PART II.

Land Policy.

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INTRODUCTION

I. On the history of

Public and Private Landownership in Iraq.

The prevailing system of old Babylon, most of the characteristics of which were preserved up to the period of neo-Babylon, was that of Crown property with royal peasants who were required to contribute to the royal treasury a share of their produce as well as labour. Domains if not farmed by royal peasants were run in the form of allotments to peasants who were taxable as tenants, or as large estates operated centrally by means of free wage labour and slaves. From the extensive temple property and the settlement of military colonists other forms of tenure developed, however, and with the loosening of the charismatic bonds of the ancient Babylonian and Assyrian society round their rulers, large private domains became more frequent. Except in well defined hellenised areas near the towns, the main elements of the old oriental system continued in the Seleucid period,[1] though the position of the royal peasant was gradually transformed and strengthened, especially by assimilating itself to the

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1. Cf. E. Bikerman, Institutions des Séleucides, Paris, 1938, p. 172 ff. and p. 185.

conception of the emphyteusis which had become a tenure widely applied under the Romans in the West and the Persians in the East as a means to attract cultivators to their domain lands and agri deserti.[1]

On the Arab conquest of Iraq the extent of the privately owned land was at first further reduced. Omar I incorporated in the State domain[2] not only the former domain in crown lands as well as uncultivated land, but also the estates of the fugitives and emigrants.[3] Landowners - usually not the peasants, but urban absentees[4] - who remained in the country retained, however, their right against the payment of tribute (Gizja or Haràg). Soon, however, the Arabs began to acquire land for themselves, especially in and around the military towns founded by them, and also on domain lands granted them (at the time for political rather than economic reasons)[5] by

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1. Cf. Becker, op. cit.,
2. As to the "justification" of this policy, which seems to contradict the Koranic rule according to which the Moslem warrior is entitled to a share in the booty, cf. Wellhausen, Das arabische Reich, op. cit., p. 190; K. A. Caetani, op. cit., XXIII, 765, 810.
3. The so-called Ard el-galija (Lammens, Etudes sur le Regne du Calife Mo'awia, op. cit., p. 226; Caetani, op. cit., XXIII, 723).
4. Wellhausen, op. cit., p. 190; Caetani, p. 434, op. cit.
5. Thus Caetani (op. cit., p. 414). who (unlike Becker, Islam Studien, 1924, op. cit., p. 307; and Lammens, Etude sur le Règne, op. cit., p. 232). emphasises that at the time there was little cultivable surplus land, which only increased afterwards in consequence of the incompetent agrarian policy of the Arabs. In the early days the domain land seems to have consisted preponderantly of estates the landlords of which had disappeared, but which were occupied by cultivators.

the Imam.[1] The rights of the beneficiary under the system of the iqta, which were far from uniform at any given period, were still less so throughout the centuries during which the term was in use. Though the iqta thus defies a fixed definition,[2] it is possible to say that it approximated most closely to a grant of full property rights under the early caliphs.[3] The land granted could be sold and pledged as amphyteusis land could, and the beneficiaries of the fiefs were liable to tithe payment only.

The increase of land liable to the tithe accelerated to the detriment of the treasury (Bait ul mal) as long as, according to the original practice, the transfer of Harag land to a Moslem Arab as well as the conversion to Islam of the original owner transformed the former harag into ushr land.[4] It encouraged a flight from the land when the newly converted were allowed to be included in the army and pension lists of the Moslems.[5]

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1. Besides land was of course taken over by force or by purchase from the inhabitants. Often the grant of iqta seems to have been a subsequent legalization of such arbitrary appropriations. (Caetani, op. cit., p. 403.)
2. As to the nature of the iqta, cf. Lammens, Etude sur le Regne, op. cit., p. 235, note 5; Becker, Islam Studien, op. cit., p. 94; Caetani, op. cit., p. 418.
3. Becker, op. cit., p. 84, and note 1; Poliak, Revue d'Etudes Islamiques, loc. cit., p. 255.
4. Wellhausen, op. cit., p. 173; Caetani, op. cit., p. 383.
5. Wellhausen, op. cit., p. 179.

Al-Haggag[1] drastically reversed this policy. The new converts were made to return to their villages,[2] and the originally harag lands were again to pay the full tribute.[3] A different treatment of Moslems and infidels was maintained only by a clearer distinction between Gizja (poll tax) and harag (land tax),[4] the liability for the former lapsing on conversion of the latter following the land.

To justify[5] the new practice, according to which Moslems could become liable to the harag, the jurists evolved the difference between Bilad al-'Anwa - the land conquered by force of arms, and Bilad as-sulh - the land passed under Moslem rule by capitulation. The variations of this doctrine were as countless as its applications contradictory; the historical accounts on which it relied were often pure fiction. Whereas the Basrah region could convincingly be referred to as Ushr land because it constituted a case of uncultivated land first developed by Moslems,[6] Sawad Iraq was considered a classical example of harag land in spite of its conquest by force. This inconsistency was a challenge to the inventiveness of the medieval Arab lawyers.

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1. 41-95 (661-714).
2. Lammens, op. cit., p. 426.
3. Caetani, op. cit., p. 385.
4. Which had previously been used indiscriminately for the tribute of the non-Moslem (Caetani, XXIII, 751; Wellhausen, op. cit., p. 173).
5. Caetani, op. cit., XXIII, 737, note 2.
6. Ibn Gama'ah in Islamica, op. cit., p. 25.

Already at the time of Omar Abdul'aziz[1] it had become doubtful how the conquest of the Sawad had taken place.[2] As-Safi[3] complained about the contradictory Hadites as regards the land regime in Iraq, pointing out that "according to some the Sawad has been conquered by force, according to others by capitulation, according to others again partly by force and partly by capitulation".[4] Four hundred years later Ibn Gama'ah[5] reiterates how "the four great heads of the schools have conducted so immumerous investigations on this question and put up such a variety of theories that a modest manual cannot quote them all".

Other theories, based not on historical but on geographical distinctions of economic significance - of rain-[6] and river-irrigated land in Mesopotamia[7], of plain and hill land in the

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1. 99-101 (717-20).
2. On the meaning of the term Sawad cf. Caetani, op. cit., p. 367; a fully documented discussion as to the meaning of "Iraq" in medieval Arab usage cf. Report of the Commission of Inquiry regarding the Turkish-Iraq frontier, Cmd. 2557, 1925, p. 24-29.
3. Who died in 204- (820).
4. Pröbster, op. cit., p. 352, quoting K. al-Umm, IV.192, 23.
5. Ibn Gama'ah, Chapter 13, 17.
6. As well as spring-irrigated land.
7. Especially among lawyers of the Hanifite school, who tried to attach to the distinction between harag water (of the great rivers, i.e. Euphrates and Tigris) and ushr water (rain and springs) an increased significance. It should not be confined to the law of water and to serving as a sub-classification in assessing the amount of the harag, but should determine the legal character of the land itself. The Muhit (Jami, p. 328); al-Zayla (vol. III, p. 271). The Durar (p. 177) applied the rule only in favour of Moslem owners; non-Moslem owners were to pay the harag irrespective of the water used. The Fath (vol. V, p. 280) restricted

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the rule to the case of waste lands first developed by Moslems; similarly Muhamad Ibn al-Hasan (Mabsut, part 3, p. 57 f.). (Quotations from Aghnides, Introduction to Mohamedan Law, New York, 1916, reprinted in Islamic Culture, 1929, p. 142 f.). The harag according to this theory should "be levied on ushr lands irrigated by harag water, and the tithe on harag land irrigated by tithe water"; a view opposed by Mawardi on the ground that "it is the condition of the land, and not that of the water, that has to be considered". (Mawardi, translated by E. Fagnan, op. cit., p. 319.) For the "irrigational" theory it was not the harag character of the Sawad, but the ushr character of the Basrah area that required a special explanation. One ascribed to Abu Hanifa is, that the water of the Tigris (which is harag water) diminishes at ebb-time in the vicinity of Basrah, and the lands are irrigated at flow-time only, i.e. by sea water. Another explanation was that the water of the Tigris and the Euphrates disappeared in the great swamps, and has lost its character of harag water when it reappears at Basrah, since the great swamps are not harag water. Thus the adherents of these theories did not avoid far-fetched arguments any more successfully than those relying on the historical explanation: Abu Hanifa's explanation, as Mawardi rightly points out, was not even in accordance with the facts.

This argument of the Hanifites in the case of Basra proves e contrario that it was not only the taxation, but the land-tenure proper which they wanted to be determined on the basis of irrigation. It is moreover unlikely that the Hanifites had only taxation in mind, since in Islamic law land-tenure as a rule followed the form of taxation, the anomaly of ushr land paying the harag, or vice versa, (see Poliak, American Journal, p. 59) could have been applied only in exceptional cases. See also further the author of the Hidayah, quoting Al-jami al-Saghir (Hidayah, vol. 5, p. 280; see Islamic Culture, 1929, p. 445) as to an attempt at combining the historical and the irrigational theories: "All lands conquered by force and irrigated by rivers are haraj lands, and if they are not irrigated by rivers but by springs issuing from them, they are tithe land".

But the "irrigational theory", it appears, has a comprehensible economic basis. River-irrigated land is considered as Waqf of the community and as more highly taxable on the one hand because of the central control necessarily exercised by the State over river irrigation and the greater public expenditure involved, and because of the higher productivity

Maghreb[1] - did not acquire wide currency.

The changing fortunes in the conflict between the State, interested in extending its domain, and the landholders, desirous of acquiring proprietory titles to their land, were reflected in the fluctuating border between the Bilad al-anwa and the Bilad as-sulh, until - with the economic decline of the Eastern caliphate - a steady advance of the border in favour of the Bilad al-anwa set in. This advance was effectively supported by the theory that the lands conquered by the Moslems become a Waqf for the benefit of the Moslem community.

The theory referred as a principal source to the alleged agrarian policy of Omar I. The Caliph, it was maintained, by proper compensation obtained the consent of the army for a return of the lands already divided amongst it, because conquered land was meant to serve as a Waqf for the

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[footnote 7 continued]
of river-irrigated land on the other hand. As the semi-automatic tidal irrigation system of the Shat-el-Arab is practically independent of the irrigation system of the two rivers, the main reasons for considering the river water as harag do not apply in its case. Moreover, the garden cultivation, to which the Basrah irrigation system always lent itself naturally, creates a particularly strong demand for full property rights. The emphasis laid by some Hanifite doctors of Iraq on the irrigational aspect demonstrates its strength as the main empirical factor determining land conditions in Iraq. It lays special stress on the close relation of the harag character of the twin rivers on the one hand and of the Sawad lands on the other.

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1. As to the distinction between mountainous lands and lands in the plains as applied in the Maghreb and Andalusia, cf. Pröbster, op. cit., p. 434.

Moslems.[1] The theory provided an explanation why land conquered by force could be counted as harag land. It created a kind of general presumption in favour of public ownership in conquered lands outside Arabia, placing the burden of establishing his right on the private title-holder.[2] Above all, tribute-paying land as well as domain land proper, being a Waqf for the community of the Moslems were claimed to be unalienable. Whereas Omar I had distinguished between the domain land and harag land, the fully developed Waqf theory barred both, i.e. the bulk of the cultivated lands of Iraq, equally to the acquisition of private property rights.[3] The harag holder was considered in the position of a tenant; he could sell his land or pledge it; if he did not cultivate it, he had either to lease it to someone else, or forfeit his right to it.

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1. Since the event of modern criticism of medieval Arabic sources (Goldziher, Wellhausen, Caetani, Becker, etc.) only de Goeje (Mémoire sur la Conquête de la Syrie, 1900, 2nd ed., p. 138 f.) seems to adhere to the idea (previously held f.i. by A. von Kremer, Kulturgeschichte des Orients unter den Chalifen, Wien, 1875) that the Islamic revenue and land-tenure system as established by Omar I can be reconstructed from Mawardi's systematisation.
2. It was, for instance, used to confiscate land to the domain when in 82 (707) after the rebellion of Ibn al-As'at the Iraq land register had been destroyed (Al-Mawardi, translated E. Fagnan, 1915, p. 415; Abu Jusuf, K. al-Harag, translated E. Fagnan, 1921, p. 86).
3. According to Abu Jusuf (op. cit., p. 94) the land left in the hands of the inhabitants was their property and "may be inherited and sold". Cf. also Poliak, American Journal, loc. cit., p. 58. The Hanifite Abu-Bakr al-Razi (as quoted by

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Nevertheless in such provinces, where conditions were favourable to the development of private rights, the Ard el-haragija developed in the course of time towards private property liable to the land tax.[1] The discrimination against the harag tenure was successfully overcome. When Abu Su'ud, the great adviser of Suliman the Magnificent, prepared for his master a comprehensive report on the conditions of land tenure throughout the provinces of the Ottoman Empire, he defined both classical categories, ushr and haraj, as mulk, i.e. as allodial property, the practical difference between both having become a matter of taxation.[2]

This did not mean, however, that a general development towards private property had after all taken place. The function fulfilled by the harag land[3] under the Caliphs was

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[footnote 3 continued]
el-Zayla'i, vol. III, p. 272) enumerates ten different reasons against the Shafiite fiction about the lands of Sawad being held by their cultivators on lease.

