





## LAW ENFORCEMENT IN TIMES PAST


It is now 200 years since the uniformed policeman made his appearance in Iceland. For today's citizen, it is difficult to imagine a society without the police to make sure that we obey the law. How, then, were law and order enforced before there were policemen, as we now know them?

A law enforcer sees to it that people obey the law. Having agreed to relinquish the right to use force and entrust it to the state, citizens must be able to trust the state not to abuse its monopoly on force. The legislative process is an important part in ensuring security under the law for the common man; people agree on what is permitted and what is not, and the state then ensures that they comply with the law. The state is normally divided into the legislature, the executive and the judiciary. Today the executive includes the police, who monitor compliance with the law.

### *A community without an executive*

During the Icelandic Commonwealth period (930–1262) there was no judicial system in the form we now know. The laws of Iceland were preserved in memory and recited by the lawspeaker at the annual meetings of the Althing. According to the historical work *Íslendingabók*, it was only in the year 1117 that it was decided at the Althing to commit the whole of the law to writing.<sup>1</sup>

The Commonwealth was a society without a common executive or centralised power. In such a society, courts, law and punishment have a completely different meaning. From the earliest Icelandic law code, *Grágás*, it can be seen that no provision was made for corporal punishment according to a court judgement. Most punishments in *Grágás* took the form of fines; the most severe penalty was outlawry. An outlaw was expelled from society and could be slain legally. Citizens were expected to resolve their disputes themselves; if a man was slain, for example, then his family was expected to avenge him.<sup>2</sup>



The society of the Commonwealth period was also very much subject to unwritten laws. With no police, it was necessary to be able to trust in one's own strength, show courage and form alliances with powerful men. Honour was greatly prized, but it could only be achieved by following unwritten laws. Though society of this time respected manliness and heroism, it disapproved of attempts to command respect through long-drawn-out feuds and slayings. Peace was recognised as being in everybody's interest, since there was no way of predicting where the duty of revenge would strike next. The sagas contain many instances of people being executed, without trial, for theft or practising magic.<sup>3</sup>

### *Under the crown*

In 1262-64 Iceland submitted to the Norwegian crown and made a special agreement with it, known as the Old Covenant. One of the provisions of the covenant was that the king was responsible for maintaining law and order in Iceland. Magnús Hákonarson the Lawmender, king of Norway 1263-80, gave Iceland a new law code, *Járnsíða*, in 1271. He aimed to harmonise the law throughout his kingdom, and succeeded in doing so in 1273. A revision of *Járnsíða* followed, and was presented to Iceland in 1280. Known as *Jónsbók*, it met with a cool reception at first but was approved at the Althing in 1281 without substantial modifications. The new laws introduced a new administrative system, under which agents of the crown were to ensure compliance with the law.<sup>4</sup>



Early law manuscripts. Photo: Árni Magnússon Institute.

Legal reforms were introduced at Iceland's request in the 13th and 14th century, and further amendments were made to the provisions applying to the church following the Reformation. New laws on marriage were enacted in the 16th century, and a section of special provisions on sexual conduct, *Stóridómur*, in 1564. A high court was established in Iceland in 1563. Apart from these changes, *Jónsbók* remained the main source of Icelandic law down to the 18th century.<sup>5</sup>

Before the Reformation, the church had a say in many legal cases, particularly those concerning sexual morality and marriage. Ecclesiastical law also applied in cases involving the church and the clergy. Corporal punishment played no part in ecclesiastical law: punishments consisted of fines, suspension from participation in the rites of the church, and excommunication.<sup>6</sup>

## *Law enforcement*

The new law codes brought changes of various types. Executive power passed into the hands of royal officials, criminal cases were prosecuted by the crown and the duty of vengeance was abolished. If an individual was slain or wronged in any way, those responsible were to make amends to the person or to the crown and the relatives of the dead person. Corporal and capital punishment were introduced, both as a deterrent and also to rid society of criminals, both through execution and outlawry. These punishments were also intended to restore the honour of the victim or his family, and also to reduce the likelihood that they would take revenge themselves.<sup>7</sup>

In the 13th century, the crown's main administrative structure consisted of the court, the body of individuals who had sworn allegiance to the monarch and received power and privilege in return. In Iceland, the king appointed a *hirðstjóri*, or director of the court, who was the supreme lay official in the country. In the late 15th century, the *hirðstjóri* also bore the title "captain of Iceland," referring to his function as captain of the warships sent to defend the country. In the 14th century, the *hirðstjórar* exercised executive power in certain areas, and were "responsible for the government of

the country and the royal revenues and properties." They were also responsible for maintaining peace and defending the country.<sup>8</sup>

The main royal law enforcers were the sheriffs (*sýslumenn*). The term appears first in Iceland in an agreement with King Hákon the Old of Norway in 1263. The Old Covenant of 1264 included a provision stating that lawmen (*lögmen*) and sheriffs were to be Icelanders and of the families of those who yielded their chieftaincies (*goðorð*) when Iceland accepted the authority of the crown.<sup>9</sup>

*Járnsíða* does not mention *sýslumenn*; instead it uses the term *valdsmenn*. The word *sýslumaður* is used, however, in an amendment of 1280, and in *Jónsbók* the terms are used interchangeably; it seems likely that they refer to the same office.<sup>10</sup>

The number, jurisdiction and term of appointment of the sheriffs varied at first, but became more firmly defined in the 15th century. To begin with, they seem to have been appointed by the king himself, but for most of the period that *Jónsbók* was in force the appointments were made by the *hirðstjórar* or their equivalents. The Icelanders pressed their demand that the appointees should be Icelandic, but this was not always observed. The other condition, that they should be of the families of the old chieftains (*goðar*), became less

important as time passed; it had been set to make the *goðar* more amenable to relinquishing their powers.<sup>11</sup>

Sheriffs were required to attend the Althing, appoint members of the constitutional court and sit in the court of justice if required to do so. They also collected fines. At meetings of the Althing at Þingvellir they gave reports on the crimes committed in their jurisdictions since the last assembly, and they held local assemblies on the way back from Þingvellir to report on the decisions taken there.<sup>12</sup>



Caught with the sheep he has stolen, a thief is brought before the sheriff. From the manuscript *Heynesbók*.  
Photo: Árni Magnússon Institute.

Under *Jónsbók*, sheriffs were expected to arrest thieves and violent criminals, and amendments to the law reiterated their duty to detain criminals until their cases were heard. They were not expected to have a standing force to assist them when dealing with criminals, but were able to summon local farmers to help, which the farmers could not refuse to do.<sup>13</sup>

It was the role of the sheriffs to monitor trade, prevent illegal private enterprise and, in collaboration with the *hirðstjórar* and lawmen, to monitor the passage of foreign ships through Icelandic waters.<sup>14</sup>



Judges at work. From the manuscript *Reykjabók*.  
Photo: Árni Magnússon Institute.

The sheriffs investigated legal cases brought before them. From records it can be seen that this work consisted largely of finding and questioning witnesses; testimony carried great weight as evidence. The sheriffs also made investigations on site, e.g. checking property boundaries and items washed ashore and even examining bodies to establish the cause of death.<sup>15</sup>

In many ways, the sheriffs of the *Jónsbók* period were the policemen of their day, and it is clear that law enforcement in Iceland goes back far more than 200 years. On the other hand, there are significant differences: as part of the executive, today's policemen have a far more restricted sphere of responsibility than the old sheriffs, whose work touched on all fields of state power. Also, many changes took place over the period, transforming the role of the sheriffs as the state assumed more and more power, and requirements regarding how they did their work must also have changed.

