing's seats. In an attempt to make the Althing a little more democratic, the remaining nine seats are divided among the various political parties to approximate as nearly as possible the percentage of votes each received in the General Election.¹⁰⁷

This electoral system is not without its problems. Since it was established, population growth in the Reykjavik and Reykjanes areas has far exceeded that of other areas. As a result, the former are greatly under-represented in parliament. For example, the ratio of Althing members to population in the West Fjords was, until recently, **six times greater** than in the Reykjanes area. This representational disparity led to a recent Constitutional amendment which increased the size of the Althing to sixty-three seats, with the three new seats going to the Reykjavik and Reykjanes constituencies.¹⁰⁸

Although the Althing is predominant in the legislative area, it actually shares a certain amount of legislative power with the President.¹⁰⁹ The Althing of a thousand years ago often sat as a judicial as well as a legislative body, but for other than impeachments¹¹⁰ this role has largely been abolished.

§ 1.2(B) (2). The Executive Branch: the President and Cabinet.

The President is the head of state and is elected by direct, nationwide, popular vote for a four-year term. The timing of presidential elections is distinct from that of parliamentary elections.

Although the Constitution in theory gives the President sweeping powers, such as the power to dissolve the Althing,¹¹¹ these powers are superficial and the actual role of Iceland's President is more like that of a constitutional monarch. Article two of the Constitution vests legislative power in the Althing **and the President**, but a careful reading of the Constitution shows the President's power rather limited in this area. He¹¹² can enact laws on his own, but only through his ministers and only when the Althing is in recess, and even then the law is only provisional until the Althing ratifies it.¹¹³ His veto power over Althing legislation is effective only if supported in a national plebiscite.¹¹⁴

Article two also vests the executive power in the President. However, the President's executive power is exercised through a cabinet of ministers, led by the Prime Minister.¹¹⁵ As an example of the relative impotence of the President, and power of the cabinet, a law passed by the Althing and signed by the President cannot take effect until countersigned by a cabinet minister.¹¹⁶ The Central Government Act¹¹⁷ regulates the cabinet's exercise of executive power. It establishes thirteen different ministries, but a single minister can be named to more than one ministry. Thus the number of ministers can vary, and it has fluctuated in recent years between seven and ten. Cabinet ministers are usually members of the Althing as well.

Within his own ministry a cabinet minister rules supreme, making policy and interpreting the law with little outside interference.¹¹⁸ One check on ministerial power is the Althing. If it desires, the Althing can get rid of the entire cabinet in one fell swoop through a "no confidence" vote, or limit this vote to a single minister.¹¹⁹ For malfeasance in office, ministers are subject to impeachment by the Landsdómur, or Country's Court.¹²⁰

Article fifteen states that the President appoints the cabinet, but in a parliamentary democracy this act is merely a formality; selection of cabinet ministers is really done by the individual political parties.

Several different political parties enjoy significant support from the Icelandic

electorate. As a result, since Iceland achieved its independence in 1944, not a single political party has ever won a majority of the seats in the Althing. Accordingly, coalition governments have been necessary. In fact, of the seventeen different governments since 1944, fourteen have been ruled by majority coalitions of two or more parties.¹²¹ The other three governments were minority governments and none ruled with any success.

The government is usually formed by the President selecting an Althing representative from the party receiving a plurality of the national vote, and asking that representative to attempt to form a government.¹²² One of the levers the President can use to prod the political parties into reaching an agreement is his ability to threaten to name ministers of his own choosing,¹²³ although a government without a majority of the Althing behind it cannot govern effectively.

The politics of coalition causes inherent instability in many of the governments that are formed. It sometimes makes for strange bedfellows as well. For instance, there have been coalition governments in which members of the right-wing, pro-NATO, Independence Party served alongside communist members of the left-wing, anti-NATO, People's Alliance. The ability of NATO and the U.S. to maintain a strong military presence in this climate is attributable to an unwritten rule in Icelandic politics: whenever the People's Alliance is a partner in a coalition government it will not get the Ministry for Foreign Affairs as one of its cabinet posts.¹²⁴

§ 1.2(B) (3). The Judicial Branch.

Article two of the Constitution states that “[t]he judicial power is exercised by the judiciary.” One authority asserts that this provision guarantees the independence of the judiciary.¹²⁵ However, it should be noted that Article fifty-nine states that “[t]he organisation of the judiciary cannot be established except by law.” This provision gives the Althing substantial input into the functioning of the judicial system, even without actually exercising judicial powers. Nevertheless, the judiciary normally appears to be totally independent. On occasion it has ruled statutes passed by the Althing to be unconstitutional, and overturned executive actions as inconsistent with underlying legislation.¹²⁶

A more detailed discussion of the judiciary is found in § 1.4 below.

§ 1.2(B) (4). Local Government.

Iceland is divided into geographical subdivisions for two functional purposes: state administration and local government. State administrative subdivisions exercise authority in areas such as law enforcement, tax collection, customs control, etc. The authority of local government subdivisions is exercised over matters such as school administration, transportation, regulation of commercial establishments, etc. The line dividing subject matter into state and local concerns is not well-defined, can be difficult to comprehend, and is beyond the scope of this study.¹²⁷

Depending on whether it is for state administrative purposes or local purposes, the actual territorial division of Iceland varies. For purposes of state administration there are twenty-three kaupstaðir (Reykjavik and twenty-two other boroughs or municipalities), and eighteen sýslur (counties). Each of the sýslur is further divided into a number of hreppa (rural districts), with a total of 200 nationwide.¹²⁸

For the purpose of local government, geographic subdivision is similar: twenty-three

towns and two hundred rural districts.¹²⁹ However, the eighteen counties now become twenty-three regional districts known as *sýslufélag*, composed of *kaupstodum* and *hreppum*.¹³⁰ The importance of the regional districts is not as great as that of the other local municipal subdivisions. Municipal power is established in a positive manner by statute, and many municipal decisions are subject to ministerial review at the national level.¹³¹ Municipal government is exercised and controlled by municipal councils, elected for four-year terms.¹³²

One locality is singled out for special treatment in terms of both state administration and local municipal government, and that is the Keflavik International Airport, where the NATO base is situated. The land on which the Airport sits actually lies within the geographic confines of several different counties. Yet the Airport is a single, defined entity governed by officials who report directly to the Minister for Foreign Affairs. The unique status of the Airport is particularly apparent in the areas of customs and judicial administration. The customs officials at the Airport are the only customs officials in Iceland who do not report directly to the Minister of Finance, reporting to the Minister for Foreign Affairs instead. Similarly, the Airport has its own court, administered by three judges who are the only local judges in Iceland not reporting to the Minister of Justice, reporting instead to the Minister for Foreign Affairs.¹³³

§ 1.3. Law-Making Process.¹³⁴

§ 1.3(A). Sources of Law.

Iceland's legal system is a branch of the Nordic legal system, with original roots in the Romano-Germanic system. As a civil law system it places great emphasis on statutory law passed by the Althing. In fact the nation's Constitution came into force by an Act of the Althing.

Although most of Iceland's statutes currently in force are of recent origin, the oldest dates all the way back to 1275. Unlike some civil law systems Iceland does not have law codes, relying instead on individual statutes passed on a broad range of subjects. But statutes in certain areas, such as commercial law and property law, are very comprehensive.¹³⁵

Delegated legislation usually takes the form of ministerial regulations and decrees, but can also originate with local authorities. It is an important source of law.¹³⁶

Other sources of law generally recognized by the Icelandic legal system are custom, precedent, general principles of law, and the nature of the case. Legal writings and international law are not regarded as sources of law, although they do in fact influence judicial decisions.¹³⁷

Iceland does not accept compulsory jurisdiction of the International Court of Justice.

§ 1.3(B). Statutory Legislation.

§ 1.3(B) (1). Preparation of Bills.

Bills can be introduced in either the Upper or Lower Chamber of the Althing, by both parliamentarians and members of the Executive Branch.¹³⁸ Within the Executive Branch, the President acts through the individual cabinet ministers.

The majority of bills are in fact introduced by the ministers. Bills from this source are

usually the product of either civil-service employees in the ministries or short-term government committees. In some important fields of law, e.g. criminal law, both civil and criminal procedure, family law, etc., permanent drafting committees have been established to propose to the ministers necessary changes in the law. These permanent committees are usually composed of legal scholars highly qualified in the particular field. A majority of the bills presented by government ministers eventually become law.

As previously indicated, some bills originate from within the Althing. Bills from this source are first prepared by individual Althing members, groups of Althing members, or the political parties, and then submitted by an individual member.

§ 1.3(B) (2). The Legislative Process.

Legislation in Iceland can be categorized into five different types, with the legislative process itself used to discriminate between the types. The five categories are general laws, provisional laws, budget laws, Constitutional amendments, and laws that change the status of the State Church.

§ 1.3(B) (2) (a). General Laws.

To enact a general law a bill must be passed through the Althing. The bill can be introduced in either the Upper or Lower Chamber, and must be debated three times in each chamber. If the second chamber amends the bill, the bill goes back to the chamber where it was originally introduced for an additional debate. If further amended there, it goes once again to the second chamber for a fourth debate. If eight debates do not produce a bill agreeable to both chambers, the bill is debated a final time before the United Althing (both chambers meeting as one).

Each and every debate in both the individual chambers and the United Althing as a whole is followed by a vote on the bill. In the individual chambers a bill is passed by majority vote. In the United Althing the bill must receive a two-thirds vote for approval.¹³⁹

If a bill is not approved by the United Althing following the ninth debate, it simply dies.

§ 1.3(B) (2) (b). Provisional Laws.

Occasionally, circumstances arise requiring legislative action while the Althing is in recess. In such situations the President, at the direction of the ministers, can issue provisional laws.¹⁴⁰ The President must submit provisional laws to the Althing for its approval the next time it convenes. Once submitted to the Althing, provisional laws are handled like regular bills. If the President fails to submit a provisional law to the Althing, or if the Althing fails to enact the law during its next session, the provisional law becomes null and void when the Althing again recesses.¹⁴¹

§ 1.3(B) (2) (c). The Budget.

Every year the Executive Branch must introduce in the Althing a budget bill for the coming fiscal year. The budget bill is debated in the United Althing three times and then voted on. Only a majority vote is required to approve the budget.¹⁴² The Althing may not adjourn until the budget has been passed.¹⁴³ Once a budget is passed by the Althing, a provisional budget may not be issued.¹⁴⁴

§ 1.3(B) (2) (d). Constitutional Amendments.

In Iceland the Constitution is the foundation of the nation's government. A fundamental tenet of Icelandic law is that the Constitution cannot be changed without widespread public support. The amendment process is thus an extensive one, requiring a great deal of time and effort, and insuring that amendments to the Constitution will not be made in haste.