1. Encycl. Islam,. art. kharadj by Th. W. Juynboll.
2. See the two Fetwas of Abu Su'ud in Padel, p. 81, app. 2, and 86, app. 3. The assimilation of the tenure aspect of ushr and haraj is thus almost complete, in accordance with the policy of Hanifites who were to become the ruling school under the Ottomans. Poliak, American Journal, p. 59, note 67, overlooks the classical Ottoman period, when he states that since Mawardi mulk is used to connote ushr land only. That he considers art. 2, Ottoman land code, which uses mulk in regard to haraj, as an exception, shows that he means to include the Turkish period.
3. Or, more exactly, by the domain lands proper (due to the harag). The early Turkish land law made the distinction: cf. Padel, op. cit., p. 104, quoting Kannuhame of the Fiefs Collection of the Fetwas of the Mufti Abussund, as the first instance of the three categories (miri, ushr, and harag) being used.

taken over under the Ottomans by a new category, the Memleket or miri land, the Rakabah (dominium plenum) of which, explains Abu Su'ud, "is retained by the bait ul mal (treasury)".[1] Such lands "can be sold, purchased, given away as a gift or made into a Waqf only after property rights in it have been granted by the Sultan. On the death of the holder his son takes his place under the same conditions, or it lapses to the bait-ul-mal. It can be granted to the daughter or the father's brother of the deceased holder by special leave. Transfer or transmission to someone else is valid only with permission of the Sultan or his representative."[2] These miri lands when granted to Sipahis[3] were let by them in turn to small cultivators (Ra'iyya) against payment of a special fee, the tapu, which had the nature of a rent payment.[4]

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1. Abu Su'ud in Padel, op. cit., p. 87.
2. Magmu'al-mutun I, 514, 4.
3. The more centralised Turkish feudal system was thus from the outset based on Miri Land, the state claiming the ultimate ownership of the fief (Padel, p. 111), whilst the early Arab iqta approximated private ownership (cf. supra page 229). Tischendorf p. 38 f. The Timar in Anatolia, which as 'Mulk Timar' were recognised as full property, were considered as exceptions to the rule (cf. Aini Ali, ch. VI in von Tischendorf, p. 98).
4. Originally the tapu was the sign of submission to the lore: note the functional similarity of tapu and haraj, and their parallel development. Both were originally degrading tribute payments, both developed into "neutral" forms of taxation, and both became at times identified with forms of tenure closely approximating allodial rights.

This new category was considered as Turkish man-made law, and for this reason not mentioned in the Turkish main compilations of the Sheriat law.[1] Sheriat law, in particular the law of inheritance, was not applied to it.[2] Yet its origin was justified according to the classical historical derivation of haraj land; it was based on the doctrine, that "conquered lands become property of the Bait-ul-mal of the faithful".[3]

In explaining the existence of Miri in the old Moslem provinces, Abu Su'ud boldly stressed their secular origin. According to him they derived from the taking over by the Bait-ul-mal of former haraj land[4] in cases, when an application of Sheriat law would have led to uneconomic fragmentation among a multitude of heirs[5].

But this was clearly not the only relation between haraj and miri: miri would in due course not only cover

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1. As above all the Multaka el Buhur of the Sheik Ibrahim bin Muhamad. It is dealt with, however, in the Majma' al-Anhur.
2. Padel, op. cit., 1901, p.14.
3. Fetwa des Abu Su'ud dealing with the conquered lands of Hungary; all lands outside towns and gardens were to become miri (Padel, app. 1, p.79); v. Tischendorf, p.38.
4. According to Abu Su'ud miri land originates from these lands "which were originally haraj" (p.81). It may be that the fact of haraj was of a less allodial character than ushr, was still a reality to him in spite of his emphasis on the equal mulk character of both.
5. Abu Su'ud, Padel, p.81. The taking over of lands by the state in such cases as well as by more blatant abuses of the Moslem law of inheritance, were already common practice under the califs: see examples in Mez, Islamic Culture, 1929, pp.278-82.

the cases where privately-owned haraj land was transferred to state ownership, but also those where haraj land still existed in the meaning of state property.[1]

This was particularly the case in Iraq. Abu Su'ud in his report allotted all areas of the Empire to one or another of the three categories. In the case of the Sawad he significantly hesitated to commit himself. After enumerating its lands under the haraj lands, he adds, when dealing with miri lands, that "according to the opinion of some Imams the lands of Sawad Iraq belong to this category".[2] About 50 years later, Aini Ali in his report on the Ottoman feudal system avoids all ambiguous terminology and speaks of the lands of the Bagdad region as of "erzi memleket" (State lands).[3]

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1. There could be little doubt about the relationship between haraj and state land: the tax levied on the conquered lands, converted into miri, was the haraj (Padel, Abu Su'ud, app. 1, p.79); the RA'iyya who held miri land in tapu, paid the haraj to the Sipahi (Fetwa of Abu Su'ud, Padel, p.87). Thus similarly to the Abbassid period, when it had to be distinguished between the haraj paid by the peasants and that paid by the farmer to the treasury (Poliak, Etude Islam., p. 253, note 2, quoting al-Qalqasandi) we find in the Arab provinces of the Ottoman Empire the haraj which the farmer received from the peasant, and a fraction of it, the miri, which he handed over to the treasury.
2. Abu Su'ud, Padel, p.81.
3. von Tischendorf, op. cit., p.116 ; it is significant that also the age-old distinction between the legal status of the Bagdad and Basra lands still survived. The lands of Basra, according to Aini Ali, were originally administered as "mülkiet" (mulk).

Ever since agricultural lands in Iraq remained overwhelmingly miri. There was no lack of administrative practices and legal justifications to cover them - if such were required - to transfer miri haraj land to tithe land and vice versa, in keeping with the political and social trends of the time. In Iraq where few traces of prosperity remained, the process took place mostly in favour of state tenure. The Turks would apply the rule that conquered lands belong as spoils of war to the Moslem community represented by the Sultan, also on countries reconquered after only a short occupation by the enemy;[1] and the never-ending wars with Persia or with the tribal confederations offered ample opportunity to apply this convenient doctrine. The Sultans would no longer re-distribute such lands as fiefs, but retain them as crown domains; once with the growing use of the musket the military value of mailed cavalry diminished. With the weakening of central authority, the annexation of land to the crown domain would become a general practice of rapacious provincial governors.[2]

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1. Poliak, J. Royal As. Soc.
2. These too were by no means new practices. Under the later califs fiefs quite generally reverted to the Government by confiscation or because of their desertion by the beneficiaries in consequence of unbearable taxation. A fair part of the law cases in land matters had as issue the claim of the holder that his land was to be regarded as a fief, whilst the Government preferred

[Footnote 2 continued on next page]

The Ottoman code of 1858 recognised with some modification the category of miri land and the tapu lease. Very few of the claims to private rights to land outside the towns would carry their owners further than to make them the registered Tapu holders of their lands.[1]

The adoption of tribalism by the majority of the rural population had, of course, left the door wide open for the State to claim ultimate property rights over the land which the tribes, as long as they were not fully sedentary, did scarcely aspire to. It is, therefore, today when tribalism is disintegrating, well to keep in mind how persistently the State had claimed the same rights before the lapse into tribalism had taken place. Ancient local traditions of State-ownership favoured by the natural conditions of the river plains were a strong element in the shaping of Islamic law which was largely elaborated

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to consider it as haraj land (Mez, p.105). - Our argument does not require to distinguish between confiscation by the calif, sultan or governors, to their private purse or to the public exchequer. Whether under the Abbassids confiscated lands went to the Bait mal al-Kassa (the private purse) or to the Bait mal al-Amma (the public exchequer), they were in any case reserved for the Bait-ul-mal and private property rights on them were precluded. (W. Fischel, The Bait mal al-Kahssa, a contribution to the history of Abbassite administration, 19th Internat. Congress of Orientalists, Rome, 1935, p.538 f.; Mez, p.113 f.). The transfer of lands on a large scale to the private property of sovereign or governors continued, however, from the 10th century, when, for instance, the Hamadamites forcibly purchased the greater portion of the lands in Mesopotamia for one tenth of their value (Mez, Islam. Culture, 1929, p.293) until the confiscation of Abdul Hamid's gigantic estates in Iraq by the youngTurks (see below, p.299). Since its ruin Iraq played the part of a favourite hunting ground for confiscations of this kind, as lands protected by the prestige and developed by the superior resources of the ruler, would prosper quicker and bring in high returns.

1. Von Tischendorf, p.116.

in Iraq. Nomadic indifference to private property in land was an original contribution to the same end by the Arab conquerors. In their attitude to the ultimate State-ownership of the land, nomadic tradition and those of agricultural Iraq, the law of the desert and that of the rivers, could well see face to face. In view of this unusual alliance conditions were only rarely favourable to the growth of lasting counter-tendencies.

2. On the history of Feudalism in Iraq

If, however, we view tenure in Iraq through the centuries irrespective of tribalism, we witness the dilemma of the cultivators who seem to hang alternatively in one of two fires. In periods of political stability and developed trade, large domains and capitalist methods of exploitation would soon come to the fore in the country which was a pioneer of money economy.[1] In times of decay of the economic machinery and of administration, conditions of tenure would tend to be dominated by fiscal considerations. In the former case the landlord, in the latter the tax-gatherer or tax-farmer, would be the chief extortioner of the cultivator; as long as feudal forms prevailed, rendering the borders between private and public law undistinguishable, both would be the same man.

It is the system of the Iqta which we meet from the times of the Umayads until the days of the late Caliphs that shows in several ways parallels to other feudal systems. It resulted similarly to the Romanic-Germanic or Russian feudalism from relations with the

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1. As to the Money Economy in Babylonia, cf. Eugène Cavaignac, op. cit., p.26 f.; Eduard Meyer, "Die Wirtschaftliche Entwicklung des Altertums" in "Kleine Schriften", 1910, p.90.

decaying civilisations of antiquity, in particular the neo-Persian and Byzantine.[1]

The Arabic nomadic tribes welded together by Islam to a nation of conquerors had to take over much of the existing institutions and bureaucracy. Tax-farming and mercenary armies, the pillars of the late antique civilization based on money economy, became also the fundamental institution of the califat.

Side by side with these existed the iqta as a system of granting of lands for special merits under a tenure similar to the antique emphytheusis.[2] In the course of the following centuries the three originally distinct figures, tax-farm, mercenary contract, and iqta would undergo a characteristic process of mutual assimilation.

Before, however, the process of deterioration of the antique state machinery and its continuation under the Kalifs, which this assimilation signalises, had advanced far enough to undermine the bureaucracy and the system of money taxation, on which they were based, these institutions

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1. In Iraq Persian influences were probably the strongest: Abu Yussuf calls the hereditary fief a Persian institution (Kit. al-Kharaj 32, quoted in Islamic Culture, p.276); cf. also von Tischendorf, op. cit., p.24. According to Hintze, op. cit., p.21, feudalism in Persia may be traceable to the conquest by the Parthian Arsacids.
2. Becker, op. cit., p.85; Poliak, Rev. Et. Isl., p.254, Note 6.

had already diverted the existing tendencies towards a transformation of the conquering Arab tribes into a military feudal society and had effected the assimilation of the young feudal institutions to forms more in keeping with the traditions of the land of the two rivers. Feudal forms came to the fore at the time of the rising califate and towards its end, but it was the feudalism of decline which affected the social and political organisation of the country the more deeply.

As long as a central government remained powerful the amil, the civil chief of the province, and mostly the farmer of its main revenues, would in financial matters retain his independence from the amir, his military counterpart.[2] But with the decline of the Abbassid administration the inability of the treasury to find the payment for the army would necessitate a substitute for the mercenary contract;[3] the government was obliged to allow the soldiers to get their livelihood from the land, and increasingly the military, generals and soldiers, laid their hand on this major source of revenue either as

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1. Becker, p.85. Poliak, Etudes Islam., p.254, note 6.
2. Becker, p.84; Mez, p.73.
3. The cause was the breakdown of the financial administration of the government rather than that of monetary economy generally. As to the parallel connection of tax-farming and State loans compare examples in Mez, p.124.

farmers or as mukta'. In the beginning the mercenaries, by now mostly of Turkish origin, and playing a similar historic part as the Germanic mercenaries in Rome, were yet under the obligation to hand over their surplus collections. All efforts of the government to regain control of the soldiers' fiefs met with little success,[1] and at last in 1087 the Seljuk Wazir Nizam al-Mulk gave legal sanction to a long since practised abuse and the obligation to pay the surplus collection to the treasury was abolished.[2] The recipient of the fiefs was henceforth the beneficiary of a certain portion of the revenue for the collection of which he was himself responsible. The iqta had received a completely mercenary character.[3] divided by a wide gulf from, for instance, Frankish feudalism orientated on the noble status of the vassal.[4]

It largely accounts for the different character of the system from the western pattern that unlike the western forms, islamic feudalism existed within a functioning, though gradually deteriorating money economy,

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1. Becker, p.89.
2. Ibid.
3. Often the soldiers would take over their fiefs only on test, ruin them utterly and then exchange them for another. Mez, p.20, "Misk" VI.138 as to conditions under Mu'Izzeddaulah.
4. Hintze, op. cit., p.21.

together with developed trade.[1] Even if this would suffice to account for the different reaction to the parallel historic constellations[2] producing islamic and other feudalisms,[3] it would not explain the striking differentiations inside islamic feudalism, especially between the systems applied in the Turkish and Arab provinces of the Ottoman Empire.

The "ultimate reason for the different solution of the agrarian problem"[4] has therefore been sought for in

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1. It seems that Hintze underrated the influence of the developed bureaucratic machinery and money economy which continued to flourish under the Caliphs for centuries. He considers Arab feudalism as an instance in which 'a decayed empire with money economy produces the same feudal pattern as the "natural-economical" imperialism of a youthful conquering nation', op. cit., p.20.
2. The parallel traits are emphasised and elaborated in Hintze's paper, op. cit.
3. It does not fully explain the difference, as follows for instance from the fact that under favourable conditions, in spite of money economy, conditions more akin to western feudalism could develop. So particularly in Persia, though even the workers on the Crown domains paid their taxes in dirhem, (Mez, p.150 f. and p. 116 quoting Muq, I.421; Istachri, p.158 (Mez, though adhering to his method of letting the facts tell their own tale, clearly wanted to draw attention to this point). - On the role of money economy in different feudal systems and the fact of its absence or decay as an essential pre-condition for its development, Cf. Hintze, op. cit., p.29.
4. Becker, p.92.

the character of the people concerned or in that of the lands which they inhabit.[1] That the borders between Arab and non-Arab populations frequently coincide with those between plain and mountainous country, may, according to the temperament of the observer, be interpreted as the confirmation of either view or as a limitation to the validity of both.

It seems to confirm the former opinion if one considers how the specifically military fief which came to Iraq as a Turkish institution[2] continued to remain an alien element in the country. Whilst its adoption in Iraq under the late Caliphs was a sign of decadence and of destructive effect to the whole political organisation of the caliphate,[3] it became in the Mamluk and Ottoman Empires to whose societies it seems naturally suited, a strong pillar of the administration. It may be argued that Arab "equalitarianism" was not readily adaptable to the hierarchical element in the feudal structure. When under the Seljuks, feudalism had its widest application in Iraq, it had already become an instrument of foreign

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1. Becker, p.92, speaking of "rassenpsychologische Tatsachen" lays stress on the former; Poliak, Études Islamiques, p.248 ff,, on the latter factor.
2. Poliak, Études Islam, p.254.
3. Von Kremer, p.285.

domination and only few Arab families were among the feudatories;[1] when after the long interval of the Mongol storms the Ottomans under Suleiman II tried to re-establish the feudal system in the country, it struck roots to a degree similar to that of the metropolitan provinces but in the North, and it is indeed in upper Iraq that feudal forms have survived purest up to the present time. In lower Iraq the feudal rally, the basis of the Ottoman provincial system never became a leading phenomenon. According to the official report of 'Aini Ali Mueddinzade[2] under Sultan Ahmed I (A.D. 1609) all lands in Basra were given to the Wali in Iltizam and no fiefs existed. Fiefs were to be found in seven only/ whilst "the other 11 of the 18 sandjaks, sandjaks formed of the vast land of Iraq" continues the report, "do not contain any Ziamet and Timar".[3]

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1. Among the 40 odd main-feudatories in Iraq at the time of the Seljuke Sultan, Malik Shah, were for instance the Arab Dobais from Hillah (von Kremer, 254).
2. Translation of the principal chapters in von Tischendorf, op. cit. pp.56-103; cf. also Beliu, Du régime des fiefs militaires dans l'Islamisme et principalement en Turquie Journal Asiatique, 6th série, 1870, XV, p.286 f.
3. Ibid., p.84; the Governors of Bagdad and Basra were "beglerbegliks with saliane", i.e. receiving their salary in money; whilst at the head of most provinces stood "beglerbegliks with chass", i.e. receivers of state domains. The former alternative for remunerating the beglerbegliks seems to have been adopted in provinces in which a concentration of too much power in the hands of the begs. might have led to the danger of separatist tendencies. Cf. p.118, note. 18.

If the non-semitic origin of the Kurds may have its bearing on the different development in Upper and Lower Iraq, so certainly had the more lasting devastation in the South resulting above all from the maladministration under the late caliphs and the physical destructions by the Mongols. Between the deterioration of the iqta and the establishment of Ottoman feudalism, wide areas of Iraq had become unsuited for settled habitation; organised administration based on a feudal or on any other system remain possible only within narrow limits. The greater vulnerability of Lower Iraq, responsible for this shrinking of the tilled lands, is, as we have seen, due to the cumulative effect of its two characteristics: the highly artificial irrigation system and the unbroken flatness of its plains, treeless except along the main water courses.

In Persia "unapproachable rocky castles, forests and a landed aristocracy contributed a perfect feudal framework".[1] The difference between hill and plain, between rain and irrigation cultivation would as deeply affect the type of feudatory as it affects that of its cultivators.[2] Whilst it enables the feudatory in the one case to reside on his

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1. Mez in Islamic Culture 1929, p.289; Mez, 1922, p.150 f.

2. See supra page 230 ~~q~~.

land, it drives him into the town, in the other. In Lower Iraq any organisation of power had to rely either on the evasive mobility of the Nomads tent or on the protection offered by the walls of the towns. Both surroundings might be the homes of systems of society which, at least in some respects, may be compared to that of Western feudalism, provided it is appreciated that the territorial basis of Western feudalism was foreign to both. In the agricultural areas between the towns and the desert no seat of power, no nuclei for a rural civilisation developed. Unlike the Turkish Sipahis whose duty it was to live in the district of their fiefs,[1] the beneficiaries of the iqta were mostly townsmen.[2] As absentee landlords their main concern would not be with their land or the people living on it, but with the rent to be derived from it. Residence in the trading centres inevitably commercialized the outlook of these 'feudatories'.

The close relationship between iqta and tax farming is a corollory of this setting, as it is a consequence of surviving money economy. The measure for the value of an iqta was not its size or the number of its inhabitants

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1. von Tischendorf, op. cit., p.40. Cf. also Aini Ali's report, Chap. VI (v. Tischendorf, p.94 f.: "They are expected to reside permanently on their fiefs in order to be available at any time when their military services might be required ...In case the Sipai resides in another sandjak from that in which his fief is situated, his fief might be declared forfeited."

but its revenue. The Ottomans, it is true, followed this example and the distinction between Ziamet and Timar is based on the amount of income.[1] Yet in his list of the Ottoman fiefs Ami Ali put opposite the revenue, the number of jebeli (mailed horsemen) which each beg had to provide for the feudal rally.[2] Whilst Turkish feudalism contains some elements of the homagium, the vassality, the iqta, before under the Seljuks it adopted its military, "Turkish" character, knew mainly the beneficium; in the classical as distinct from the early period its revenue was regarded as an income due as a prerogative to members of the ruling class[3] or bestowed as a token of his favour by the ruler, without much stress on the corresponding duties of the recipient. The grants of land and villages under the iqta were considered principally of the same nature as, for instance, those of the right to levy minor taxes or tolls, or of commercial or industrial monopolies.[4]

During the seventeenth century with the rapid decay of the feudal system throughout the Ottoman empire, also

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1. Compare the full account of the various types of Turkish fiefs in Ami Ali's report (Tischendorf, p.88 ff.).
2. The Revenue of the fief and the contribution to the feudal rally stood in a fixed relationship. For instance, for every 5,000 asper one jebeli, in case of big fiefs, 3,000 in case of small fiefs (Aini Ali in Tischendorf, pp.61 & 64).
3. Op. cit., p.116, note 9.
4. Ibn Dshemaa, quoted in von Tischendorf, p.19.

that much of the feudal rally which had ever functioned in Iraq became obsolete. The hierarchy of provincial officials would henceforth be known under civilian instead of the military titles which were still used by Aini Ali. The change of name only followed the change of function. In most Arab parts of the empire the farming of Crown domains had again become the principal form of tenure since the revolt of Ali Jambulat in 1607. The salaried officials who had gradually replaced the beneficiaries of fiefs were becoming farmers responsible for the collection of the revenue in their districts: the farmer would retain the balance for himself after handing over a fixed amount to the diwan. This system which was, on general lines, a return to the early Abbassid tradition implied a feudal hierarchy based upon the payment of an annual tribute by every territorial lord to his superior. In theory, the whole country was divided into fixed districts, muqata'at, which formed the basis for calculating the value of the farm. Though the new iqta was not a military fief the feudatory was entitled to have in his service such armed forces as were necessary for securing the collection of taxes, and as a rule, the annual collection was indeed a military expedition (dawara i.e. round).

In Lower Iraq, because the feudal rally had never been really established, this general reversion of the Ottoman fief system to a system of tax farming brought about very little change. Nor were matters much affected when in 1839 under the wave of reforms of the Tanzimat surviving remnants of the Turkish fief system were abolished throughout the empire, or when in 1858 the Turkish land code tried to modernise the methods of tax collecting. It was only in 1870 that the code was introduced into Iraq and that the modern story of land tenure began. Thus, it came about that for more than 3 centuries, before and after in other parts of the empire the fief system had reverted to tax farming, and still after the legal abolition of tax farming, conditions remained fundamentally the same. "The first care of the incoming Pasha was to divide up the lands of his province into the usual number of farmable units, from a single canal to huge tribal territory and lease them to the highest reasonable bidder. The farmers were indistinguishable from Governors, at times were specifically both. This sandjaq bey that agha or ḍhabit (officer, generally military), would bring his hundred janissaries to hillah sublet its lands and taxes employ his forces in stimulating payment or hire them out to the rapacious collector."[1]

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1. Longrigg, op. cit., p.

With the spread of tribalism, feudalism had lost even that little territorial basis it had possessed under the iqta. To the struggle for the share in the products of what was left of agriculture between the government and the military, or central government and provincial ruler, was added that between state authority and the tribes, which until quite recently, lived outside the state organisation. Since attempts to keep alive a state-regulated system of tenure were mostly futile, endeavours to impose taxation entirely ruled the relationship of the town as the seat of government, and the cultivators, whilst land tenure in wide parts of Iraq was left to customary Beduin law. It depended on the strength or the policy of the government, whether it accorded to the prescriptive tribal rights de jure, de facto or neither recognition. In the latter case, holders of government titles would try to impose their claims against the tribal occupier.

The old struggle inside one set of law, between private and state property, had been complicated by an additional, often overlapping friction between two sets of law, with quite different conceptions of the right to the land, that of the government and that of the tribes.

CHAPTER I. TRIBAL CUSTOM AND STATE LAW.

With Midhat Pasha's introduction of the Ottoman land legislation in Iraq in 1871, a new era in the agrarian order of the country opened which has not yet come to an end. Midhat Pasha decided to make a stand against tribalism and feudalism, and the Ottoman Land Law seemed to him an appropriate weapon to wield. Since his days Government Land Law and customary systems of tenure have been interlocked in a long-drawn-out test of strength. Both have, of course, changed their aspect in the course of seventy years: Tribal custom has grown weaker steadily, ever since the impact of the West began to penetrate into rural Iraq; government land law, which threatened to lose its grip at first, has lately been infused with fresh blood, and there is no doubt that its final victory cannot now be far off. But the liquidation of tribalism and feudalism has still to be achieved.

The following pages will survey separately each of the two systems of land tenure, before dealing with the principal phases of the conflict.

1. Tribal Systems of Land Tenure.

The various systems of tribal land tenure practised in Iraq have not so far been made the object of a proper study. The investigations undertaken by the Iraq Government in

1928/9 (1) were, it seems, strictly limited in scope and purpose. To-day when tribal custom, unaffected by Statute Land Law, is becoming rare, it may soon be of no avail to inquire into the various questions to the understanding of which Mesopotamian tribal custom might have yielded valuable material not long ago. We might have learnt more about the relations between the agrarian concepts of the tribes and those evolved by Islamic Law, and thereby added to our understanding of the environmental determination of the latter. (2) We might

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(1) Annual Report 1928, p.152; 1929, p.165. Cf. also below p.