Proposals for Constitutional amendments may be submitted in either the Lower or Upper Chamber of the Althing. The proposal is debated three times in each chamber. If, after each of these three debates, the proposal is not approved by both chambers, the proposal dies there. It is not sent to the United Althing. If the proposal is approved by both chambers, then the Althing is dissolved and a General Election is held to elect a new parliament. Following the election the amendment is again introduced in both the Upper and Lower Chambers. If both chambers approve the amendment without changes, it then becomes law.¹⁴⁵ This process allows the public some control over Constitutional revision by giving the voters a chance to either defeat or elect representatives, either in favor of or opposed to the amendment, before the amendment's final approval.

§ 1.3(B) (2) (e). Laws Changing the Status of the State Church.

Article sixty-two of the Constitution establishes the Evangelical Lutheran Church as the State Church of Iceland. If the Althing passes a bill that changes the Church's status, the bill must be submitted to a national referendum (using secret ballot) for public approval. It becomes law only if approved by a majority of the people.¹⁴⁶

§ 1.3(B) (3). Presidential Signature on Bills.

When the Althing passes a law, within two weeks the law must be submitted to the President for approval.¹⁴⁷ If the President fails to approve the law, the law becomes valid anyway. However, as soon as practical, the law must be submitted to the people in a national referendum (by secret ballot). If a majority of the public rejects the law it becomes null and void.¹⁴⁸ This provision is largely of theoretical interest because the President has never refused to sign a piece of legislation since Iceland achieved its independence in 1944.

§ 1.3(C). Treaties.

Article twenty-one of the Constitution vests the Treaty Power in the President. In reality, the ministers exercise the Treaty Power and the President merely performs the formalities such as signing the treaties. However, the Constitution requires Althing consent to any treaty that suggests constitutional changes or places any restriction on Iceland's sovereignty over its land and territorial waters.

§ 1.4. The Judicial System.**§ 1.4(A). General Information.**

Generally speaking, courts in Iceland can be divided into three categories. In the first category are found those courts of first instance¹⁴⁹ that exercise jurisdiction within a

particular judicial district. Iceland is at present divided into forty-one judicial districts.¹⁵⁰ The second category consists of the court of second instance,¹⁵¹ the Supreme Court¹⁵² of Iceland, which is the national court of appeal. In the third and final category are found various special courts, which are courts of first instance with nationwide jurisdiction. In recent years there has been a reduction in the number of special courts.

Each judicial district has five courts of first instance: an ordinary civil court, an ordinary criminal court, a Sheriffs Court, a Probate Court, and a Court of Auctions.¹⁵³

The subject matter jurisdiction of Icelandic courts is, with one exception, established in precise statutory terms. The exception is the ordinary civil court found at the district level. The competency of these courts extends simply to all remaining cases, i.e. any case not falling within another court's statutory subject matter jurisdiction.¹⁵⁴

§ 1.4(B). The Judiciary.

The district-level courts of first instance normally have a single judge, in every case a qualified lawyer.¹⁵⁵ He holds permanent tenure. In each of these five basic courts, when a case is comprehensive or requires special expertise, be it technical or otherwise, the judge may call to his aid two experts, thus constituting a court of three judges with himself as president. These experts can be either legal experts or lay experts, depending on the expertise required. Examples of the latter include physicians, engineers, etc. After being called to sit on a case, the additional judges (laymen included) have the same status as the permanent judge and can overrule him by majority vote.¹⁵⁶ In the various special courts it is common to find more than one judge.¹⁵⁷ The Supreme Court has eight judges.¹⁵⁸ In a court where more than a single judge sits on a case a unanimity of opinion is not required, all decisions being reached by majority vote.¹⁵⁹

In most judicial districts there is only a single permanent judge, and some judges serve two districts. Several districts, however, have more than one judge. Outside Reykjavik, the capital, the same judge sits in all five courts of first instance in his jurisdiction. This is true even in districts where there is more than a single judge. In the Reykjavik District, the judges are more specialized and serve in only one of three capacities: on the ordinary civil court, on the ordinary criminal court, or on the remaining three courts of first instance as a group (Sheriff's Court, Probate Court, and Court of Auctions).¹⁶⁰ In certain situations a judge may not feel that he can devote sufficient time to hear a particular case. In these cases he may seek and the Minister of Justice may appoint, on an ad hoc basis, another judge to handle the case.¹⁶¹

In addition to the permanent judges, courts of some districts have deputies, who are also qualified lawyers. The nature of a deputy judge's authority is determined by the Minister of Justice and can be categorized in either one of two ways. He may be authorized to deliver judgments for which he is personally responsible, or he may be authorized to render judgments for which the permanent judge of the district is responsible. When the deputy is performing the latter role the permanent judge can order the deputy to seek his approval before delivering a judgment.¹⁶²

According to the Constitution, judges whose jobs do not entail any administrative work can only be impeached by a judgment.¹⁶³ It is not clear, however, just which judges fall under this rule because all judges in Iceland have at least a minimal amount of administrative work. Nevertheless, it has been asserted that this rule applies at least to Supreme Court judges, and probably to judges in the Reykjavik Town Court as well, because their administrative work constitutes but an insignificant portion of their duties.

§ 1.4(C). Juries.

Juries are not used in the Icelandic judicial system.¹⁶⁴

§ 1.4(D). Individual Courts.**§ 1.4(D) (1). Ordinary Civil Courts: Baejarthing (Town Courts) and Aukadomthing (Special Session Courts).**

This is a common civil court of first instance operating at the district level. The name varies between Town and Special Session Courts, depending on whether the jurisdiction is an urban or rural district. This court is competent to try any justiciable complaints not falling within the statutorily-defined jurisdiction of another court. The jurisdiction of this court includes questions concerning the legality of administrative decisions.¹⁶⁵

As previously mentioned, this court normally has a single judge sitting on each case, that judge being a qualified lawyer with permanent tenure. The previously mentioned rule¹⁶⁶ allowing the addition of experts to create a three-judge panel in technical or comprehensive cases applies in this court.

Decisions of this court are subject to appeal to the Supreme Court.¹⁶⁷

§ 1.4(D) (2). Ordinary Criminal Courts: Sakadómur.

This is a common criminal court of first instance operating at the district level. This court is competent to investigate offenses against the law involving penal sanctions and to try all actions for the prosecution thereof, except such cases that fall within the competence of other courts as defined by statute. It is also competent to adjudicate several other issues given to the court by a special statute, issues normally within the jurisdiction of Town or Special Session Courts. One example is the issue of whether an individual is mentally competent to maintain control over his assets. If an offense involving penal sanctions also gives rise to a civil claim, the civil claim may be adjudicated by the criminal court upon request of the claimant.¹⁶⁸

Normally a single judge sits on each case in this court, but the previously mentioned rule¹⁶⁹ allowing the addition of experts to create a three-judge panel also applies.

Decisions of this court are subject to appeal to the Supreme Court. In some cases, such as when the sentence adjudged is particularly harsh, the prosecutor is obligated to appeal.¹⁷⁰

§ 1.4(D) (3). Sheriff's Courts: Fogetadomur.

This is a civil court of first instance, operating at the district level. The court's competence relates to enforcement proceedings of various kinds. These include execution proceedings for the satisfaction of civil judgments, seizure or distress proceedings to enforce payment of taxes and certain other claims of public interest, proceedings for recovery or alienation of possession of real and personal property and certain other rights (eviction and installation proceedings for instance), attachment proceedings, and the issuance of preliminary injunctions. The court also administers public property and company registers, and discharges notarial functions.¹⁷¹

Generally only one judge sits on each case in this court, but the previously mentioned rule¹⁷² allowing the addition of experts to create a three-judge panel also applies.

Decisions of this court are subject to appeal to the Supreme Court. Attachment orders and injunctions, however, being made on a preliminary basis pending a decision on the merits, are referred to the ordinary civil court of first instance for ratification or annulment, subject to subsequent appeal to the Supreme Court.¹⁷³

§ 1.4(D) (4). Probate Courts: Skiptadómur.

This is a civil court of first instance, operating at the district level. This court deals with the administration and liquidation of estates, including the collection of debts owed the estate. This applies to any and all estates, including decedents' estates, marital estates, company estates, and estates in bankruptcy. This court is competent to handle all bankruptcy proceedings.¹⁷⁴

This court is generally composed of a single judge, but the previously mentioned rule¹⁷⁵ allowing the addition of experts to create a three-judge panel also applies.

The Probate Court's decisions are subject to appeal to the Supreme Court.¹⁷⁶

§ 1.4(D) (5). Courts of Auction: Uppodsréttur.¹⁷⁷

This is a court of first instance, operating at the district level. This court is competent to carry out auctions of property, whether by a forced sale to satisfy a judgment or other claim, or by a voluntary sale, e.g., in order to realize the assets of a solvent estate.

Generally only one judge sits on each case, but the previously mentioned rule¹⁷⁸ allowing the addition of experts to create a three-judge panel also applies.

The decisions of this court are subject to appeal to the Supreme Court.

§ 1.4(D) (6). Shipping Court: Siglingadómur.

The Shipping Court is a court of first instance, operating at the national level. It could perhaps best be described as an admiralty court, but it performs other functions as well. Primarily it serves to settle disputes relating to the certification of ocean vessel seaworthiness, adjudge the validity of orders banning sailing issued by the shipping inspection authorities, and try criminal cases arising from infringements of the shipping inspection laws and major maritime accidents.¹⁷⁹

Five judges sit on each case in this court. The presiding judge is a qualified lawyer appointed for a term of six years. The four associate judges are lay experts in navigation and shipping, selected from a standing panel set up by the Minister of Justice. Two of them, a past or a present sea captain and a seaman, are selected by the presiding judge as permanent associates for his term of office. The remaining two are selected from the panel on an ad hoc basis by the presiding judge and permanent associates. The Shipping Court sits in Reykjavik.¹⁸⁰

The decisions of the Shipping Court are subject to appeal to the Supreme Court, except decisions on the validity of a government ban against sailing. When reviewing a government ban against sailing, the Shipping Court is charged with rendering a prompt decision to avoid substantial financial loss by the party involved.¹⁸¹

§ 1.4(D) (7). Court of Drug Offenses: Dómur í Avana og Fikniefnamalum.

This is a criminal court of first instance, operating at the national level. Its function is to investigate and try cases involving violations of narcotics laws.¹⁸²

The court is composed of one judge who is specially appointed by the Minister of Justice. The previously mentioned rule¹⁸³ allowing the addition of experts to create a three-judge panel applies in this court. The Court of Drug Offenses usually sits in Reykjavik, but can convene anywhere in the country.¹⁸⁴

The decisions of this court are subject to appeal to the Supreme Court.¹⁸⁵

§ 1.4(D) (8). The Labor Court: *Félagsdómur*.

This is a court of first instance operating on the national level. Its jurisdiction extends to all types of labor relations cases, including violations of the national labor laws, claims for damages arising from illegal strikes, disputes concerning the validity, effect, and interpretation of labor contracts, or violations of such contracts, and any disputes employers, employees, and labor organizations agree to submit to the court for resolution.¹⁸⁶

This court is comprised of five judges, each appointed for a term of three years. The method of appointing these five judges is designed to insure a modicum of balance between labor interests and management interests. Two of the judges are appointed by the Supreme Court, and one of these serves as the president of the court. The other three judges are appointed as follows: one by the Minister of Social Affairs, one by the Labor Federation of Iceland, and one by the Federation of Icelandic Employers. In certain cases substitutes for the last two judges mentioned will be appointed by each of the disputing parties in a particular case. The judges appointed by the Supreme Court must be qualified lawyers but the other three judges can be laymen. The Labor Court sits in Reykjavik.¹⁸⁷

Questions of procedure decided by the court, including issues relating to its own jurisdiction over a case, may be appealed to the Supreme Court. Other decisions of the court are not reviewable.¹⁸⁸

§ 1.4(D) (9). Country's Court: *Landsdómur*.