(2) Islamic law, even after it became adapted to a society of townsmen and cultivators, could never disguise its initial nomadic basis. For this reason and also because it never ceased to be confronted with the practical issues raised by the presence of the nomads and their relation to the land, Islamic Law has always easily digested tribal practices. The body of Islamic Land Law, deals in one way or other, with the various questions thrown up in the stages of transition from nomadism to sedentary life. (A fully documented account of this is given by Pröbster, Islamica, vol.4 fasc.4 p.382 ff.) The relations of nomads and oasis dwellers; the effects of the revival of "dead" land; the classification of uncultivated land according to its distance from settled habitations; all these and other problems, eternally facing tribal land law, occupied the attention of Islamic jurists. As soon as a tribe was no longer directed exclusively by the "Tagut", the nomadic practice, (Philby, op.cit., Vol.1 p.41.) it would find in readiness for its new relations to the land an ample legal nomenclature. This applied especially to the agricultural contracts, (the Muzara's or the Musaqat for instance) which play such a prominent part in the agrariacultural life of the Arabs. The Musaqat is used to-day by tribesmen from Iraq to Tunis, as it was employed by Mohammed in his dealings with the Jews of Haibar. Tribal Iraq might have provided an opportunity of ascertaining more clearly the extent to which the often striking conformity between figures of Islamic Law and tribal practice is due to a direct influence of Islamic

have had an opportunity of adding to our still unsatisfactory knowledge of the collective element in tribal systems of land holding and especially of the forces determining the degree of collectivism. (1) The influences which favour an "individualisation" of land rights may be easy enough to list; but we know little about their operation in the north Arabian countries. (2)

On the other hand, tribal practices in Lower Iraq have had little time to grow and mature in response to environment

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law, or solely to the fact that twelve hundred years ago the latter was modelled on the customs of a society which witnessed little impulse and change until quite recently. (Cf. the common practice amongst Oriental scholars to use, in such context, quotations from Medieval Arabic sources and reports of contemporary travellers on an equal footing. Cf. f.i. Bräunlich, op. cit.; Proebster, op. cit.).. As to a study of Law and Custom in the Maghreb, cf. E. Ubach and E. Rackow. Sitte und Recht in Nord Africa, Stuttgart 1923.

(1) It is true that the prominence given to the "collective tribal lands" by the French administration in the Maghreb, and by the lively discussion it aroused (for full literature, cf. below p.) has gradually enabled a more realistic appreciation of the facts. The adoption of an opposite policy, with the almost complete disregard of collective tribal rights to the land, which characterises land policy in Mesopotamia, cannot, however, be attributed to the study and conscious rejection of the North African experiences.

(2) We do not know when or whether the undivided village community ("Musha") of Syria, Palestine and Upper Iraq are of tribal origin, whether they are feudal survivals or the results of fiscal policy; (cf. for instance Pröbster, op. cit. p. 420. On the general problem involved cf. H.J.E. Peake in Encyclop. of Social Science under "Village Community" and Literature quoted ibid.); when "individualism" of land rights is completed in the tribal stage, or when, on the other hand, the communal holding of land is institutionalised in a detribalised village.

and cultural influences, and may, therefore, be expected to yield less promising material for analysis. They are to a higher degree even than in Syria products of accident and chance, resulting from the eternal unrest and insecurity to which, until not long ago, both geographical and political factors contributed their share. Under such conditions the personal element, the astutness or weakness of particular sheiks and sirkals, played a most important part; "Each haggard sheik remained a law to himself". (2) Might was the only effective title. (3)

But though in many respects we are still in the phase of generalisation that comes before knowledge, we do know enough to draw a consistent picture. We can distinguish some fundamental differences in the customary systems of tenure practised in Iraq, due to the separate historical record and geographical orientation of the old vilayets, Mosul, Baghdad, and Basra, as well as to the ethnic difference between Arab and Kurd. Finer variations can be observed, caused by the physical and economic

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(1) On the well developed agrarian customs in Syria cf. A. Latron, op. cit.; on the customary water Law is a particular cf. ibid. p. 141-151 and Richard THOUMIN. Geographia Humaine de la Syrie Central. Paris 1936, p. 102-113.
(2) Admin. Report, 1918, Shuq al Shuyuk, p. 362.
(3) A common method of acquiring land "rights" in Lower Iraq was the erection of defensible towers in a strategic position on the coveted land. The towers were manned day and night and the watchman's pay sometimes levied upon the whole tribe. The British, after the occupation prohibited the construction of such towers without permission. (Cf. Tribal Civil and Criminal Disputes Regulations, Article 35.

environment, above all by the degree of settled existence attained, the methods and types of cultivation and the relative proximity to towns.

In those parts of Lower Iraq, where the tribesmen, though engaged in agriculture, has not yet become completely sedentary and cultivation remained shifting, customary land law has not developed much beyond the rough concepts which suffice for nomads. Among the settled tribes of the Hillah or Dialah areas and in the Kurdish hills, on the other hand, customary land rights matured much further in elaboration and binding quality. When the nomadic stage was not left far behind, rights to land and crops were conceived, as attributes not of the individual but of the tribal group. It is not the collective holding of land, however, that is the crucial aspect of tribal tenure. Individual rights to the land, which are a common feature of agrarian tribalism can equally retain the character of a privilege based on membership of the tribal community. If a merely legal definition be attempted - though this can never adequately render tribal rights - the most fully developed claims to land, which tribal society allots to individuals or families, may be described as usufructuary possession. In rare cases only would "property, excluding the right of disposal to outsiders" be the more appropriate definition.

(a) <u>The Sheikh's right to the land</u>

The fundamental territorial concept of tribal tenure is the dirah, the territory over which the tribe claims exclusive rights of occupancy which may remain for long periods unexercised. The claim is not based on occupation. Because of its political nature on the one hand (as the claim for "sovereignty" over a particular area irrespective of its use) and because of the economic necessities of pastoral life or of shifting methods of cultivation, on the other, occupation could not constitute a criterion. (1) Lands reclaimed by drainage from

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(1) The more restrictive or extensive delimination and recognition of tribal areas by the authorities varies, of course, with the attitude of the government in question. The French authorities in the Maghreb - after the early Algerian policy of 'refoulement' was set aside - endeavoured with unequal success to make allowances for the demand for land for colonisation without infringing on the tribal lands. The latest and most mature French legislation on the problem, (the Decree of December 30th, 1935, on the 'Terre Collective' in Tunisia) distinguishes between lands exploited collectively by the tribe or individually by tribesmen for cultivation or grazing on the one hand, and 'Terre des cultures ou de parcours en excédent', on the other hand. British administration in the African colonies, anxious to protect the tribes against alienation of their land to outside agencies, prefer, as a rule, an extensive interpretation of tribal claim to 'vacant' lands falling within their domain. (Cf. African Survey, op. cit. p.837): In Iraq political reasons which originally favoured a generous recognition of tribal claims to land are being gradually superceded by other
Sir Ernest Dowson (op. cit. p.25) mentions that tribal groups have been heard to advance claims to areas which they had previously abandoned, as soon as some favourable change in their conditions, e.g. the provision of irrigation facilities, occurred. 'It need hardly be

swamps or lakes, for instance, were being claimed as part of the tribal dirah. (1)

Usually, wherever cultivation became a major occupation, the originally nomadic concept of the Dirah assimilated itself to the natural division of the country into agricultural units. The largest of these units, varying in size, according to the methods of cultivation practised between thousands and tens of thousands of acres, is often known as a Muqatah; it is divided into sub-units frequently called qitas, amounting to between less than a hundred and several hundred acres. The qita in turn was made up of individual holdings, referred to as wusla(2)

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pointed out that deliberate voluntary abandonment of the use of an area for any purpose should extinguish any prescriptive claim to such use.'

(1) The Settlement Law No.29 of 1938, Art. 12 (a) ruled that 'the settlement officer shall determine the tribal boundaries in 'Hor' lands covered with water to those interested, and shall, according to local practice, register their names and the right of benefit in localities relating to each tribe. 'On the dispute about the rights to the 'Hor' Imam Mansur on the Western border of the Hindiyah district, cf. Admin. Report 1919 Hillah Division, p.2. Cf. in this connection also, Art. 69 of the Ottoman Land Code: 'Land ... which has been flooded for a long time and in which the water afterwards subsides is deemed to have remained in the possession of the former possessor', whereas (according to Art. 123 ibid) 'a piece of land coming into existence by the receding of water from a lake or river, shall be put up to auction.'

(2) Report of Revenue Dept. 1919, p.22.

Both sheikhs and sub-sheikhs claimed their contribution from the tribal cultivator: the qita holder usually a share of the crop, the sheikh either a share, or a fixed amount per plot, or else the crop of a special parcel of land reserved for the purpose. (1)

But, as long as tribal society retained its vitality the rights and duties of sheikhs and sub-sheikhs vis-a-vis the cultivators could not be defined as those of landlord and tenant. The contribution claimed by the sheikh is no rent and involves no recognition on the part of the tribal rank and file of any personal right of the sheikhs to the land. The sheikhal share was known as the share of the Mudhif, (2) indication the communal purpose to which it was destined in theory. The sheikhs 'holding' of the Muqatah, as well as the sub-chief's 'holding' of the qita, were transmissable with the sheikhal office to a direct male descendant or other influential member of the family. (3) Partitioning, which was rare, would involve splitting the tribal unit together with the land. The sheikh was as a rule not entitled to transfer rights to the land to outsiders. The sectional sheikh could not evict a fellow-tribesman

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(1) The first alternative occurs, for instance, in the Kut area, second in the Dulain, the third in the Muntafiq (cf. Haidar, op. cit. p.624)
(2) The tribal guest house kept by the sheikh.
(3) Female heirs were usually not recognised.

or parcels varying in size between under a hundred and several hundred acres. (1)

The Muqatah, (or the several Muqatahs into which the tribal pirah was divided,) might be held by the sheikh as the representative of the tribe; the qita by sub-tribal leaders representing the occupying tribal group. (2) Sheikhs and sub-sheikhs between them fulfilled the economic functions of the landlord. The sheikh organised tribal labour (Hashir) which each qita had to contribute for irrigational or other work required in the interest of the Dirah as a whole; he supervised the distribution of irrigation water between the various qitas. As regards direction of cultivation he was usually concerned only with the qita occupied by his own tribal section. The organisation of agricultural production, in particular the manner of employment of the tribal rank and file, the allotment of plots to them, the determination of the crops and of the times for sowing and harvesting fell as a rule to, the tribal sub-chief. Frequently the sub-sheikhs provided the cultivators with seed, implements, and cattle or either of these

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(1) The division into muqatahs and qitas acquired prominence when used to determine the holdings granted to the tribal occupiers by the holder of the legal title, i.e. usually the State or the tapu holder. Though used in this way for extra-tribal purposes, the division into Muqatahs and qitas has long since been assimilated by tribal custom.

(2) Cf. Admin. Report, Revenue Dept. ibid.

from the qita unless he had committed a dishonourable act. Tribesmen owing allegiance to other tribes, however, (whose employment on the land is an acknowledged tribal custom) (1) could be evicted as soon as shortage of land began to be felt, even though they had worked on similar terms with the rest of the tribesmen. Outsiders, on the other hand, who were willing to transfer their allegiance, and were usually welcomed as an addition to the tribes' fighting strength, would acquire full protection against eviction. The transfer of land rights involved was but an impression of the newcomers' affiliation to the tribal group in possession of the land. The tribal cultivators, to use a common formula, in spite of sheikhal prerogatives could be considered partners not only in the crop but in the right to the land also.

(b) <u>The Tribesman's Right to the Land</u>:

If customary tribal tenure cannot be translated into terms of individual ownership by the sheiks, no more does it favour the concept of individual propriety rights to the land by the rank and file. Where shifting methods of cultivation prevailed, a periodic re-allotment was not required to prove the absence

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(1) For instance the Hébaich and Bani Richab (in the QAL'AT SIKAR District included many small foreign sections, who had become their followers on account of the large area under cultivation they possessed (Admin. Report. Qal'at Sikar District, 19.9 & 109.)

(2) For instance, in parts of Diwaniyah and Shatrah (Haidar op. cit. p. 636)

of individual titles in specific parcels of land; in some areas, with a more settled method of cultivation, re-allotment of plots was taking place. (1)

An implied recognition of usufructuary prescriptive rights of families or individuals to the land is, however, common. Most recognised individual rights to land originated either from allotment by the sheikh or by bringing uncultivated land under the plough. Allotment among the families according to the number of Affagah (riflemen) in each family occurs subject to periodical re-allotment, (2) but more frequently without such provision. (3) Even if land had been in the hands of the same family for more than a generation, allotment could be re-sumed by the sheikh. (4)

Except in the course of re-allotment, the tribesman could be removed from his holding only for misconduct or disloyalty. Eviction was recognised as a 'political' penalty administered by the sheikh in case of offence against the tribal code, but neither as the exercise of the sheikh's personal right to the land nor as a primarily economic sanction. Protected by the

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(1) For instance, in parts of Diwaniyah and Shatrah (Haidar op. cit. p. 636.)
(2) Qisnah Dawriyah, Re-allotment taking place annually or every 3 or 5 years.
(3) In the muntafiq this permanent allotment is called Qisnah Khafagivah, (according to Haidar, op. cit. p.87, after the tribe of Khafajah among which it was common)
(4) Dowson, Report, p. 26.

traditions of tribal life and the additional guarantee afforded by the sheikh's desire to keep his followers, the security of tenure enjoyed by the heads of tribal families in the more settled agricultural district was not negligible.

In certain more densely populated districts, where regular irrigation could be maintained, the position of the cultivators grew even stronger. The influence of the material surroundings affected the institutional equipment of tribal life and favoured the development of individual prescriptive claims to the land. Tribesmen, whose forefathers or who themselves had distinguished themselves in tribal affairs and members of the sheikhal family, would claim exemption from contributing the sheikh's or sirkal's share. (1) The planting of trees and the installing of a water-lift was widely recognised in tribal society as creating a prescriptive right to the land affected.

Thus we find examples of a tribally organised sedentary peasantry in those parts of Lower Iraq where the individual parcel of land is valuable and especially where it can be exploited by family labour without the assistance of a tribal sub-chief. This is not generally the case in the riverain

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(1) Also, for instance, the Hoshiyah, (armed retainers of the Amarah chiefs) received assignment of lands, free of rent. (Review of Civil Administration 1914-18 p. 361.)

tracts dependent on lift-irrigation because the instalment of a Cherrad - let alone an oil pump - is beyond the means of the individual cultivator.

Also in the inundation areas, i.e. especially in the rice growing districts, the precariousness of the water supply and the raising of land levels introduce an element of instability and a need for organising labour on a larger scale, which, as a rule more than offset the effect of the relative scarcity of rice land, in so far as to allow only under specially favourable conditions for a development of individual rights to particular parcels. Rice cultivation favours, on the other hand, the development of well defined individual rights to a share in the common land, and thereby serves close tribal integration (1) Nevertheless in some rice lands (2) and in tribally cultivated date gardens (3), individual rights to certain plots have developed inside the Qitah. But even in these infrequent cases of tribal 'peasants', though the holders would freely bequeath and mortgage their plots, they could not dispose of them in favour of an outsider, or at least some form of a

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(1) The rice areas on both rivers, but especially on the Euphrates, are still the strongholds of tribalism.
(2) As to detailed data (relating to 1925) on individual holdings in the rice area of the lower Hindiyah, cf. Ahmad Fahmi, Taqrir, op. cit., p. 82.
(3) For instance, in Shuq al Shuyukh or Jarbuijah below Hillah (Haidar, op. cit. p. 632).

tribal right of pre-emption could be called in . (1) Tribal rules of inheritance, with a view to the avoidance of fragmentation and to the exclusion of female heirs, would continue to be observed. (2)

Often, together with the emergence of more closely defined individual rights to the land, a new division of classes inside the tribe would develop and gradually deepen. Land-owning tribesmen and sub-chiefs would employ the labour of Afrad (landless tribal cultivators) (3) as share tenants on terms widely differing according to local circumstances. Thus, in some areas of Lower Iraq in which settled agriculture survived, practices closely resembling a fully developed landlord/tenant system existed within the framework of tribal society. As long, however, as tribal sentiment remained intact, the relation would be referred to in terms of tribute due or protection accorded. This stage reached the loosening of tribal bonds need not be followed through many more phases to their final disappearance.

(c) <u>The Sârkal's Right to the Land</u>:

The development of individual claims to the land among the

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(1) Revenue circulars 1919, p. 25.
(2) Cf. Admin. Report, Arbil Div. 1919, p. 16.
(3) Cf. Admin. Report. Hillah Div. 1919, p. 3. The Afrad are often organised in family groups under their own chief.

tribal rank and file is, however, not typical of Lower Iraq. Throughout the barley and wheat areas the most common agricultural unit under tribal management is the qitah and the chief of the tribal group occupying the qitah has acquired a prominent position in agrarian tribalism. Standing between tribesmen and sheikh the foremost struggle of the sarkal has as a rule been with the sheikhs, whereas the claims of his men for independent rights to the land would belong to a stage of advanced tribal disintegration.

According to tribal custom, the office of the sub-sheik was de facto heritable within his family, and the paramount chief in the normal exercise of his powers could not depose a sub-sheikh from his office and in consequence not evict him from his land. Only in rare cases would the sheikh claim or exercise the right freely to re-allot the lands occupied by tribal sections and move whole groups from one qitah to another. (1) In the usual conflicts between sarkals and sheikhs, which continue to occupy the attention of the local officials to-day, tribal and purely agrarian elements are blended. The sub-chiefs striving for independence from the sheikh (2) coincides with the

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(1) This right is, for instance, still recognised among the Rab'a in Kut and among some sections of the Muntafiq (Haidar, op. cit. p. 623)

(2) Sometimes the sarkal would be but a leader of a section of Afrad, i.e. but a tenant of the sheikh.

cultivation resentment against the claim to a share by a party which contributes next to nothing to the process of cultivation.

Whereas the emergence of individual prescriptive rights for the rank and file remained exceptional, the collective prescriptive right of the tribal group represented by the qitah holder, was the rule. The qitah holder, often known as the sarkal, (1) and the prescriptive right exercised by him on behalf of his group, commonly referred to as the lazma right,(2) developed into central pictures of the agrarian system of Lower Iraq.

(d) Tribal and Feudal Land Rights in Upper Iraq:

In Upper Iraq, and in the Kurdish areas in particular, agrarian tribalism is centred in the village. The border between feudal and tribal organisation in these villages was and still is fluid. The former feudatories and their descendants remain the village notables in spite of the liquidation of the great feudal lords by the Ottomans in the 1830's.

Blood relationship of Agha and followers, which is the

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(1) In Muntafiq and Amarah the qitah holder is known as sarkal; in Kut as lazma holder; in Diwaniyah and Hillah as mallak (cf. Haidar, op. cit. p. 621).

(2) In the Fellujah district the tribes call this right Sakaniyah (Rev. Circular 1919, p. 25); nagsha in the Lower Euphrates and sijarah in other parts of central Iraq. The two latter indicate the origin of the prescriptive claim by the revival of uncultivated land.

rule in the mountainous districts, but rare in the foothills and plain, is not necessarily the criterion by which the tribal village can - if at all - be distinguished from the 'feudal'. The decisive ~~functions~~ questions are rather whether the Agha's rights to the land are conceived as being linked up inseparably with his leadership, succession in which does not follow the rules governing the inheritance of property; (1) whether, as in the hill villages the 'rent' paid by the villager to his chief is in theory intended primarily for the upkeep of the guest-house; (2) whether the kinship relation binding tribesmen and agha as well as the tribesmen to each other effectively restricts the agh's authority over the distribution of tribal land, in so far as the bringing in of outsiders is concerned; whether the agha's right to evict tribesmen can be freely exercised or 'remains theoretical except under extreme provocation.'(3) In short, whether the agha is regarded as the unrestricted holder of the land responsible only to ~~in~~external authority; or whether there are sufficient indications to support the idea of an underlying right of the group of which the agha is but the

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(1) Leach, op. cit., p. 25.
(2) Cf. Leach (ibid., p. 29): 'Sheikh Mohammad Agha of Walash was particularly insistent that his guest-house was bringing him to the edge of ruin ... I noted that he included under guest-house expenditure a variety of items that were purely personal.'
(3) Ibid., p. 15.

representative.

Though the land rights of the feudal aghas were more akin to property rights than those of the tribal aghas, the tribal village agha too, as a rule, occupied the position of a landlord. The superior aghas (taifa agha) claim to the land was often more platonic than that of the paramount sheikh in the south. (1) The village agha standing between the tribesmen and his superior chief tends, as does the sirkal in the south, to gain a freer hand in his control of the land, when, with the waning political importance of the tribe the superior tribal leader loses power.

On the other hand, as long as tribalism remains strong, the position of the village gha as landlord would only rarely be challenged by the villager's claim for individual land rights The villagers have, as a rule, been even less able to stand up to the concentration of economic power in their chief than the tribesmen of Lower Iraq. Even the fact that aghas and villagers are close kinsmen did not prevent the agha from aspiring to the status of landowner and from reducing the tribesmen to the

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(1) According to Leach, p. 17, the Taifa Agha's function 'prior to the coming of external administration' was roughly that of 'arbitrator in court of appeal rather than dominating overlord.

status of tenants at will. (1) In Upper Iraq the individualisation of rights to the land in tribal society was deeply affected, at first by the superimposed feudal organisation, and afterwards by the acquisition of government titles to the land by paramount aghas, village aghas, or town notables. Upper Iraq was never for any length of time sufficiently outside the reach of a central authority to allow undiluted tribal systems of tenure to survive in the villages except in the most inaccessible mountain regions. (2).

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(1) Cuinet (op. cit. vol. III p. 37) reported in 1890, that in the tobacco region of Sulaimaniyah and Sharizor, the Aghas are recognised as owners of the land. Each of them had about 5000-6000 cultivators under his domination "who obey him and are willing to sacrifice their lives for him." On the present position cf. Leach op. cit. p. 15.

(2) Leach's informations on land tenure (which he obtained in such a remote mountain village) contains unfortunately considerable gaps (as he points out himself on p. 15, 25, 51). Thus, for instance, the evidence produced by Leach, p. 51 f., seems to indicate that in the village of Walsh, which he investigated, some form of periodic re-allotment was taking place in spite of the denial of his informant. How otherwise could a complicated system of symetrical plots of different categories of land be maintained? Also Robert Montagne, Quelques Aspects .... (op. cit. p. 6) refers to periodic re-allotment in Kurdish tribal villages.

II. THE OTTOMAN LAND LAW.

The Ottoman Land Code of 1858 (1274) and the Land Registration (tapu) Law of the following year (1) which Midhat Pasha introduced into Iraq in 1871 redefine the familiar terms of Islamic and Ottoman Land Law. The principal chapters of the code lay down the rules governing the five historical land categories. But though maintaining the continuity of legal concepts, the code was the fruit of a period of reforms. When it deals with the acquisition of legal possession of miri land, it draws attention itself to its historical significance: "Possession of such lands", says art. 3 (2), "was formerly acquired ..... by permission of, or grant by sipahis of timar or ziamet as lords of the soil, and later through multazim." Feudal lord as well as tax farmer was now to be replaced by Government officials; the tapu payable to the Government was

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(1) Cf. translations of the Ottoman Land Legislation. Cf. especially G. Young, Corps de Droit Ottoman, Oxford 1906, vol. VI, p. 45 f.; Ottoman Land Laws edited by Stanley Fisher, Oxford 1919. On the Ottoman Land Law cf. W. Padel, Des Grundeigentum der Türkei nach der Neueren Gesetzgebung, in Friedrich Wilhelm Universität für Orientalische Sprachen, Mitteilung vol. III and IV/1901; W. Padel and L Steeg, De la Législation Foncière Ottomane, Paris 1904; H. Chiha, Traité de la Propriété immobilière en Droit Ottoman, Cairo 1906. V. E. Howell, the Jaman el-Arabi. J. Cent. Asian Society 1921. Of modern accounts dealing with the application of the code in the succession states cf. R. C. Tute, the Ottoman Land Laws, Jerusalem 1927; F. M. Goadby and M. J. Doukhan, the Land Law of Palestine and shorter accounts in Himadeh. The Economic System of Palestine, (by A. Khuri) and Himadeh, Economic organisation of Syria, Beyruth, 1936, (by M.) Doukhan)

(2) Mulk, Waqf, Miri, Mewat, Matruka.

finally transformed from tribute into rent.

1. <u>The Universal "Alienation" of the Tessaruf</u>.

Dissatisfied with the performance of feudal lords and tax farmers alike the Ottoman reformers hoped to attain the desired extension of the area under the plough by granting security of tenure to the actual cultivators themselves.

The principal theme of the code is to assure the cultivation of all arable land and to achieve it by favouring the productive occupier. The code pursued this policy, firstly, by the provision that legal possession of state land could be acquired by ten years' continuous occupation and cultivation against the non-occupying legal holder. (1) More important in Iraq was, however, the parallel provision for state and true waqf land, the legal possession of which had not been granted out: (2) "Everyone who has possessed and cultivated miri or waqf land for ten years without dispute, acquires a right by prescription, and whether he has a valid title deed or not, the land cannot be regarded as vacant (mahlul), and he shall be given a new title deed gratuitously."

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(1) Art. 20 Land Code.
(2) Art.78 ibid. Translation, as in the following quotations according to Fisher op. cit. (actually an English rendering of Young's (op. cit.) French Translation. On Haq el qarar cf. Padel, op. cit. 1901, p. 36.

Secondly, according to the code the legal possessor (the holder of the right of tessaruf, i.e. in Iraq the tapu holder) forfeits his right in the case of his land remaining uncultivated for three years in succession without valid excuse. (1) Thirdly, to achieve its aim of maximum cultivation, the code regulates the procedure for finding a new cultivator in each instance when the land loses its legal possessor and falls "mahlul." Legal possession is to be granted without payment of fees to the recognised heirs and to the persons qualifying under art. 78. Certain categories of persons, as the occupier who had neglected the cultivation (2) or more distant heirs,(3) have the "right of tapu" i.e. the right of acquiring the legal possession by payment of a tapu (valuation) fee. (4) In absence of persons with a "right of tapu" or their failing to exercise it, the new possessor is to be found by public auction of the land.