This is a court of first instance operating at the national level. Its only function is to try actions of impeachment brought by the Althing against cabinet ministers for improper conduct in office.¹⁸⁹

The court is composed of fifteen members: five Supreme Court judges, the Chief Judge of the ordinary Criminal Court in Reykjavik, professor of constitutional law at the University of Iceland, and eight members selected by the Althing. Ten members of this court, four of which must come from the first seven individuals named above, constitute a quorum. The Chief Judge of the Supreme Court serves as presiding judge.¹⁹⁰

The Country's Court never has been convened¹⁹¹ and thus may be said to be more of theoretical than practical interest. Were this court to be convened it would meet in Reykjavik and its decisions would not be subject to appeal.¹⁹²

§ 1.4(D) (10). The Church Court: *Kirkjudómur*; and the Synodal Court: *Synodalréttur*.

The Church Court is a court of first instance, operating at the district level. It has jurisdiction over actions against bishops and ministers of the Lutheran State Church for scandalous conduct in or out of office. If such conduct is also a criminal offense then the offense will be tried in an ordinary criminal court instead.¹⁹³

Three judges sit on each case: one permanent judge from a criminal court and two

ministers of the State Church, the latter selected by the criminal court judge in each case.¹⁹⁴

The sole function of the Synodal Court is to hear appeals from the Church Courts. Sitting as a national court, the Synodal Court is the court of last resort for such cases. It sits in Reykjavik.¹⁹⁵

The Synodal Court is composed of five judges: three Supreme Court judges and two theologians appointed ad hoc by the Supreme Court. Like the Country's Court, the Church Court and Synodal Court have never been convened and are largely of theoretical interest.¹⁹⁶

§ 1.4(D) (11). The Bar Association Board: Stjórn L.M.F.I.

This is a court of first instance with very limited jurisdiction. The only cases it may entertain are attorney-client disputes over excessive legal fees. Jurisdiction in such cases is held concurrent with the ordinary civil courts.¹⁹⁷

There are five attorneys on the Bar Association Board, all elected by the members of the Association. The Board's decisions are subject to appeal to the Supreme Court.

§ 1.4(D) (12). The Supreme Court: Haestiréttur.

The Supreme Court is the highest court in the land and hears appeals from all other courts unless otherwise precluded by statute. Non-appealable cases include those from the Country's Court, the Church Court, the Synodal Court, some cases from the Shipping and Labor Courts, and civil cases involving very small amounts of money (unless they include some important legal issue). Unlike appellate courts in the United States, Iceland's Supreme Court has complete freedom to review questions of both law and fact. It may affirm or modify a decision of a lower court, order a retrial in the lower court, dismiss the appeal, or dismiss the case altogether. In addition to appeals of final judgments, the Supreme Court may hear interlocutory appeals as well.¹⁹⁸

The court is composed of eight judges with permanent tenure, all qualified lawyers. The judges elect a Chief Judge from among themselves for a term of not less than one year. The court generally sits in plenum of five judges or in panels of three judges. In cases of special importance seven judges can sit on a case. The Supreme Court sits in Reykjavik. Obviously, there is no appeal from a Supreme Court decision.¹⁹⁹

§ 1.4(E). Quasi-courts.

§ 1.4(E) (1). The State's Tax Committee: Ríkisskattanefnd.²⁰⁰

This Committee operates at the national level and hears taxpayer appeals from decisions made by the individual tax commissioners in the various tax districts. Appeals may be taken from virtually any type of tax matter, including income, property, business, and sales taxes. In hearing these cases the Committee exercises a quasi-judicial function.

The Committee has three members and three substitutes, each appointed by the Minister of Finance for a period of four years. The only way to appeal a decision of the Tax Committee is to submit it to a district-level court of first instance. Appeals from that court's decision may go to the Supreme Court.

§ 1.4(E) (2). The Salary Court: Kjaradómur.

This is a quasi-court which hears salary disputes between the national government and its employees. The Salary Court only hears cases in which the employees have no right to strike, e.g. judges, ministers, members of the Althing, policemen, etc.²⁰¹

There are five judges who sit on this court: three appointed by the Supreme Court, one by the Minister of Finance, and one by the Government Employee Union. The Salary Court sits in Reykjavik and its decisions are not subject to appeal.²⁰²

§ 1.5. Legal Education.²⁰³**§ 1.5(A). General Information and Requirements for Legal Study.**

Legal education in Iceland, as we know it today, commenced in 1908. Prior to that Icelanders interested in studying law had to go to Copenhagen, Denmark to obtain their law degree. In 1908, however, a state-owned and operated law school was opened in Reykjavik. In 1911 it became part of the University of Iceland when the latter was established by the government, and remains the only law school in Iceland today.

Prior to entering law school at the University of Iceland a student must fulfill educational requirements not much different from those required of students entering law schools in the United States. Icelanders have ten years of general education beginning at age six. Upon completion of this basic education an Icelander has the equivalent of eight years of primary school and two years of secondary (high) school. The student then can go on to attend Menntaskóla or Fjölbrotarskóla. It usually takes four years of study before the student obtains his "Student" degree from one of these institutions. Such a degree is roughly equivalent to an associate (junior college) degree in the U.S.

After obtaining the "Student" degree an Icelander may apply for admission to the law school,²⁰⁴ which currently has a total of about 300 students enrolled. Approximately 100 to 150 of these students are in their first year. Upon completion of their studies these students will receive the Candidatus Juris degree. Although only about thirty students per year have graduated and received the degree in recent years,²⁰⁵ it is anticipated that increasing numbers of students will graduate in coming years. Between seven and eight hundred²⁰⁶ Icelanders nationwide hold a Candidatus Juris degree, but only a portion actively practice law. For a detailed demographic picture of lawyers in Iceland see the Appendix.

§ 1.5(B). The Law School Curriculum.

In Iceland it usually takes students five years to complete their law studies and obtain a Candidatus Juris degree, but six years of study is not uncommon. The curriculum is very general in nature, at least in the first four years. In their last year students can specialize in various fields of law. The five year curriculum is divided into three sections: the first section contains the first two years, the second section consists of the third and fourth years, and the third and final section is the fifth year of study. Students may not take courses in the second section until they finish the first, nor in the third section until they finish the second.

There are eight courses in the first section, all of which are mandatory. In the first year students take courses in Jurisprudence, Family Law, Constitutional Law, and General

Jurisprudence, the latter course comprised of sources of law, interpretation of law, legal history, the judicial system, and introduction to Obligation Law. The course in General Jurisprudence serves as a filter to screen out weaker students early in their legal studies. In fact only 20 to 30% of the law students who take the final exam in this course actually pass it. Courses in the second year are Contracts and Sales Law, Administration Law, Tort Law, and Inheritance and Personal Law.

Students in the second section have to take seven courses in their third and fourth years, all of which are also mandatory courses. Two of these are procedural courses: one in general civil and criminal procedure, and the other in bankruptcy and auction procedure, and procedure in Sheriff's courts. Students also have to take two courses in Criminal Law, one general in nature and the other more specific. The other three courses in the second section are Real Estate Law, Obligation Law, and Legal Problems, the latter training students to solve selected legal problems. In the Legal Problems course students have to take two exams rather than the more typical single end-of-course exam.

In the third section students have some freedom to choose what they are going to study. This section is intended to give students specialized training in various fields of law. In this section students take two courses in the fall semester and can select these courses from the several available. In the spring semester the students write a final thesis. While working on this thesis the students normally work under the supervision of one of the faculty, but sometimes they are able to work under the direction of a judge or a practicing attorney.

The primary materials students use in their studies are treatises and law review articles on Icelandic law, written by Icelandic lawyers. Treatises and law review articles from other Nordic nations are also used quite frequently since the law is fairly uniform throughout the Nordic region.

Although there are some seminars, most classes are taught in the typical lecture format. Unlike classes in American law schools, however, lectures are not based on the "Socratic" method, instead tending to be relatively one-way with little student participation, at least in the first few years of study. Students do become slightly more active in class in later years.

§ 1.5(C). Orator: the Law Students Association.²⁰⁷

One part of a law student's education is participation in the Law Students Association, Orator. The Association is very active in both education and social life. For example, Orator has three representatives on the Law Faculty Board and takes part in organizing the law school curriculum. The Association publishes a law review named *Ulfjótur*, which is the oldest law review in the country. A student-run legal aid program, sponsored by Orator, is the only legal aid institution in the country. Orator also offers students clinical training (similar to moot court training in the U.S.) to prepare them to represent clients in court. One of the most important activities sponsored by the Association is the student exchange program, a program through which Iceland routinely exchanges students with a university in the United States and many universities throughout Scandinavia.

§ 1.6. Admission to the Bar; Nature and Size of Practice.

§ 1.6(A). The Bar and Individual Firms in General.

There are approximately 200 lawyers²⁰⁸ and advocates actively practicing law in Iceland, or slightly less than one lawyer and advocate for every thousand people.²⁰⁹

The law firms are very small compared to firms in the United States, the largest firms having no more than five advocates. Many firms have only two advocates and some advocates are sole practitioners. Because of the small size of the law firms, they usually have no capacity to specialize in any particular field of law. Even those firms that do try to specialize do not have the luxury of doing so exclusively.

§ 1.6(B). Categories of Attorneys.

There are three different categories of attorneys in Iceland: lawyers, advocates to the courts of first instance (héraðsdomslögmenn), and advocates to the court of second instance or Supreme Court (haestarréttarlögmenn). A lawyer may not practice before the courts, but may act as a deputy for an advocate. Advocates for the courts of first instance can practice in all courts of first instance. Advocates to the Supreme Court may practice in the Supreme Court and all lower courts.²¹⁰

§ 1.6(C). Requirements for Practicing Law.

Before becoming a deputy to an advocate one must hold the Candidatus Juris degree from the University of Iceland or a comparable degree from another university, be twenty-one years of age, have attained the right to administer his own estate, and his estate cannot be in the possession of bankruptcy court.²¹¹ In order to become an advocate to the court of first instance a lawyer has to meet three requirements. The major prerequisite is to have successfully completed four test cases before a court of first instance. An exception to this rule is when a lawyer has at least three years' experience in a position which requires a law or economics education. Holding certain other positions will also qualify one for this exception. The two other requirements are that the lawyer be at least twenty-five years of age and an Icelandic citizen.²¹² To become an attorney to the Supreme Court a lawyer must be at least thirty years of age, an Icelandic citizen, and have been an advocate to the courts of first instance or have held a position requiring a law degree for at least three years. He also has to successfully complete three test cases before the Supreme Court. The Supreme Court can waive this latter requirement if the attorney is known from his legal work to be competent to represent cases before the court. An attorney to the courts of first instance can represent an individual case before the Supreme Court if he has been an attorney to the lower courts for at least five years, has represented at least forty cases before the lower courts, and the instant case was represented by him or his deputy in the lower court.²¹³

§ 1.6(D). Lay Representation in Court.