Bent on the praiseworthy object of fostering full utilisation of the land, the Ottoman legislator laid down the rule - which is of special significance for the subsequent development of land rights in Iraq - that the tessaruf of the cultivable state land was to be universally granted out. All miri land is to be held in tapu, and no valid tapu right can be constituted not even by haq el qarar - without registration and issue of a tapu sanad (5)

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(1) Art. 68 Land Code. (2) Ibid. (3) Art.
(4) Bedl Mithl according to art.
(5) Art. 78 Land Code and art. 1 (2) of the Regulations as to Title Deeds (tapu sanads) of 1276.

The government accepted the necessity of setting up a sound system of settlement and registration of rights to land as an essential preliminary to agricultural development.

2. <u>The Retention of the Raqaba by the State</u>.

The ratio legis of the land code was the establishment of an independent peasantry as a widespread form of tenure. The peasants were, however, not to be owners of the land but tenants of the state. The raqaba, the ultimate ownership of the miri land granted in tapu, remained vested in the state and was inalienable except by special iradah. (1) The tapu grant gave not only security of possession but was heritable and assignable. To acquire validity, the transfer by sale, gift or exchange as well as mortgaging (1a) required, however, the special leave of the authorities. (2) Special leave was required also for the erection of buildings, the planting of fruit trees, and the uprooting of naturally grown trees. (3) The lessee was furthermore as we have seen, under the obligation to cultivate his land, at least triennually. (4)

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(1) I.e. Mulknama art. 121 Land Code.
(1a) Art. 26 Tapu Law of 1858. The Land Code did not know a mortgage proper but only the transfer to the creditor with the right of redemption by the debtor. (Faragh bil vefa) Art. 116 Land Code.
(2) Art. 36 ibid.
(3) Art. 31, 25, and 28, ibid.
(4) Art. 68 ibid.

It may not be easy to say whether the Ottoman legislator insisted on the retention of the raqaba by the state for fiscal reasons only, or whether he was not unaware of the general case in favour of state ownership of land, and especially of the inadvisability of trying to cover the road from feudalism to peasant proprietorship in a single step.

At any rate, with a view to reducing the danger of uneconomic fragmentation, the legislator made use of the freedom of the tapu legislation from the rules of inheritance of the Shariah Law. The right of inheritance (haq el intiqal) was confined to parents and children, (1) other classes of relatives having only a "right of tapu" i.e. of acquiring the title against payment of the bedl mithl.

Miri tenure, as defined in the land code and the tapu law, and as introduced into Iraq by Midhat Pasha which became known in Iraq as tapu tenure, was a possessory tenure in law as well as in fact. It was only subsequent legislation which approximated the tapu tenure - whatever its legal definition - to modern freehold in its economic effect. The period of three years after which the tessaruf on state land, left uncultivated without excuse, forfeited to the state, was extended to ten

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(1) Art. 53 Land Code.

years (1) The liberty of the tapu holder to bequeath or to mortgage his rights was step by step extended; (2) finally, by a law of 1913 - although the state formerly retained its raqaba - practically all restrictions were abrogated which hitherto distinguished the tapu holder from the mulk owner. (3)

3. Tapu Tenure and Customary Land Rights.

The Land Code in favouring the actual cultivator had in mind the establishment of individual peasants, and neither expressly nor by implication does it take account of the existence of tribal groups. But the Ottoman legislator, thinking in terms of individual holdings, takes also cognisance of the village as the agrarian community to which, he was primarily

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(1) Cf. Confiscation of Public Lands Law of 1885, by which article 68-75 of the Land Code were repealed.

(2) As for the extension of recognised heirs cf. especially Law of 17 muharem 1284 (1867); Law of 27 rabi' ul evval 1331 (1913). These laws extended the right of intiqal to these relatives who, according to the land code, had only the "right of tapu." As to mortgages: Law of 23rd ramazan 1286 (1869); Law of 15 shavel 1288 (art. 1 of which provided that "state land shall be sold without the consent of the debtor like pure milk property ..."); Law of 1 rabi 'ul akbir 1331 (1913).

(3) The law dated 5 jamazi 'ul evvel 1331 (1913) (which came, however, never into operative effect) removed the requirement of official leave for alienation and mortgaging of state lands, for planting and cutting trees etc. Trees planted and buildings erected on state land became subject as regards disposal and transfer, to the laws applicable to the land on which they stand. State lands were made liable for the debts of their possessor during his lifetime and after his death even if they become mahlul (art. 16).

accustomed from conditions in the Balkans and in Anatolia.

Village land should as a rule be granted out in separate pieces to the inhabitants. "The whole land of a village ... cannot be granted in its entirety ... to one or two persons chosen from amongst them." (1) In the case of land possessed in individual shares by several persons, demand by one or more of the co-possessors should suffice to initiate partition. (2) But it is left to the discretion of the land registry (tapu) official to decide whether the land is "capable of being divided, that is to say whether each portion can yield separately as much produce as if it continued to form part of the whole."(3)

Communal holding of land was recognised in the case of "pasturing grounds assigned ab antique to a village". They could neither be bought nor sold, nor could enclosures or buildings be erected on them, nor could they be turned into orchards or cultivated. (4) The inhabitants of the village had no right to introduce animals from elsewhere into the

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(1) Art. 8 Land Code. On the ratio legis of art. 8 cf. Padel op. cit. 1900, p. 115. Art. 130 Land Code confirms the rule by providing for an exception: "Lands of an inhabited village cannot be granted in their entirety to an individual for the purpose of making a chiftlik, unless the inhabitants of a village "have dispersed and it is impossible to restore it to its former state by bringing new cultivators there and settling them in the village and granting the land in separate plots to each cultivator." A chiftlik "ordinarily speaking is an estate including buildings and implements. (Art. 131 Land Code.)

(2) As to the partition procedure cf. Immovable property registration and valuation Law 1907 Art. 30.

(3) Art. 15 Land Code.

(4) Art. 97 ibid.

village pasture grounds, "so as to prejudice the animals of fellow inhabitants." No outsider was allowed to bring in his animals, but a person who settled in the village and built a house there could do so if it was not prejudicial to the village flocks. (1)

A more significant recognition of the corporate interests of the villagers is contained in the provision, that in the case of a transfer of village land to an outsider, the villagers "who are in need of land have for one year the right to have the land adjudged to them at the price at which it had been sold."(2)

The grazing grounds, forming part of the common land of the village extend to a distance "from which a human voice cannot be heard at the nearest inhabited place." Grazing grounds outside this radius - unless they were assigned to the use of the inhabitants of a village ab antiquo - are mewat land for which the code has no specific stipulations to offer. (3) If they were ab antiquo assigned to villagers, outsiders (i.e. in Iraq often nomads) are allowed to bring their animals in on the arable land after the removal of the crop. (4)

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(1) Art. 100 ibid.
(2) Art. 45 ibid. On this "quasi - Shufa Right" of the villagers (retractus ex jure incolatus) cf. Padel, op. cit. 1900, p. 171.
(3) Art. 103 Land Code.
(4) Art. 125 ibid.

II. THE DEVELOPMENT OF LAND POLICY.

1. An Attempt at Reform: The Policy of Midhat Pasha and his successors. (1871-1913)

Before the introduction of the Ottoman Land Code, and in particular since the end of Mamluk rule in Baghdad, the State, with varying effectiveness, tried to enforce its claim to rent as well as tax from the miri land occupied by the tribes.

Wherever the State succeeded in asserting its ownership, the sheikh by special contract - commonly known as Shartnamah - was, according to the law, to be given the lease of his dirah or muqatah against a share of the produce. Sometimes, it is true, prolonged possession caused villagers or sheikhs of wide tribal areas to claim their holdings as de facto mulk; descendants of the old Timariot clung to their deeds of feudal title (1). Elsewhere, however, the right of the State to a share in the crop was recognised from early days. In some settled regions this recognition was based on the memory of a time, previous to the decline of the central authority. Often tribal recognition was the result of the willing acquiescence of the sheikh, who benefited by the farming of the government's share. The sheikhs would keep a goodly portion of the revenue and the rent for themselves, and often the government would

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(1) Longrigg, op. cit., p. 306.

also allow them a rebate (1). The introduction of an additional partner in the produce, whose, share was but spasmodically and rarely fully collected, did not necessarily involve an unbearable interference in the agrarian tribal system, as long as the government refrained from exercising its right as owner and lessor of the land in contradiction to tribal sentiment. If it did interfere, the matter was decided by force, and many of the recurrent tribal risings under the Ottoman Walis, preceding Midhat Pasha, were in fact violent outbursts of agrarian dissatisfaction. Unrest rarely allowed tribal custom to consolidate, and force remained the final arbitrator. Agricultural improvement was checked by the absence of a secure and economic tenure.

(a) Introduction of the Ottoman Land Code:

In our discussion of tribal policy we have seen that Midhat Pasha introduced concepts of government which - in Iraq - were as novel then as they are self-evident to-day. As he had insisted that to suspect and fight the tribesmen is not enough, but that they must be assimilated and become willing Ottoman citizens, so he stood for the new principles of the land code. He recognised that it was but a short-sighted interpretation of state ownership of the land, to

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(1) Admin. Report, Revenue Dept. 1919, p. 31.

think solely in terms of revenue. In the interest of the Treasury, no less than of the general well-being, State ownership entailed obligations, provision and guarantee of a security of tenure being the most fundamental. Thus Midhat Pasha set out to introduce the tapu tenure in Iraq as an integral element of his general policy of rehabilitation.

Faced with untamed tribes in occupation of the land, he no doubt realised that rather than to reform his task was to recreate an agrarian order. It is likely that he considered the disappearance of tribalism a necessary stage in the process, but his aim was the extension of agriculture for which orderly administration was a prerequisite.

Judged by its success in extending the area under the plough, Midhat's land policy was a notable achievement, particularly if one remembers how few were the years during which his own driving power could exert itself in Baghdad. Much progress was attained in fixing the tribes to the soil. The Dulaim settled from Anah to Fellujah, the Zubaid tribes on the Tigris and round Hillah, the Shammar Toga from Diyalah nearly to Kut. The tribal map, in fact, assumed its familiar contour of to-day and the boundary lines of the settled could be ever more confidently drawn (1).

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(1) Longrigg, op. cit. p. 309.

In other respects, however, the introduction of the tapu tenure was a failure, creating at least as many problems as it solved. It proved an even more formidable handicap in backward Iraq than in other provinces of the Empire, that the Ottoman legislation had insisted on obligatory registration and issue of a Tapu-Sanad. In no unmapped and unsurveyed country will a land reform achieve quite satisfactory results, In Iraq the old custom of replacing plans and maps by boundary descriptions was so vaguely and inaccurately applied, that it was frequently impossible to identify the properties concerned with any certainty; the more so since owing to the featureless surface of the greater part of Lower Iraq, even rough topographical boundaries were lacking (1). Names of holders were used which were long forgotten or had never existed (2). Two or more sanads were issued for the same parcel of land; vast extensions of boundaries were filled in at the dictate of the purchaser by accommodating or bribed tapu-officials (3). The title deeds and tapu registers, (which continue to try the wits of the Settlement Commissions to-day), contained every imaginable material for conflict and confusion.

But it would be a mistake to attribute failure solely to

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(1) Special Report, op. cit., p. 204, and 125.
(2) Admin. Report, 1919, Abril Division, p. 15; Report of Rev. Dept. 1919, p. 26.
(3) Revenue Circular, 1919, p. 25/26.

these shortcomings. The real cause of the limited success of Midhat's policy was that his measures were beyond the technical and administrative capacity of himself and his officers. He tried his hand at one of the most testing problems any administration can come up against, a problem which at the same time was mishandled by the French in Algeria, and which is far from being solved by the Iraqi authorities to-day. Midhat's bid to tackle the problem of a dual society of tribesmen and townsmen, and to integrate their divergent systems of land holdings was as good as any could be under the circumstances. We may well even hesitate in blaming his successors for having failed to follow up his beginnings with a sustained and imaginative policy.

The Turkish Land Code was meant to fill the void left by the decay of feudalism. It was not designed to deal with tribalism, and least of all with a tribalism in its prime. The concept of the Dirah, including unoccupied lands under the control of the tribe, was alien to the code. The grant of titles was not conditioned by the tribal status or tribal allegiance of the person concerned. According to the Code, the title holder could acquire rights which were incompatible with tribal custom, for example, the right of eviction. Its rules of inheritance disregarded the inclusion of the exercise of tribal land rights in the sheikhal office. The tribal hierarchy of sheikhs, sirkals, and tribesmen (justified -

generally speaking - by the predominantly political functions of the Sheikh and the mainly economic ones of the sirkal) became, under the new law, a landlord-tenant relationship under a crop-sharing system, the partnership of the fellah in the crop an annually renewable contract (1). Above all, a class of legal holders other than the State arose, who belonged to other tribes, or were even townsmen without tribal ties.