Attorneys in Iceland do not have a total monopoly on representing cases before the courts. There are three exceptions in which non-attorneys may represent a party in court. The first and most obvious is the exception which allows an individual to prosecute or defend his own case. This exception is extended to allow executives and managers of

businesses, government agencies, charitable institutions, and similar organizations to represent their organization when it is a party to an action.²¹⁴ The second exception is that which allows minors and individuals who are adjudged incompetent to control their personal affairs to let a relative represent them instead.²¹⁵ The third and final exception is when the case is being litigated in a rural area some distance from a major city or town.²¹⁶ This last exception originated when there were few attorneys located in rural areas. Although these exceptions exist on paper, in reality there are very few cases in which an individual is not represented by a qualified attorney.

§ 1.6(E). The Bar Association (L.M.F.I.).

The law requires that all practicing attorneys belong to the Bar Association.²¹⁷ The law further states that the Bar Association's primary function is to police the Bar, i.e., insure that its members maintain the high standards of the profession. The Bar Association also provides valuable services to its members. For example, after a member of the Bar dies the Association provides financial support to the member's surviving wife and children.²¹⁸

The Association is governed by a board of five attorneys: two advocates to the courts of first instance and three advocates to the Supreme Court. The president of the Bar Association is one of the board's Supreme Court advocates. These officers are all elected by a simple majority vote.²¹⁹

The Association has a **Codex Ethicus** to which the members must adhere in their practice. The Bar Association's board also serves as a special court with jurisdiction over attorney-client disputes concerning excessive legal fees. Parties involved in such a dispute can appeal the board's decision directly to the Supreme Court.²²⁰

§ 1.7. Law Reporting.

§ 1.7(A). Government Gazette: Stjórnartidindi.

Icelandic law does not expect citizens to be able to comply with laws without receiving any notice of such laws. Accordingly, a law, regulation, or other government order cannot be enforced until it has been officially published.²²¹ To meet this requirement the government of Iceland publishes all laws, regulations and other government orders in the Government Gazette. As an added feature the Government Gazette includes all treaties to which Iceland is a party. The Government Gazette is divided into three sections, roughly as follows: section A contains all the laws which have been passed by the Althing and some announcements from the President, section B contains all government regulations and orders, and section C contains all treaties.²²²

The Government Gazette is published quite frequently to allow prompt enforcement of new government edicts. At the end of each year a single bound volume is published containing all of the laws, regulations, government orders, and treaties individually published during that year.

§ 1.7(B). Parliamentary Gazette: Althingistidindi.

This book is published by the Althing and reports on all parliamentary proceedings. In addition to the actual text of individual bills presented and laws passed, the Parliamentary Gazette contains discussions and reports of parliamentary commissions. These

discussions and reports often are the only legislative history behind the laws. Consequently, this publication can be an important source when disputes arise over the interpretation of a particular law.

§ 1.7(C). Law Collection: Lagasafn.

About once every ten years the government publishes a book containing almost all the national laws valid at the time of publication. This book is an Icelandic lawyer's most important resource. More frequent publication is expected in the future since the last edition of the Law Collection was accomplished using modern word-processing equipment.²²³

§ 1.7(D). Supreme Court Verdicts: Haestaréttardómar.

This series of books contains all Supreme Court opinions. It is an annual publication. The verdicts are published more frequently in loose-leaf form during the year. The Supreme Court Verdicts are an important source of law and interpretation of law in Iceland.²²⁴

§ 1.7(E). Labor Court Verdicts: Dómar Félagsdóms.

In this series of books all Labor Court judgments are published. It is an annual publication.²²⁵

§ 1.8. Special Features and Extraordinary Matters.

§ 1.8(A). Nordic Co-operation.

The countries of Iceland, Norway, Denmark (including Greenland and the Faeroe Islands), Sweden, and Finland (including Aland Island) form what are called the Nordic countries, and have been tied together by various bonds for centuries. For example, during different periods in history, Sweden, Norway, and Iceland were united under the same king, Norway, Denmark, and Iceland were united under the Danish crown, and then all five Nordic nations became part of the Kalmar Union.²²⁶ The close interrelationships between these countries continued even after each achieved its independence, and has increased extensively in recent years.

Today, virtually no aspect of life in the Nordic countries is free of an element of Nordic co-operation. This co-operation is most extensive in the fields of legislation, economics, and culture.

Nordic co-operation takes place through many channels, both formal and informal. The most important, and probably most productive, is the Nordic Council. The Nordic Council is a consultative organization, consisting of parliamentarians and members of the governments of the various Nordic countries. The main purpose of this organ is to discuss questions of common interest to all Nordic nations, and to make proposals and recommendations to the respective governments.²²⁷ Between the Nordic Council's annual meetings, its standing committees work on various matters to be discussed at the next meeting. The Council is headed by a Presidium composed of five members, one from each of the member nations.²²⁸

Another important example of Nordic co-operation is a regular meeting of the

Ministers of Justice of each Nordic nation. The main purpose of these meetings is to increase the uniformity between the legal systems of the Nordic countries.²²⁹ Other channels are used to increase uniformity and cooperation at all levels and in all branches of government.

Besides official government bodies, many private means are also used to further Nordic co-operation. For example, the national organizations of the various professions, e.g., lawyers, doctors, etc., meet regularly to discuss common interests. In fact, labor unions in the respective countries have bonded together to form joint, Nordic-wide associations.

For more information on these matters, particularly co-operation between and unification of Nordic legal systems, see Modern Legal Systems Cyclopedia, Volume four, Chapter six, Part II: "Nordic Legal Unification."

§ 1.8(B). The Cod Wars.²³⁰

Since achieving its independence in 1944, Iceland's greatest international crisis was actually a series of three separate but related crises occurring in the years 1958-61, 1972-73, and 1975-76. At the beginning of each of these crises Iceland extended its fisheries jurisdiction to ever-increasing distances from its shores, precipitating disputes with other European nations, primarily Great Britain. Although the clash of arms in these disputes was minimal by any standard, the disputes have achieved notoriety as the "Cod Wars."

The root cause of the Cod Wars goes back to Iceland's reliance on fishing for national economic survival. Iceland's coastal fisheries stock was referred to in 1972 as the *conditio sine que non* for the national economy,²³¹ and in 1975 as "a matter of life or death to [the Icelandic] people."²³² Indeed fish and fish products accounted for 92% of Iceland's exports as recently as 1958.²³³ Although this figure dropped off to 77% in 1975,²³⁴ it is clear that these descriptions of fishing's importance to Iceland are not exaggerations, particularly when one takes into account that exports constitute between 45-50% of Iceland's gross national product.²³⁵ Heightening concern over Iceland's fish-dependency was evidence of a dwindling fish stock.²³⁶ It is little wonder that Iceland viewed protection of this natural resource with such great concern.

With this background, Iceland followed the lead of a number of other nations in extending the limit of its fisheries jurisdiction to twelve miles in 1958,²³⁷ fifty miles in 1972, and 200 miles in 1975.

The first extension, to twelve miles, was not considered terribly radical by international law standards. After all several nations, including the Soviet Union, had maintained for years a *territorial sea* of twelve miles.²³⁸ It was during this dispute that Iceland began to rely on the emerging international law concept of what has been called "the special case doctrine of preferential rights" as a legal basis for its fisheries extensions.²³⁹ This doctrine held that a nation was permitted to develop special rules for protection of its fisheries stock when that nation was primarily dependent on the coastal fisheries for its economic livelihood.²⁴⁰

The extension to fifty miles was not as readily accepted under international law. In 1972, the only nations making claims this broad were a handful of developing nations, primarily in Latin America.²⁴¹ Iceland continued to rely on the special case doctrine as legal justification for its actions,²⁴² but it also began to band with similarly-situated nations in an attempt to establish an international custom recognizing extended fisheries

limits.²⁴³ The illegality of such a claim was suggested by an August 1972 International Court of Justice decision ordering Iceland to refrain from enforcing its fifty-mile limit against Britain and West Germany.²⁴⁴ Prior to the ruling Iceland had informed the Court that Iceland refused to recognize the Court's jurisdiction in the case. Consequently, Iceland refused to obey the ruling,²⁴⁵ and to the extent it was able, attempted to enforce its fisheries limit.

By the time it declared its 200-mile fisheries jurisdiction in 1975, it became clear that Iceland was no longer attempting to justify its claims under prevailing international law. Instead, Iceland was now at the forefront of the third world "progressive" school of thought on law of the sea in its attempt to rewrite international law in this area. It is worth noting that although this "progressive" school of thought was, at the time, in direct conflict with the more conventional "colonial" school,²⁴⁶ international law of the sea today appears more reflective of the former than the latter. Equally noteworthy in this regard is the "Truman Proclamation"²⁴⁷ at the close of WWII, which extended U.S. coastal jurisdiction to include the natural resources of the continental shelf and the coastal fisheries in the contiguous zone off the U.S. coast, and provided a credible and valuable precedent for similar action by other nations.

During each of the Cod Wars the British sent the Royal Navy into Icelandic waters to protect the British fishing fleet. Against a Royal Navy "armada" that varied between thirty-seven, fourteen, and forty-one ships in the first, second, and third Cod Wars, was pitted the Icelandic Coast Guard consisting of six, seven, and eight ships during the respective Wars.²⁴⁸ It was obvious that Iceland would not win by force of arms. Considering that none of the Icelandic vessels was as large as even the smallest British frigate, the mismatch was even more pronounced. Thus Iceland's strategy was simply to harry the British trawlers and make fishing as expensive and difficult as possible. One Icelandic tactic used with great success was cutting trawl wires with a specially-designed hook. Ramming was a tactic frequently used by both sides. Although shots were actually fired by both sides during several confrontations, these were usually either blanks or warning shots. Despite attempts on both sides to limit the level of conflict, several people were injured and killed, usually accidentally.

In the end, each of the three wars was resolved by written agreements between Iceland and Great Britain.²⁴⁹ The substance of the first two agreements was, in short, British acceptance of Iceland's extended fisheries jurisdiction, subject to temporary preferential rights for British trawlers.²⁵⁰ In the agreement ending the third Cod War, Britain did not recognize the 200-mile limit, but did agree to restrictions on its fishing.²⁵¹ Nevertheless, a world-wide trend toward coastal state jurisdiction over not only a 200-mile fisheries zone but a 200-mile exclusive economic zone, was now underfoot, and Iceland's claim would soon be secure. One thing was established for sure: Iceland's leadership role in the progressive development of international law of the sea.

One of the most alarming developments of the Cod Wars was the detrimental effect the two Wars of the 1970s had on the NATO alliance. Iceland used the NATO Council as a forum for denouncing Britain and seeking NATO intervention. However, NATO members were glued to the sidelines. Some Icelanders became particularly incensed that after twenty years in Iceland, the U.S. military force at Keflavik, formally known as the "Iceland Defense Force," was now in a position to fulfill its mission, but refused to do so. Iceland reconsidered its foreign policy interests, and began to question the utility of NATO membership in general and the U.S. base at Keflavik in particular. Although

Iceland did not pull out of the former or close down the latter, it did use the second Cod War as an opportunity to renegotiate the 1951 Iceland-U.S. Defense Agreement, forcing the U.S. to pressure the British to settle the matter. The political side of the squabble peaked on February 19, 1976, when Iceland temporarily broke off diplomatic relations with Great Britain. Fortunately, the conflict was resolved by an agreement concluded later that year.

The Cod Wars had a mixed effect on Icelanders. Their long-term economic interests were enhanced by the extension of their fisheries jurisdiction. Also, they learned that some of their interests, primarily legal interests in the area of oceans law, are more in line with those of third world nations than with the Western European powers. For a brief time the Cod Wars even dampened Icelandic views toward Iceland's role in NATO and the purpose of the U.S. air base at Keflavik. But this latter effect was not long-lasting for two reasons: Iceland had after all "won" the Cod Wars, and it had managed to negotiate a lucrative revision in the 1951 Iceland-U.S. Defense Agreement.²⁵²

§ 1.9. Recent Developments.*

§ 1.9(A). Beer Prohibition Repealed.

A slim majority of Parliament voted on May 10, 1988, to end Iceland's seventy-three year prohibition of beer. The voters initially approved prohibition in a 1908 referendum; however the law did not officially take effect until 1915. The ban was first repealed in 1933, but due to a technicality, beer with an alcohol content above 2.25% was still prohibited.

The ban was officially lifted on March 1, 1989 and the last vestiges of temperance came to an end. However, freedom to purchase will be curbed by ability to pay. Because of heavy government taxes, liquor stores charge as much as \$57.60 for a case of imported beer containing twenty-four cans. Likewise, the purchase of beer from a bar costs anywhere from \$3.90 to \$4.80 a glass.

§ 1.9(B). Iceland Quits Whaling Commission.

As discussed in the text, the bulk of the Iceland's economy is derived from fishing. In December 1991, Iceland announced that it would withdraw from the International Whaling Commission. The withdrawal is to take affect by the end of June 1992. The Icelandic government announced no plans to continue whaling beyond the current offshore stocks which would sustain a limited harvest. The government did declare that a first priority would be "the establishment of regional organization for the effective conservation and rational management of whales in the North Atlantic Ocean."

* The editors wish to thank Liz Higginbotham, J.D. candidate, for her work on this update.

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FOOTNOTES

1. Unless otherwise indicated, information in this factual summary obtained from Directorate of Intelligence, Central Intelligence Agency, *The World Factbook* 112-13 (1986) [hereinafter *World Factbook*].
2. Statistics on trading partners and workforce obtained from *1 Countries of the World and Their Leaders Yearbook* 1986, at 623 (F. Blair ed. 1986) [hereinafter *Countries of the World*].
3. Rand McNally & Co., *Illustrated Atlas of the World* at A-9 (1986).
4. *Countries of the World*, *supra* note 2, at 625.
5. Hjalmar R. Bardarson, *Iceland, A Portrait of its Land and People* 46 (1982).
6. *World Factbook*, *supra* note 1, at 112.
7. United States Department of State, *Iceland Post Report* 1 (1986).
8. *Countries of the World*, *supra* note 2, at 625.
9. Unless otherwise indicated, the material in this section was obtained from H. Bardarson, *supra* note 5.
10. Ancient Greek and Roman literature include accounts of Pytheas' visit to an island referred to as 'Ultima Thule', located six days' sailing time north of the northernmost headland of Scotland. See *1 Saga Islands* 155 (1974) [hereinafter *Saga Islands*].
11. *Id.* at 156-57.
12. *Id.* at 160.
13. For more detailed discussion of this subject see *id.* at 157-65.
14. In Iceland, it is an established fact that Leifur Eirikson discovered North America sometime around 990 A.D. In fact, Icelanders are fond of saying that Columbus was the **last** person to discover America.
15. Friedman, **Private Creation and Enforcement of Law: A Historical Case**, 8 *J. Legal Stud.* 399, 403-04 (1979).
16. The word "code" is used rather loosely here since this was an oral code that was not committed to writing until the year 1117.
17. This law has been described as Germanic in origin, no doubt owing to the origin of early Norwegian law. See Thor Vilhjalmsson, *1 International Encyclopedia of Comparative Law, National Report on Iceland*, I-1, I-3 (1972); K. Zweigert & H. Kötz, *An Introduction to Comparative Law, Vol. I: The Framework* 284, 286 (1977). The term Romano-Germanic would be an even more accurate description of this law's original basis.
18. Orfield, **Icelandic Law**, 56 *Dick. L. Rev.* 42, 43 (1951). The Althing continues to meet today, giving Iceland the honor of having the oldest surviving Parliament in the world. The job of choosing a site for the annual Althing assembly fell upon Ulfljotur's foster-brother, Grim Geitskor ('Goat's Shoe'), "the fleetest man and nimblest rock-climber in Iceland." James Bryce, *Studies in History and Jurisprudence, Vol. I*, at 271 (1901). The site he selected was Thingvellir, a plain on the river Öxara about 40 km northeast of Reykjavik. The Althing continued to meet at this site until the King of Denmark abolished it in 1800. When the Althing was reassembled in 1845 it met in Reykjavik and has met there ever since.
19. Due to local circumstances there were actually 12 godord in the northern quarter. To compensate for this within the Althing's political structure the other three quarters were permitted additional Althing representatives. Thus all four quarters had equal voting strength. Friedman, *supra* note 15, at 404 n. 22. To simplify matters this complication will from here on simply be ignored.
20. *Id.* at 404. This annual recitation was made from the Lögberg, or Law-rock, which was the Althing's centerpiece and is the most hallowed ground in Iceland. It was at the Law-rock that in 1000 a godi named Thorgeir proclaimed Christianity as the State religion. And it was there that Iceland's independence was re-established by the Althing in 1944. H. Bårdarson, *supra* note 5, at 51-52.
21. *Saga Islands*, *supra* note 10, at 178.
22. Friedman, *supra* note 15, at 404.
23. See *infra* text accompanying note 30.
24. Friedman, *supra* note 15, at 404-05.
25. As one might expect, the absence of an executive branch precluded the development of any official form of international relations between the Commonwealth of Iceland and foreign nations. The judicial and legislative organs of the Commonwealth were totally incapable of performing this function. When the Commonwealth was faced with internal strife in the 13th century this lack of a central executive allowed Norway to step in and relieve the Icelanders of their independence. See *infra* text accompanying notes 30-31. It has been suggested that a nation without a central executive could exist **only** under circumstances such as faced Iceland during this period: a widely dispersed population in a land totally severed from the rest of the world. See J. Bryce, *supra* note 18, at 280.
26. A passage in *Njal's Saga* gives a particularly interesting account of how individuals approached daily life in a society without a sense of the "criminal" aspect of murder. In one scene, the hostility between two parties

in a court case is so intense that open fighting threatens to break out in open court. Both parties are backed by a number of armed men. One of the parties asks a neutral party if he will help out in case there is a fight. The neutral party replies "if you are forced to give ground, you [can] . . . retreat in this direction, for I shall have my men drawn up here in battle array ready to come to your help. If on the other hand your opponents retreat . . . I shall take it upon myself to bar their way. . . . And as soon as I estimate that you have killed off as many as you can afford[!] I shall intervene with all my men to stop the fighting . . ." Magnus Magnusson and Hermann Palsson trans., *Njal's Saga* 296-97 (Penguin ed. 1960), quoted in Friedman, *supra* note 15, at 407, n. 35.

27. Friedman, *supra* note 15, at 405-07.

28. J. Bryce, *supra* note 18, at 281.

29. The Icelanders themselves were convinced beyond doubt that this system was effective. A scene from the *Eyrbyggja Saga* is most illustrative of this faith:

A funeral feast was being held to honor some men who had supposedly drowned at sea. Their wrecked boat had washed ashore but the bodies were never found. On the first night of the feast, just as the fire was lit in the great hall, in walked the ghosts of the men who had been lost, their clothes dripping wet. The guests greeted them but the ghosts did not answer. They simply sat by the fire and remained completely silent all night. After the fire burned out, the ghosts left. The next night and many nights thereafter the ghosts returned, acting in the same manner. To avoid the ghosts, the servants attempted to start a cooking fire in another room. But the ghosts appeared there instead. After that, the servants refused to do any cooking. To resolve the problem Kjartan, the eldest son of one of the deceased, started two fires in the great hall, one for cooking and one for the ghosts. But soon men mysteriously began to die in the house. Kjartan consulted his Uncle Snorri, an eminent lawyer, for advice. Based on his uncle's advice, Kjartan sued the ghosts for trespassing and causing men's deaths. The suit was prosecuted in the thing-court following standard court procedure, and in due course a verdict of ejection was rendered against each ghost. That evening by the fire, each ghost was informed of the verdict against him. As each ghost learned of the verdict, he got up and left the hall, never to be seen again! *Id.* at 290-91.

What greater faith can one have in his legal system than to use it to get rid of ghosts?

30. *Id.* at 296. Although the level of violence that existed is frequently described as being of civil war dimensions, see *id.*; Friedman, *supra* note 15, at 410; Orfield, *supra* note 18, at 46, there is evidence that the actual number of people killed each year, on a per capita basis, was probably no higher than the rate of murder and nonnegligent manslaughter in the United States. (Or perhaps this simply tells us something about violence in the U.S.) See Friedman, *supra* note 15, at 410, 410 n. 45.

31. Orfield, *supra* note 18, at 45-47. Under the Treaty of 1262, Icelanders were united with Norwegians under a common King. Beyond the common King, however, there were no further legal bonds between the two nations. The Treaty guaranteed the future of Icelandic jurisprudence and permitted the Althing to retain its traditional authority, but the powers of the godar passed to the King. The King was specifically charged with maintaining peace within Iceland. The biggest and most immediate change the Icelanders felt was the one in their pocketbooks—they now were pledged to pay an annual tax to the King. H. Bárðarson, *supra* note 5, at 71; Grimson, *Iceland and the Americas* (pts. 1 & 2), 26 A.B.A. J. 505 (1940). The wording of the Treaty is set out *infra* note 42.

In truth, only the godi from the southern, western, and northern quarters accepted the King's sovereignty in 1262. The eastern quarter held out until 1264 before pledging allegiance to the Norwegian Crown, now held by Haakon's son Magnus. J. Bryce, *supra* note 18, at 299-300. This supports the view among many that the godord, or at least the quarters, into which Iceland was originally divided were actually small, independent nation-states themselves.

32. *Countries of the World*, *supra* note 2, at 625.