In territories, where feudalism was not yet extinct as in Upper Iraq, or where tribalism was still powerful as in Lower Iraq, or where, as in both, tax farming was still widely applied, the title could hardly be prevented from being registered in the name of the sheikhs, aghas, or multazims. Midhat's method was to grant to the sheikhs for easy payment titles for tribal areas, and to holders of the doubtfully valid farmans and buyurildis (2) of an earlier age the rights for villages of the Northern districts (3). In fact, there was scarcely an alternative to the practice of trying the charms of secure tenure on the sheikhs. Linking their self-interest with agriculture was at the time the sole prospect of combatting the shifting and unsettled life of the tribes. The

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(1) Covered by Art. 1441 ff. of the Mejelle (Muzara'a), Art. 1431 ff. (Musaqat).
(2) Turkish Letters Patent, granted by a Pasha, conferring appointment of privilege (Longrigg, op. cit., p. 353).
(3) Longrigg, p. 306.

tapu tenure was to convert the Sheikhs from leaders of uncontrolled and wandering squatters into revenue paying landlords.

The grant of the tapu tenure to the influential man proceded with little regard for the provisions of the Tapu Law. It was one of the principal weaknesses of the Ottoman Land Law that in the anxiety to have no land "vacant," the impracticable principle of the universal grants of the Tessaruf was imposed, while the control of the Land Register on which its application depended was a make believe. The Code prescribed that whenever lands were vacant and the occupier of the land neither qualified for Haq-el-qarar, nor able to pay the tapu value, public auction was to be resorted to. The cultivators of Lower Iraq were as a matter of fact, generally disqualified for Haq-el-qarar. Even if (as in the case of a minority only) they fulfilled the condition of ten years' uninterrupted occupation and cultivation, they had, by payment of the crop-share to sirkal, sheikh, or government, as a rule recognised by implication the existence of another's right to the land, and thereby deprived themselves of the prescriptive claim of Art. 78 of the Land Code (Haq-al-quarar). The priority right to acquire the title by payment of the tapu value, which was offered by the law to the occupier in such circumstances, was a dead letter as far as the poverty-stricken ordinary tribesman

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(1) Art. 78 (3) Land Code.

was concerned. In Upper Iraq, where recognised prescriptive rights of individual cultivators were more frequent, grants in tapu without payment were made in accordance with Art. 78. But after some lapse of time, most of the lands fell inevitably into the hands of the aghas. (1)

The special leave of the authorities, required for mortgaging or selling the tapu holding, constituted little protection in the hands of authorities who had not the sources of information necessary to control it and were under the influence of the men of substance in the district who coveted the tapu rights for themselves. (2) The Ottoman Land Code was only half-hearted in its opposition to economic and social forces, threatening to interfere with the establishment of a free peasantry. In spite of ostensible safeguards, the law transformed land into a commodity negotiable without effective restraint. The tapu rights, as far as they came into being, sooner or later fell into the hands of the

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(1) Cf. for instance, W. R. Hay, Report Arbil Div. 1919, p. 15 'When the government land was originally made tapu in most cases the cultivators registered for themselves their own land. During the last 30 years, however, the aghas, by fraud or by bribery have annexed most of these lands for themselves, while the cultivator carries on as a serf.' Cf. also: Admin. Report, Kifri Div. 1918, p. 412.

(2) The fault lay even more with the administration than with the law. In theory by making sale and mortgage dependent on special leave, the law gave the authorities considerable power which could have been used to safeguard tribal customs and interests. (Cf. above p.).

influential man, tribal in the unsettled areas, non-tribal in the settled districts or nearer to the towns. Sheikhs were given titles over the heads of their sirkals who had acquired customary lazma rights for their section. The leading families in Baghdad came to own land in the Diyalah Hillah and Samarra areas. The notables of Mosul, Arbil, Kirkuk and Sulimaniyah (1) gathered the tapu rights for whole villages of the rainfall zone in their names. Often the ultimate tapu holder, whether sheikh, agha, village mukhtar or town notable, owed his title to his position as local tax farmer.

(b) Resistance against the Tapu Tenure:

But the new individualist and capitalist notion of the land was a wedge which could only slowly be driven into the resisting fibre of tribal society. In the neighbourhood of the principal towns where the tribal system degenerated, or, for instance, in Baqubah where it had never been strong, the tapu tenant was able to consolidate his position. Elsewhere the absentee tapu holder had to acquiesce to having a minor share in the management of his land and was concerned primarily with getting the best portion he could of his 'mullakiya' by

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(1) Cf. for instance, Admin. Report, Arbil Div. 1919, p. 3. On the acquisition of tapu rights by the Zadah and Baban families, cf. Admin. Report, 1918, p. 417.

coming to terms with the sheikh or sirkal. Even in such fully agricultural districts as, for instance, Hillah, the tapu holders, (except a few, who laid themselves out to be good landlords) mainly existed on sufferance (1). They would try to bind their sirkals by every possible means hoping that at the harvest they might realise at least some of their demands. The sirkal cheerfully signed any lease, whatever the terms, being resolved not to pay an ounce more than he could help and knowing that it was not likely that any great compulsion would be employed by the government. In short, the lease, the legal instrument - if it existed at all - meant practically nothing; what counted was the strength of each party when the crops were cut. The means employed by the mallak to realise the income from 'his' lands were manifold. In rare cases he collected in person, more often he employed a local man as Wakil, purchased official support, gave the local sheikh an interest in his share or farmed his rights for anything he could get. With very few exceptions he never gathered his full legal due whether it was the 40% claimed to be customary or whatever was stipulated in the lease (2).

The best known illustration of the results of Midhat's land reform, its success and its limitations, is certainly its

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(1) Revenue Circular 1919, p. 25.
(2) Admin. Report 1918, Hillah District, p. 135; Rev. Circ. 1919, p. 21.

effect on the tribal situation in the Muntafiq. It strengthened the agricultural character of the area and, as we have seen, broke the power of the Muntafiq federation by estranging the ruling Sa'dun family from their followers and creating disunity among the Sa'dun family itself. But it did not pacify the district, the population remained entirely tribal, and henceforth the Sa'dun problem became the 'obsession of the Muntafiq district.' (1)

At first the Muntafiq tribesmen raised no objection to the acquisition of tapu Sanads by the heads of their hereditary sheikhal family. It was only when the Sa'dun, on the strength of the new titles, began to raise their customary dues into a demand for the landlord's full share of one-fifth or upwards, that the resentment of the tribes was roused, and that the agrarian unrest began which has remained a standing cause of trouble in the area. In the Muntafiq a tribal system of land rights had been comparatively highly developed when the new policy threatened to reduce the tribal holders to tenants. The situation was not eased by the fact that many of the original Muntafiq overlords sold their rights to townsmen, especially dwellers in Suq-el-Shuyuk (2). Muntafiq tribesmen

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(1) H.R.C. Dobbs, note on the Sa'dun.
(2) On the Sa'dun problem, cf. Notes on the Sa'dun Problem by H.R.C. Dobbs, 1916 quoted in Admin. Report, Rev. Dept. 1920, p. 2; Review of the Civil Administration, op. cit.

were never completely coerced into accepting their reduced status. In some areas within reach of troops and gun-boats the tribesmen had begun to pay their dues regularly when the revolution of 1908 and the Balkan and Italian wars again weakened government authority and the tribes relapsed into their intransigent attitude. Before the last war, the Turkish administration had in some cases fallen into the habit of collecting the whole revenue from the sirkals, thereby fortifying the tribal claims for recognition as legal holders of the land (1). The fate of the Sa'duns illustrated that, except in the neighbourhood of towns, the sheikhs could not yet, without grave risk, dispense with tribal support, and lean on the authorities. It was either lack of confidence in the strength of the government which held the majority of the sheikhs aloof from the tapu department, or else want of confidence in the government's intentions; they feared conscription or some other plan for their undoing, and rejected the proffered

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Footnote (2) continued from previous page.
p. 43 ff.; Admin. Report, Muntafiq Div. by Captain A. H. Ditchburn 1920, p. 1 ff.; Rev. Circular, 1919, p. 26.
As to the Sa'dun problem, in its relation to tribal policy, cf. above p. 34; as to its administrative handling after the last war, cf. below p. 304.
Some of the Sa'dun and most of the Mama' (who had been made mallaks of over one-third of the Muntafiq by the Turks) succeeded in maintaining their position by steering a more cautious course (cf. Admin Report, Muntafiq, 1918, p. 112).

(1) Review of the Civil Administration, op. cit. p. 43.

boon (1). Some saw the purpose of detribalising, others were still too well content with their own remoteness to accept the change. Shiah sheikhs, under the influence of their Mutahlyds, rejected the right because it was not recognised by Shariah law (2). A few acquired rights, but in land far from their own people (3). All hesitated to pay money for a title, the value of which had yet to be proved.

(c) Emergence of the "Dual System:"

The Ottoman administration could not shut their eyes to the fact that the establishment of tapu tenure was beyond their power in Iraq. Too many of the grants which were made remained unenforcible paper ones. Among the remainder the inadequacy of the machinery of tapu spread confusion and ambiguity. The position grew worse when Midhat's successors began to abuse the tapu law for disrupting the tribes, no longer by subtely luring them into a new mode of life but by resorting into old mal-practices (4) of wilfully granting titles to extraneous sheikhs or sayids, or of forcing their favourites on reluctant tribes.

The measures adopted by the Ottoman authorities to stop the

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(1) Admin. Rep. Shamiyah Div. 1918, p. 73; Rev. Circ. 1919 p. 25.
(2) Admin Rep. Rev. Dept. 1919, p. 23.
(3) Longrigg, op. cit., p. 307.
(4) Cf., for instance, the grant of Khaza'il lands to the Zubaid, Fatlah and Bani Hasan sheikhs (Admin. Report, 1918, Shamiyah Div., p. 72.)

confusion rather intensified and perpetuated it. Two Imperial Iradas of 1296 (1880) and 1307 (1891) abrogated the application of the tapu tenure in the vilayets of Bagdad and Basra. The former Iradah prohibited further grants in tapu either on payment of valuation fees (bedl mithl) or by auction. Tired of continued tribal unrest, its authors, it appears, wished to deal a blow at the widespread sale of tapu rights for nominal amounts to townsmen and dignitaries by corrupt tapu mamurs. The second Irada abrogated the right of acquisitive prescription of tapu tenure (Haq-al-Qarar) on the ostensible grounds that the lands of Iraq were being cultivated on terms of partnership with the fellaheen (Muzara'a), so that the pre-conditions of the claim were existent in neither of the partners. This, in non-legal language, clearly implied the admission that as long as the tribes existed, the grant of full individual rights to any category of tribesmen was impracticable.

The two Iradahs, not only admitted but legally sanctioned the failure of the tapu tenure in Lower Iraq. (1) The legislation acknowledged that the universal grant of the Tessaruf had to be abandoned. Where it had been granted the tapu tenure

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(1) Apart from this, the Iradas were dead letters (Dowson Report, op. cit. p. 21) In the old Deir el Zohr District (corresponding broadly to modern Kirkuk) in which the application of Haq-al-Qarar was specially maintained by another Iradah, claims to tapu tenure are actually not appreciably more extensive than in the rest of the country.

was to remain in force, but it was made clear by implication that in regard to those state lands which had not been granted in tapu, a return to the status quo ante was, after a twenty years' trial, the discouraging outcome of Midhat's reform.

Thus developed the anomalies peculiar to the application of the Land Code in Iraq. (1) The land conforming to the statutory definition of miri land (i.e. the land, the usufructuary possession of which is granted out on tapu lease as prescribed in Book 1 of the Land Code), came to be known as 'tapu land.'(2) "Miri land" in Iraqi usage came to be referred to as the land held in the legal possession as well as ownership of the state. Iraq, following the introduction of the Code, may be said to have known two categories of cultivated state land where statute law recognised only one.

For these 'miri lands,' constituting by far the greater part of the cultivable area, statute law only reigned ineffectively here and there; the capitulation before tribalism was almost complete. On miri land tribal custom could continue with the same kind of spasmodic state interference which had been the rule before the introduction of the tapu tenure.

In theory, according to the law of Muzara', the Shartnama

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(1) In both Syria and Palestine miri is used in the meaning intended by the Land Code.
(2) Sometimes also called Hrazi Mafuwida or even Mulk (in contradistinction of the local use of the term 'miri') Cf. Dowson, Report, p. 17.

gave the sheikh or sarkal, with whom the contract was concluded, possession for one year only unless a longer term was expressly agreed upon. In most cases, however, except in the easily accessible areas, Shartnamas were never or only irregularly issued or renewed (1). As a rule the state was content to impose on tribal usage a mere pretence of state law. Sometimes, just because in so many parts of the country the authorities realised little or nothing from miri lands, they would be the more fiercely solicitous to maintain the fiction that it was theirs to do with as they chose (2).