33. H. Bárðarson, *supra* note 5, at 105.

34. 5 *Worldmark Encyclopedia of the Nations* 149, 150 (M. Sachs ed. 1967) [hereinafter *Worldmark Encyclopedia*].

35. Much of this decrease can be attributed to plague, famine, bad weather, and volcanic eruptions. H. Bárðarson, *supra* note 5, at 105.

36. Thór Vilhjálmsson, *supra* note 17, at I-3.

37. *Id.* at I-2.

38. *Constitutions of the Countries of the World, Iceland* 3 (G. Flanz & H. Godholm eds. 1973) [hereinafter *Constitutions of the World*].

39. Bárðarson, *supra* note 5, at 76.

40. One writer asserts that Iceland was given to the Danes "as a security in the sphere of influence of the British navy for Danish obedience to British foreign policy." *Id.* Another writer claims that the separation of

Iceland from Norway was simply a result of the hastiness with which the Treaty of Kiel was drafted. 2 Knut Gjerset, *History of the Norwegian People* 415 (1927), cited in Orfield, *supra* note 18, at 49 n. 57.

41. Orfield, *supra* note 18, at 49.

42. That Iceland did not intend to become a part of Norway is a point Icelanders are quick to make. Even Americans of Icelandic descent feel it necessary to make this point. See Grimson, *supra* note 31, at 505.

Since this point is so important to the way Icelanders view themselves in history, and since interpretation of the specific wording of the Treaty of 1262 holds the key to the issue, the Treaty's wording is set out below:

"This is the agreement of the people of northern and southern Iceland, that we grant King Haakon and Magnus under oath land, thanes, and eternal taxes, twenty alnar for every man who pays the tax of thingfararkaup. These taxes are to be collected by the heppstjorar, brought to the ship, and delivered to the royal officials, after which there is to be no responsibility for them. In consideration hereof the king is to let us enjoy peace and the Icelandic laws. Six ships are to sail from Norway to Iceland every summer during the next two years. From that time forth this matter shall be arranged in such a way as the king and our best man shall deem most serviceable for the country. Any inheritance which falls to Icelanders in Norway is to be given them, however long it may remain due, so soon as the rightful heirs, or their legal representatives, appear to claim it. The landaurar tax is to be abolished. Icelanders are to have in Norway the most extensive rights which they have ever enjoyed there, and which have been promised them in your letters. You (King Haakon) are also to maintain peace for us, as God may give you strength to do so. The jarl's authority we will acknowledge so long as he keeps faith with you and peace with us. This agreement we and our descendants will keep in good faith so long as you also faithfully keep it, but we consider ourselves released from all obligations, if in the opinion of the best men, it shall be broken. To this end I place my hand on the Holy Bible, and call God to witness that I grant King Haakon and Magnus under oath land, thanes and eternal taxes according to the conditions here named, and as the written agreement bears testimony. May God so be merciful to me as I keep this oath, unmerciful if I do not."

Knut Gjerset, *History of Iceland 206-07* (1925), reprinted in Orfield, *supra* note 18, at 57-58.

43. Orfield, *supra* note 18, at 49-50.

44. Among those eligible to vote, turnout increased from 20% in the 1874 election to 50% in the 1903 election, and finally to 76% in the 1908 election. Svanur Kristjansson, *Conflict and Consensus in Icelandic Politics, 1916-1944*, at 33 (unpublished Ph.D. dissertation at U. of Ill., Urbana-Champaign 1977) (photo. reprint available from U. Microfilms Int'l at U. of Mich.).

45. *Id.*

46. *Id.* at 162-63.

47. *Id.* at 163.

48. *Id.* at 219. The Icelandic people approved the treaty in the national referendum by an overwhelming margin, 12,040 yeas and 897 nays. Orfield, *supra* note 18, at 51 n. 65.

49. The treaty can be found in M. Hudson, *Cases on International Law* 46-47 (2d ed. 1936).

50. Orfield, *supra* note 18, at 50-51. Occasional displays of Icelandic sovereignty were seen, however. For example, when the League of Nations enacted sanctions against Italy for that nation's invasion of Ethiopia, Denmark joined in the sanctions, while at the same time Iceland chose to conclude a trade treaty with Italy. *Id.* at 51.

51. H. Bårdarson, *supra* note 5, at 79.

52. A little-known fact is that in early 1939, Germany sent an envoy to Iceland to "claim" preferential rights to airbases there. Although it must have recognized Germany's ability to establish such airbases even over Icelandic objection, Iceland's government sent the envoy packing. See Grimson, *supra* note 31, at 505.

53. Although the British largely stayed out of Icelandic political affairs, at least a small element of martial law existed during their stay. For instance, in 1941 the British Army shut down the United Socialist Party newspaper in Reykjavik and imprisoned its editors in England. S. Kristjansson, *supra* note 44, at 169.

54. John Robin Fairlamb, *The Evolution of Icelandic Defense Decision Making 1944-1981*, at 73 (unpublished Ph.D. dissertation at U. of S.C. 1981) (photo. reprint available from U. Microfilms Int'l at U. of Mich.).

55. Grimson, *supra* note 31, at 506.

56. *Id.*

57. This is not to suggest that the U.S. and Iceland were not already close friends before WWII. As many as 15,000 Icelanders emigrated to North America between 1870-1900, many establishing farming communities in the northern plains states that are ethnically identifiable today. Thus Icelanders contributed to the "melting pot" from which modern America sprung. Orfield, *supra* note 18, at 50. Between 1918-1940 a number of treaties and agreements were entered into between the U.S. and Iceland, albeit some with Denmark on Iceland's behalf. See *id.* at 51-52; Department of State, *Treaties in Force* (1986). A little known fact is that Secretary of State Seward sought in the 1860s to purchase Iceland from Denmark. Orfield, *supra* note 18, at 50. Had he had as much success in this endeavor as he had in buying Alaska from Russia, the relationship between the U.S. and Iceland

today would no doubt be radically different. One could hypothesize that the U.S. would have ended up regretting such a purchase. Icelanders still would have achieved their independence, but the U.S. would have been the most recent in memory of a list of nations exerting nearly seven centuries of domination over their country. It is hard to imagine Icelanders cheerfully hosting a large U.S. military force under those circumstances.

58. *Constitutions of the World*, *supra* note 38, at 9. The voting turnout in the national referendum was 98.6%, with 97.4% in favor of terminating the Act of Union. *Id.*

59. *Id.* at 10.

60. Orfield, *supra* note 18, at 53.

61. From 1944-46 communists held two cabinet positions, and in the 1946 election they won 10 of 52 seats. *Id.* at 52. In 1956 the Communist Party merged with a number of other left-wing groups to form the People's Alliance. Although this party continues to poll approximately 20% of the national vote, only a minority of party members today consider themselves to be true communists. J. Fairlamb, *supra* note 54, at 81.

62. Had the recent Reykjavik "summit" meeting between the U.S. and the Soviet Union yielded more substantive results, Iceland might well have had a greater legacy on which to stand.

63. North Atlantic Treaty, Apr. 4, 1949, 63 Stat. 2241, T.I.A.S. No. 1964, 34 U.N.T.S. 243.

64. N.Y. Times, May 9, 1951, at 32, col. 3, quoted in Orfield, *supra* note 18, at 53. In the U.S. this statesman-like language translates roughly into "better dead than Red."

65. H. Bárðarson, *supra* note 5, at 104.

66. Iceland-U.S. Defense Agreement Pursuant to the North Atlantic Treaty, May 5, 1951, 2 U.S.T. 1195, T.I.A.S. No. 2266.

67. N.Y. Times, May 8, 1951, at 13, cited in Orfield, *supra* note 18, at 53. It is interesting to note that although it put out the welcome mat for U.S. troops, Iceland has repeatedly shown a reluctance to allow other NATO troops on its soil. But for a single Canadian officer and a single Dutch aircraft, there is little evidence of a "NATO" presence at the Keflavik Naval Air Station.

68. Although the relationship between the two countries has generally been very good over the past 35 years, there have been some rocky periods. For instance, in the mid-1950's the Government of Iceland sought a revision of the 1951 Defense Agreement, and discussions on this subject were terminated only after an exchange of notes in 1956. Agreement Relating to the Presence of Defense Forces in Iceland, Exchange of Notes at Reykjavik, Dec. 6, 1956, 7 U.S.T. 3437, T.I.A.S. No. 3716. Also, following a period of deteriorating relations arising from U.S. policy towards the Anglo-Icelandic "Cod War" of 1972-73, the Government of Iceland again sought a renegotiation of the 1951 Defense Agreement. This crisis was settled by another exchange of notes in 1974, an agreement in which the U.S. made several major economic concessions to Iceland, including help in financing a new airport terminal building, upgrading air traffic control equipment and facilities, and hiring increased numbers of Icelanders at the base. Agreement Relating to the Continuation of the Defense Agreement of 1951, Exchange of Notes at Reykjavik, Oct. 22, 1974, 25 U.S.T. 3079, T.I.A.S. No. 7969. For more discussion of the Cod Wars see *infra* text at § 1.8(B).

The most recent fallout concerning the U.S. base at Keflavik arose in 1984, and had its roots in the Cargo Preference Act of 1904, 10 U.S.C. § 2631 (1982). That law requires that the Department of Defense use U.S. flag vessels to ship its defense-related cargo if U.S. flag vessels are available. Between the late 1960's and May 1984 there had been no U.S. flag line serving the Iceland route, so Icelandic shippers enjoyed a monopoly on this cargo. But in May 1984 a small U.S. firm entered the market and in accordance with U.S. law was successful in shutting the door to Icelandic shippers. This problem managed to strain U.S.-Icelandic relations for over 2 years, until only recently it was resolved by a bilateral treaty granting Iceland a special exemption from the full effect of the Cargo Preference Act. Treaty Between the United States and Iceland to Facilitate their Defense Relationship, signed at New York on Sept. 24, 1986, S. Treaty Doc. No. 99-31, 99th Cong., 2d Sess. (1986) (advice and consent given on Oct. 8, 1986).

69. Although the number of U.S. personnel has varied over the years, the two countries agreed several years ago to fix a ceiling of approximately 3,000 troops.

70. Bárðarson, *supra* note 5, at 28. Scientific studies of skeletal remains from ancient Icelandic burial mounds, and comparisons with similar studies on skeletal remains of a similar age unearthed in Norway, Sweden, Denmark, and Viking settlements in Scotland and Ireland, show that heights and headforms of early Icelandic settlers correspond most closely with those from Western Norway, and remains from the Viking settlements in Scotland and Ireland are equally similar. Also, blood group studies today show Icelanders have blood group distributions more resembling Scots and Northern Irish than Norwegians, Swedes, and Danes. *Id.* But see Bardi Gudmundsson, *The Origin of the Icelanders* (Lee M. Hollander trans. 1967), cited in Friedman,

supra note 15, at 403 n. 21, in which a claim is made that the Vikings from Western Norway had themselves originated in Denmark.

71. Countries of the World, *supra* note 2, at 625.

72. Armed Forces Information Service, Department of Defense, A Pocket Guide to Iceland 20 (1983).

73. World Factbook, *supra* note 1, at 112.

74. For example, there is a national governmental body charged with the protection and maintenance of the Icelandic language.

75. Anyone contemplating doing business in Iceland would be well-advised to consult Armed Forces Information Service, Department of Defense, A Pocket Guide to Iceland (1983); Department of State, Iceland Post Report (1986); or a similar publication to learn in more detail the various differences between Icelandic culture and other cultures. Icelanders are quite familiar with customs practiced in the United States and other Western countries, and are quite prepared to make allowances for a visitor's unfamiliarity with Icelandic habits. But a visitor who comes with some prior knowledge of his Icelandic hosts is going to be one step ahead of the unprepared.

76. The Persons' Names Act, Law No. 54/1925. (This is the proper form for citations to Icelandic statutes. The second number in the cite indicates the year the Althing enacted the statute, and the first number in the cite shows where that law falls sequentially during that year.)

77. The law allows the use of the father's or the mother's name, but the latter is seldom done. *Id.*

78. As if this were not confusing enough, Icelanders habitually name their first son after one of his grandfathers. Thus a family ends up with an endless line of males alternating between only two names (from our example above: Jón Gunnarsson and Gunnar Jónsson).

79. It goes without saying that anyone doing business in Iceland should make certain that every name comes with a telephone number.

80. Unless otherwise indicated, taken from Europa Publications Limited, 1 The Europa Year Book 1986, at 1287 (1986).

81. Worldmark Encyclopedia, *supra* note 34, at 154.

82. See generally the Statute on the Central Bank, Law No. 10/1961.

83. H. Jónsson, Friends in Conflict, The Anglo-Icelandic Cod Wars and the Law of the Sea 211 (1982).

84. *Id.*

85. *Id.*

86. Here again we see the importance of Iceland's geographic location. Sitting on the Mid-Atlantic Ridge, Iceland is dotted with hot springs ripe for geothermal exploitation. The vast glacial regions are an inexhaustible source of melting water, which takes the form of torrential rivers and waterfalls that are tailor-made for hydroelectric exploitation. The utility and abundance of Iceland's geothermal resources is perhaps best illustrated by one novel use the Icelanders put it to in Reykjavik: they use it to heat the streets and sidewalks to prevent ice from forming in winter.

87. H. Bárðarson, *supra* note 5, at 162.

88. *Id.*

89. *Id.*

90. Utne, Stabilisation Policies in Iceland, EFTA Bull., Jul.-Sept., 1985, at 16. More recent figures from the Central Bank of Iceland suggest this figure should be closer to 56%. See Int'l Dep't, The Central Bank of Iceland, Information Memorandum 37 (Sept. 1986).

91. See Utne, *supra* note 90, at 15.

92. *Id.*

93. Countries of the World, *supra* note 2, at 623.

94. Orfield, *supra* note 18, at 52. The importance of the Soviet Union as a trading partner increased further in 1952 with a British-imposed landing ban on Icelandic fishing trawlers in British harbors, the latter a result of Iceland's extending its fisheries jurisdiction from 3 to 4 miles. H. Jónsson, *supra* note 83, at 59-63. For further discussion of Anglo-Icelandic fishing disputes see *infra* text at § 1.8(B).

95. Orfield, *supra* note 18, at 52.

96. Central Bank Information Memorandum, *supra* note 90, at 32. Iceland's trade with the U.S. consists primarily of frozen fish in exchange for automobiles, tobacco products, and wheat. Trade with the Soviets is almost strictly fish for oil. In fact, Iceland imports 100% of its petroleum needs from the Soviets.

97. The four-to-one imbalance suffered by the U.S. is but one price the U.S. pays to insure the continued use of its military base at Keflavik. The U.S. also provides jobs for over 1,000 Icelandic workers at the Keflavik base, with an annual payroll of over \$19 million. See Ministry for Foreign Affairs, Foreign Policy Report 46

(1986). Furthermore, U.S. payments to Icelandic companies for goods and services provided to the Keflavik base in 1985 exceeded \$77 million and provided employment for another 600 Icelandic workers. *Id.*

98. *Ice. Const. ch. 1, art. 1.* The Constitution was brought into force by a statute passed by the Althing, and is found at Law No. 33/1944.

99. *Id.*

100. Approval was by 95.04% of the vote. *Constitutions of the World, supra note 38, at 9.*

101. *Id.*

102. Grimson, *supra note 31, at 505.*

103. *Ice. Const. ch. 3, art. 31.*

104. *Ice. Const. ch. 3, art. 32; Thor Vilhjalmsson, supra note 17, at I-1.*

105. *Ice. Const. ch. 4, art. 52.*

106. *Ice. Const. ch. 3, art. 31.*

107. *Id.*

108. In accordance with article 79 of the Constitution, this proposal was approved by the Althing before the 1983 General Election, and again by the Althing newly-elected in 1983. Thus, in 1987 the General Election will be for 63 Althing seats. The Constitutional amendment also lowered the voting age from age 20 to 18.

109. *See infra text at § 1.3(B) (2) (b).*

110. *Ice. Const. ch. 2, art. 14.*

111. *Ice. Const. ch. 2, art. 24.*

112. To remain consistent with the Icelandic Constitution, masculine gender will be used in referring to the President. However, it is important to note that Iceland's current President is Vigdis Finnbogadóttir, whose election in 1980 made her the world's first (elected) female head of state. Further highlighting the passive role the President takes in the nation's political affairs: despite the fact that prior to her election President Finnbogadóttir was a leader of the movement to terminate the U.S. military presence in Iceland, since her election she has kept out of this debate. Furthermore, the same year that saw her election showed, since the prior election, a 10% increase in popular support for retraining the American military base at Keflavik. *A Defense Force Without Servility, Dagbladið, Oct. 10, 1980, at 10, col. 1, cited in J. Fairlamb, supra note 54, at 112.* Thus it is evident that the President's role in political affairs is not only minimal, but is seen by the public in that way.

113. *See infra text at § 1.3(B) (2) (b).*

114. *Ice. Const. ch. 2, art. 26. See infra text at § 1.3(B) (3).*

115. *Ice. Const. ch. 2, art. 13.*

116. *Ice. Const. ch. 2, art. 19.*

117. Law No. 73/1969.

118. An instance in which two cabinet ministers chose to interpret a single law in two different ways may serve to illustrate just how cabinet ministers are supreme in their own little world. In 1984-86, the governments of Iceland and the U.S. were at odds over a U.S. law that required all cargo bound for the U.S. military airbase at Keflavik to be shipped on a U.S. flag vessel. In 1985 the Minister of Finance, who controls the customs authorities at all the harbors, retaliated by refusing to allow the U.S. cargo ship to offload any meat shipments bound for the airbase. He cited a 1928 Icelandic law protecting against hoof and mouth disease as sufficient ground for barring the imports. However, meat had been imported in this manner for 35 years without ever running afoul of the law, so the retaliatory nature of the action was evident. The Minister of Finance received wide support for his action from the agriculture industry, which just happened to be pushing for the U.S. military to increase its purchases of Icelandic agricultural products. At the same time this was happening, the U.S. military continued to bring meat shipments into Iceland by air because the customs officials at the airbase reported to the Minister for Foreign Affairs, who just happened to interpret the 1928 law differently. In this example is a phenomenon unusual in countries like the U.S.: an executive branch of government unable to apply the law consistently because it is unable to speak in a single voice, even at the very top.

For further discussion of the legal aspects of this controversy, see *infra note 191.*

119. *See Thor Vilhjalmsson, supra note 17, at I-2.*

120. *Ice. Const. ch. 2, art. 14.*

121. *See J. Fairlamb, supra note 54, at 95.*

122. It does not have to be an Althing representative, but it usually is. Also, the person forming the government usually serves as Prime Minister.

123. *Ice. Const. ch. 2, art. 15.*

124. J. Fairlamb, *supra note 54, at 97-98.* This "understanding," along with the previously-discussed ability of a cabinet minister to rule supreme within his jurisdiction (the Minister for Foreign Affairs in the area of

defense policy in this case), has effectively guaranteed NATO's continued presence in Iceland.

125. Constitutions of the World, *supra* note 38, at 10.

126. Þór Vilhjálmsón, *supra* note 17, at 1-2.

127. *Id.* at 1-1.

128. See Central Bank of Iceland, ICELAND 1986, Chapter III, 108-16 (1986).

129. *Id.*

130. See Law No. 58/1961, ch. IV.

131. See Law No. 58/1961, art. 1.

132. See Law No. 58/1961, ch. II.

133. This unique set-up recently created an interesting situation in which many Americans would see an unacceptable conflict of interest. The Government of Iceland is constructing a new \$40 million dual-use airport terminal at the Keflavik Airport, with an April 1987 planned completion date. (The dual-use aspect is in the U.S. military's right to take over the terminal during time of war. In exchange for this right the U.S. provided \$20 million toward the terminal's cost.) After terminal construction was beyond the halfway point, the local county in which the terminal technically sits sued the Minister for Foreign Affairs (MFA), claiming that the Government of Iceland failed to pay the county "construction fees" for the necessary building permits. Since the building sits on Airport property, it is within the jurisdiction of the Keflavik Airport judiciary, the chief judge of which works directly for the MFA! Interestingly, this did not prevent the Keflavik judge from exercising jurisdiction over the case.

134. Unless otherwise indicated, information in this section obtained from Constitutions of the World, *supra* note 38, and Þór Vilhjálmsón, *supra* note 17.

135. Þór Vilhjálmsón, *supra* note 17, at 1-2.

136. *Id.*

137. *Id.*

138. See Ice. Const. ch. 1, art. 25 and ch. 4, art. 38; Law No. 33/1944.

139. Olafur Jóhannesson, *Lög og Réttur* 31-34 (4th ed. 1985). See also Ice. Const. ch. 4, art. 45.

140. See Ice. Const. ch. 2, art. 28. Although the Constitution requires the situation to be "of extreme urgency," this power on occasion has been exercised in less than urgent situations.

141. Olafur Jóhannesson, *supra* note 139, at 34.

142. *Id.* at 33-44. See also Ice. Const. ch. 4, arts. 42, 44 & 45.

143. Ice. Const. ch. 2, art. 22.

144. *Id.* at art. 28.

145. Olafur Jóhannesson, *supra* note 139, at 33. See also Ice. Const. ch. 7, art. 79.

146. Olafur Jóhannesson, *supra* note 139, at 33. See also Ice. Const. ch. 7, art. 79.

147. The bill must be countersigned by a minister as well. Ice. Const. ch. 2, art. 19.

148. Olafur Jóhannesson, *supra* note 139, at 32. See also Ice. Const. ch. 2, art. 26.

149. For all intents and purposes, the term "court of first instance" conveys the same meaning as the term "trial court."

150. Olafur Jóhannesson, *supra* note 139, at 329.

151. For all intents and purposes, the term "court of second instance" conveys the same meaning as "appellate court."

152. Prior to 1920 the Supreme Court of Denmark served as Iceland's court of last resort, with Iceland's single appellate court serving merely as an intermediate court. The Act of Union of November 30, 1918 between Denmark and Iceland provided that the Danish Supreme Court would remain Iceland's court of last resort until Iceland decided to establish its own. Such a decision was made in 1919, and the new Supreme Court of Iceland was established in 1920. See Orfield, *supra* note 18, at 77-78.

153. Þór Vilhjálmsón & Hjörtur Torfason, *Judicial Organizations in Europe, The Icelandic Judicial System* 61 (1975).

154. *Id.*

155. In this case, and hereinafter, the term "lawyer" will be used to refer to an individual holding a law degree from the University of Iceland.

156. Olafur Jóhannesson, *supra* note 139, at 329.

157. *Id.* at 330-31.

158. *Id.* at 330.

159. *Law and Judicial Systems of Nations* 319, 322 (Charles S. Rhyne ed. 1978).

160. *Id.* at 323.

161. Olafur Jóhannesson, *supra* note 139, at 329.
162. Vilhjálmsón & Torfason, *supra* note 153, at 61.
163. See Ice. Const. ch. 5, art. 61.
164. Vilhjálmsón & Torfason, *supra* note 153, at 322.
165. *Id.* at 62.
166. See *supra* text accompanying note 156.
167. Vilhjálmsón & Torfason, *supra* note 153, at 62.
168. *Id.*
169. See *supra* text accompanying note 156.
170. See Law No. 74/1974, art. 175.
171. Vilhjálmsón & Torfason, *supra* note 153, at 62.
172. See *supra* text accompanying note 156.
173. Law and Judicial Systems of Nations, *supra* note 159, at 326.
174. Vilhjálmsón & Torfason, *supra* note 153, at 63.
175. See *supra* text accompanying note 156.
176. Vilhjálmsón & Torfason, *supra* note 153, at 63.
177. *Id.*
178. See *supra* text accompanying note 156.
179. Olafur Jóhannesson, *supra* note 139, at 330.
180. Law and Judicial Systems of Nations, *supra* note 159, at 329.
181. *Id.*
182. Vilhjálmsón & Torfason, *supra* note 153, at 64.
183. See *supra* text accompanying note 156.
184. Olafur Jóhannesson, *supra* note 139, at 331-32.
185. Vilhjálmsón & Torfason, *supra* note 153, at 64.
186. Olafur Jóhannesson, *supra* note 139, at 331.
187. Vilhjálmsón & Torfason, *supra* note 153, at 64.
188. *Id.*
189. Olafur Jóhannesson, *supra* note 139, at 331. See also Ice. Const. ch. 2, art. 14.
190. Law and Judicial Systems of Nations, *supra* note 159, at 333.
191. A recent political dispute between cabinet ministers could have led to the Landsdómur being convened for the first time. The dispute arose out of the U.S. military cargo shipping controversy. See *supra* note 118. In retaliation for the U.S. enforcing a 1904 U.S. law giving U.S. flag vessels a monopoly on shipments to the military base at Keflavik, one of the cabinet ministers interpreted a 1928 Icelandic law banning meat importation in a way that halted meat shipments by sea from the U.S. to the military base. However, another minister interpreted the law differently and continued to allow such shipments by air, which he had the authority to do since the airport was under his jurisdiction. It was suggested that the Landsdómur be convened to adjudicate the legality of the latter minister's decision to allow such imports. However, even beyond the practical problems of convening the court, a number of Icelanders realized that if the court ruled the imports illegal, it would be an indictment of every Minister for Foreign Affairs who served in the last 35 years, since the shipments had been permitted during that entire time. Pragmatism won the day and an alternative solution was found: the Cabinet appointed three legal experts to study the question and render an opinion on the legality of such imports. This panel concluded that the 1951 law giving the U.S. military a right to import free of duty all necessary supplies created an implied exception from application of the 1928 law. This was backed up by 35 years of statutory interpretation to that effect.
192. Law and Judicial Systems of Nations, *supra* note 159, at 333.
193. Olafur Jóhannesson, *supra* note 139, at 330-31.
194. Vilhjálmsón & Torfason, *supra* note 153, at 64.
195. Law and Judicial Systems of Nations, *supra* note 159, at 330-31.
196. *Id.* at 330.
197. See Law No. 42/1961, art. 8.
198. Vilhjálmsón & Torfason, *supra* note 153, at 65.
199. *Id.*
200. *Id.* at 64-65.
201. See Law No. 216/1973, ch. IV.
202. *Id.*

203. Information in this section is based on one of the authors' experiences earning his law degree at the University of Iceland.

204. In exceptional cases the Law Faculty Board can waive this requirement.

205. The seeming disparity in numbers is explained by the high rate of students failing to progress beyond their first year. For an explanation of the high failure rate see § 1.5(B).

206. In 1983 there were 769 persons holding the Candidatus Juris degree. See Special Project, *Lögfræðingakönnun*, Ulfrjótur 78 (1983). For detailed demographic information on lawyers in Iceland, see *infra* Appendix B.

207. For the complete story of the Law Students Association, see Jóhannes Sigurdsson, *Saga Orators* (1986).

208. Although everyone in Iceland with a Candidatus Juris degree is called a lawyer in this article, the term "lawyer" is used here to refer to that special category of lawyers who work as deputies to advocates.

209. Law and Judicial Systems of Nations, *supra* note 159, at 319.

210. *Id.*

211. See Law No. 42/1961, art. 3.

212. *Id.* at art. 14.

213. See Law No. 41/1961, art. 9.

214. See Law No. 42/1961, art. 5, para. 1.

215. See *id.* at para. 2.

216. See *id.* at para. 3.

217. See *id.* at art. 7.

218. See Law and Judicial Systems of Nations, *supra* note 159, at 320.

219. *Id.*

220. See Law No. 42/1961, art. 8.

221. See Law No. 64/1943, art. 7.

222. Þór Vilhjálmsson, *supra* note 17, at 1-3.

223. *Id.* at 1-2.

224. *Id.* at 1-3.

225. *Id.*

226. See *supra* text at § 1.1(B) (3).

227. Eric Solem, *The Nordic Council and Scandinavian Integration* 36-37 (1977).

228. Stanley Anderson, *The Nordic Council—A Study of Scandinavian Regionalism* 26 (1969).

229. 4 *Modern Legal Systems Cyclopedia*, Chapter 6, Part II, *Nordic Legal Unification*, at § 1.2(C) (Kenneth Robert Redden ed. 1985).

230. Unless stated otherwise, material in this section taken from J. Hart, *The Anglo-Icelandic Cod War of 1972-1973* (Institute of International Studies Research Series, No. 29, 1976), and H. Jonsson, *Friends in Conflict, The Anglo-Icelandic Cod Wars and the Law of the Sea* (1982).

231. Ministry for Foreign Affairs (Reykjavik), *Fisheries Jurisdiction in Iceland* 7 (1972) [hereinafter *Fisheries Jurisdiction*].

232. Statement by Icelandic Foreign Minister Einar Agústsson in the U.N. General Assembly on Sept. 29, 1975, reprinted in Ministry for Foreign Affairs (Reykjavik), *The Fishery Limits Off Iceland* 31 (1976) [hereinafter *Fishery Limits*].

233. H. Jonsson, *supra* note 230, at 211.

234. *Id.*

235. *Fisheries Jurisdiction*, *supra* note 231, at 13.

236. See J. Hart, *supra* note 230, at 10-19; *Fisheries Jurisdiction*, *supra* note 231, at 16; *Fishery Limits*, *supra* note 232, at 7-12.

237. It should be mentioned that Iceland had extended its fisheries jurisdiction in 1952 from three to four miles, causing what in essence was a fourth Anglo-Icelandic "Cod War." However, that dispute remained a verbal and economic war, never escalating to the scale of the others. See H. Jónsson, *supra* note 230, at 48-68. The three Cod Wars this study focuses upon each involved confrontations between Icelandic gunboats and British frigates and trawlers. See J. Hart, *supra* note 230.

238. See *Fishery Limits*, *supra* note 232, at 37-48.

239. See H. Jónsson, *supra* note 230, at 80-83.

240. See *id.* at 80.

241. See *id.*

242. See Fisheries Jurisdiction, *supra* note 231, at 37-39.
243. See *id.* at 83.
244. Fisheries Jurisdiction (U.K. v. Ice.), 1972 I.C.J. 12 (Interim Protection Order of Aug. 17).
245. H. Jónsson, *supra* note 230, at 131-34.
246. See *id.* at 189-207.
247. Proclamation No. 2667, 3 C.F.R. 67 (1943-1948); Proclamation No. 2668, 3 C.F.R. 68 (1943-1948).
248. H. Jónsson, *supra* note 230, at 95, 216-19.
249. See *id.* at 105-08, 148-52, and 179-81. Iceland also negotiated agreements with Germany ending limited German involvement in the Cod Wars. A 1961 agreement concluded conflict in the first War. The Germans never did accept Iceland's 50-mile limit, but accepted the 200-mile limit in a 1975 agreement. *Id.* at 108 and 153.
250. See *id.* at 105-07, 149-52.
251. See *id.* at 179-81.
252. For further discussion of the new agreement see *supra* note 68.

APPENDIX*

TABLE 1

**BREAKDOWN OF ## LAWYERS BY YEAR OF BIRTH AND
YEAR OF GRADUATION FROM LAW SCHOOL
current as of 1 October 1983**

Year	Born	Graduation
1903 and before	10
1904-1913.....	34
1914-1923.....	95 1
1924-1933.....	132 13
1934-1943.....	169 48
1944-1953.....	264 130
1954-1963.....	65 135
1964-1973.....	 204
1974-1983.....	 255
Totals	769	769

TABLE 2

**BREAKDOWN OF LAWYERS BY NATURE OF WORK
current as of 1 October 1983**

Occupation	Total #
Judges & their deputies (incl. Sup. Ct.)	143
Gov't. service (not incl. Althing members)	153
"Advocates"	170
Private practice (not incl. "advocates")	127
Althing members.....	15
Law professors	10
Working abroad (not incl. gov't. service)	22
Others	84
Retired	36
Unknown	9
Total	769

TABLE 3

BREAKDOWN BY SEX
current as of 1 October 1983

Men	692
Women	77
Total.....	769

TABLE 4

GEOGRAPHIC BREAKDOWN
current as of 1 October 1983

Location	# Lawyers	Total Population
Reykjavik area.....	643	125,700
Akureyri	16	13,800
Keflavik area	16	10,900
Vestmann Islands	6	4,600
Other towns	43	26,700
West Iceland & West Fjords	10	15,500
North Iceland	3	13,800
East Iceland	5	9,300
South & Southwest Iceland	5	15,100
Abroad	22	?
Totals	769	235,400

TABLE 5

LAWYERS IN PARLIAMENT

Year	Size of Althing	# Lawyers	% Lawyers
1845	25	7	28
1894	36	8	22
1908	40	8	20
1914	40	10	25
1942	52	13	25
1953	52	11	21
1959	60	17	28
1967	60	15	25
1974	60	16	27
1979	60	14	23
1983	60	15	25

*Data obtained from Special Project, Lögfræðingakönnun, Ulfjótur 78 (1983).