The first round of the struggle between customary tribal tenure and statute land law had ended with a draw, favourable enough to the tribes. But the total result was far from satisfactory. Henceforth, there existed in Iraq a dual system of land laws. Tapu lands followed provisions suitable for capitalist dealing and investments in land. The exploitation of the land, the employment of sarkals and fellaheen and agreements with them on the terms of tenancy, were according to the law in the hands of the mallak.

On miri land, the mallak was by law the state. But since the state, though demanding rent, did not attempt to discharge or claim for itself the functions of a landlord,

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(1) Cf. Revenue Circular, No. 19 of Aug. 4th, 1919.
(2) Report, Revenue Dept. 1919, p. 25.

these fell to the sheikh or agha, sayid or sirkal, who, in view of the insufficient sanction of their position in statute law, relied for its maintenance primarily on tribal loyalties and customary allegiances. The miri land remained the stronghold of a pre-capitalist agrarian system.

The calamity was, however, not the development of a dual system which, more wisely handled, might have become a blessing. But since the deeper necessity which led to the emergence of the dual system - namely, the existence of a dual society - was neither acknowledged nor clearly recognised, no attempt was made to make the law fit more accurately the social needs and economic realities of the country. The two Iridas, which admitted the impracticability of the tapu tenure for Iraq, prohibited its extension in the future, but did not date to interfere with the grants made in the past. No attempt was made to base the delimination between tapu and miri land (as it had crystallized by historical accident) on objective principles. The consequence of the continued recognition of tapu holdings in purely tribal areas was the main cause of the tribal unrest, of which the Muntafiq provides the outstanding example. It might have been to the benefit of Iraq to have two systems of tenure side by side, as long as each was adapted to its task and the borders between them well drawn. But

neither of these conditions existed, and the result was that, as we have seen, in important areas of Iraq, the two systems - not side by side, but one on top of the other and inextricably mingled - became a perpetual cause of friction and uncertainty.

(d) The Sultan's Estates.

To this picture of the dual tenure as it emerged and survived in Iraq one qualification has to be added which, though purely historical, is not without topical interest (1). For little more than a decade, from the last years of the 19th century until 1908, (2) Iraq knew a third important system of exploitation of agricultural land (3). It consisted in the leases granted by the Sanniyah Department administering the Crown lands of Sultan Abdul Hamid's Privy Purse. By purchase, real or nominal, or by arbitrary transfer, many of the most prosperous properties in the country (4) had by degrees been acquired by the Sultan until they made up a high percentage of

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(1) See below p. 379.
(2) In 1908 the Sanniyah lands were transferred to the State, i.e. the revenue went to the Treasury, but without ending generally their special administration (Rev. Circs. 1919, p. 24).
(3) De ~~imo~~ cuius, lands, privately held by the Crown, follow, of course, the same rules of tenure as other privately held lands.
(4) Among them were for instance the lands watered by the Dujail Canal off the Tigris (Cuinet, Vol. III, p. 132); by the Abu Ghuraib Canal and its tributaries off the Euphrates (ibid. p. 145); extensive grain lands in the Hilla district (ibid. p. 156); rice lands in the Diwaniyah area (ibid.); date gardens on the Huseiniyah Canal (ibid. p. 194), etc.

the cultivable land (1). On these Sanniyah properties, Iraq witnessed, probably for the first time since the Middle Ages, an active and effective discharge of the functions of the landlord by the authorities (2). The cultivators paid a higher revenue, sometimes as high as 60%, but they were well looked after by a more enterprising landlord. The properties were distinguished by their better buildings, cleaner canals, and well-treated officials. Credits were granted to the cultivators bearing as little as 3% interest (3). The tenants were encouraged to feel that the sovereign took a personal interest in their welfare. The popularity which Abdul Hamid enjoyed in Iraq, and the veneration in which his memory is held, are due mainly to the way in which the Sanniyah properties were managed, with a "blend of benevolence and rapacity," for the personal enrichment of the sovereign (4).

After Abdul Hamid's downfall in 1908, the Sultan's properties were nationalised and merged as Amlak al Mudawarah

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(1) Estimates put its extent as high as one-third of the cultivable area in the vilayets of Baghdad (Cf. Cuinet, op. cit. Vol. III, p. 44, 109, 133; Foreign Office Handbook, op. cit. p. 82).
(2) Though administering formerly private property of the Sultan, the Sanniyah Dept. had, of course, the prestige and the influence (improved policing at state expense, etc.) of a government department.
(3) This privilege was still in force for the benefit of the tenants of former Sanniyah date gardens on the Shat-el-Arab at the time of the British occupation (cf. Report of Revenue Dept. 1919, p. 31).
(4) Revenue Circulars, 1919, p. 24.

(converted estates) into the state domain (miri). Though springing from sound motives, this was an unfortunate step. Far from raising the conditions on state lands in general, the Young Turks reduced those on most Sanniyah properties to the low level of the average miri land without necessarily renouncing the claim for higher revenue (1). Only in a few districts, especially in the north-east, did the Mudawarah lands, which in any case belonged to the most fertile and best watered estates (2), preserve something of their prosperity.

At the end of the Ottoman administration in Iraq, the authorities on most lands not granted in tapu abused their freedom of action unscrupulously, and for the sole purpose of squeezing out a revenue which was often only impressive in the account books but was never paid. The whole system was built on fiction and bribery which, at their best, mitigated the harshness of the law and produced a modus vivendi, but which could never give the economic security which is indispensable for the development of a healthy interest in land and crop. Gertrude Bell's (3) description of this aspect of the Turkish heritage, granting its irony, barely exaggerates the position:

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(1) As to the demand rates from Sanniyah lands (compared to ordinary miri and to tapu) in the various districts in 1918, cf. the lists in E. B. Howell Admin. Report of the Revenue Dept. 1920, p. 45 f.

(2) For instance, near Kifri and Tuz Khurmati (Admin. Report, 1918, Kifri District, p. 417) or the Kandinawah and Mukhmur Nahiyahs in the Arbil area (Admin. Report, Arbil District, 1919, p. 5).

(3) Civil Administration of Mesopotamia, 1920, p. 22.

'The chief' she wrote, 'if he wished to maintain his position, was obliged to farm sufficient land to give employment to his followers at the risk of seeing them dispersed, and offer their services to another lord. Profiting by this necessity, the Turks put up the leases to auction and encouraged the sheikhs to bid against one another, until the amounts bid reached a figure far above the value of the estate. Both the Turkish officials and the farmers knew that they could never be paid, but the officials had the pleasure of exhibiting to the departmental heads of Istambul enormous demands from their province which were comfortably interpreted as being synonymous with enormous revenue; while they also enjoyed the satisfaction of receiving continual bribes from the farmers to induce them not to press for payments. The farmers had to be backed by merchant sureties who took from them large sums. Finally, when the immense arrears had mounted up against the farmer, or he had attracted the private enmity of an official or the displeasure of government, the whole erection would topple down at one blow; the farmer, if a sheikh, would pass from rebellion to imprisonment or exile, the lands and houses of the surety would be confiscated, and the estate would be put up afresh to auction and farmed for a still higher and more impossible rent to the rivals of the supplanted man.'

2. A FRESH APPROACH: THE POLICY OF THE BRITISH CIVIL ADMINISTRATION (1917-1920).

If conditions of land tenure in Iraq were in a state of confusion in 1913, they were in a state of utter chaos when British Civil Administration took over responsibility in 1917. Three years of warfare had led to regroupings and changes of personalities among the tribes, entailing a complete shake-up of the never too stable occupation of miri land in the South, and thus of the claims to land connected with occupation. As regards tapu land, the land register had frequently been destroyed (1) by the Ottoman officials as the Turkish forces retired. But the new administration set to its task with vigour. The young Political Officers in the districts showed keeness and intelligence, to which their young chief, the Acting Civil Commissioner and other senior officials at headquarters added a store of experiences from service in India. The reports of the Political Officers are distinguished by the freshness of their approach to the complex problems. They often hit the mark in their analysis of the situation though they were sometimes rash in their conclusions (2).

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(1) Leaving, however, the title deeds ǿn the hands of the registered holders.

(2) Though less relevant in our connection, it was of considerable consequence politically, that a number of these

At first a clear judgment of the agrarian problems was to some extent overshadowed by political necessity. On the other hand the original system of tribal administration through the sheikhs, which promised maintenance of order with a minimum of official machinery, was, as we have seen, (1) in itself but a logical answer to the specific agrarian conditions as they prevailed in the southern districts from which the occupation extended slowly towards the capital and beyond. In Amarah, the farming out of tribal areas to the Sheikhs was an established and accepted custom. In the Muntafiq most troubles resulted from a refusal of the Sheikhs and sirkals to acknowledge their Sa'dun absentee landlords. It was in these provinces that the land conditions were first thoroughly studied, and the great difference of the position in other parts of the country was not immediately realised.

Footnote (2) continued from the previous page.
Political Officers had too little experience in dealing with Arabs and failed in winning their confidence. Cf., the Arab opinion, quoted in "Air over Eden," op. cit., p. 240 f. "... Most if not all of them were young officers not accustomed to their delicate tasks.... Tact and more tact was what was required, but it appears that there was a great shortage of this necessary ingredient in the make-up of Sir A. T. Wilson's political officers. They, therefore, went on their work using brute force whenever they failed to get what they wanted .... I would perhaps be justified in going so far as to say that were it not for these inexperienced officers, perhaps the Mesopotamian insurrection would not have been."

(1) Cf. above p. 49 sq.

(a) <u>The Political Officers' approach</u>.

Judging from the Sa'duns - "that thankless, thriftless, unamiable crew" (1) - the first impression which gained general currency was that the tapu holder, who posed as mallak, was as a rule the villain of the piece, the "hereditary enemy"(2) of the tribesmen. There could be no mistake as to where the sympathies of the British Officers lay. The landlord acquired his land, maintains a report of 1918, "by methods which in at least 50% of cases were distinctly shady.... In many cases, the landlord had never set eyes on his property, in ninety-nine cases out of a hundred, he has never received in full the mallaks share of the produce. In some cases, the tribesman has taken advantage of the weakening of Turkish authority during the war and has resumed possession of what he claims to be his by immemorial tribal custom. On the one hand stands the tapu holder; he protests that he has been robbed of his right by a set of wild tribesmen..... He stands upon his rights and demands his pound of flesh. On the other hand the tribesman is equally insistent if not equally vocal. In his view the title to land which had been enjoyed by his forbears for generations has been bartered for gold by corrupt officials of a corrupt government. He admits the existence of the mallak's title deeds but he has strenuously denied their

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(1) Adm. Report, 1919, Muntafiq Div., p. 5.
(2) Adm. Report, 1918, Muntafiq Div., p. 46.

validity and has never paid rent except when yielding to force majeure..... The tribesman believes implicity in the justice of his cause. He asserts that the British Government is as just as it is powerful and that he cannot believe that it will consent to perpetuate a wrong done by the Turks. Such in broad outline is the problem as it exists throughout the Euphrates area, and there is not an Assistant Political Officer in the Division who has not given many hours of thought to the solution of the special cases of his own district." (1)

In accordance with this interpretation of the situation the policy generally applied in the Muntafiq, Hillah, and Kut was designed to shield the cultivators from eviction at the will of the absentee landlord, and to let the latter "make his own arrangements" for the recovery of his share of the crops (2). But these summary settlements which were guided solely by possession, could, it was recognised, provide for immediate necessities only, and were not meant to exclude further adjudication of conflicting claims (3).

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(1) At Admin. Report Shamaiyah Div. 1918 Page 121; for a similar attitude to the problem cf. report Hillah District 1918 Page 134; Revenue Circ. 1919 Page 24. Had this become the accepted policy the Tapu right would have followed the example of the old Uqr rights which in Iraq have long been reduced to a mere right for a share in the produce without any right of possession or interference in the management of the land (cf. Revenue Circ. 93, p. 27, 1919.) On Uqr rights cf. also ~~below~~ p. 77 above.

(2) Revenue Circular 93, 1919.

A more considered policy, but no more in conformity with the Ottoman Law (which had not been abrogated) consisted in the grant of leases by the authorities to the tribal sheikhs or sirkals who, as part of the terms, were required to make such payments to the tapu holder as was equitable. "I am aware," said a Revenue Circular, "that by so doing, we shall create a class of absentee landlords, but we do not see how this can be avoided. It will always be open to any tapu tenant to live on his lands if he likes and to look after them, in which case we will deal with him." (1)

In keeping with the early tribal policy, it was suggested, that the leases of the tribal land should be given to a single sheikh, and thus in effect to extend the existing Muqata' system, of which Amarah was the outstanding example. The naive satisfaction of the earliest reports with the willing

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Footnote (3) from previous page.

Revenue Circ., 1919 p. 25. Cf. also the Proclamation of December 18th, 1918 (Proclamation on Disputed Tapu Lands, Compilation of Proclamations etc., 1st Sept. 1919 - 30th Sept. 1920) which laid the burden of proving his tapu right on the claimant in order to protect tribesmen who "have been in occupation for many years and have constantly disputed the claim of the holder of the title deeds."

(1) "If he prefers to idle in Bagdad, we can see that he does not get too large a share of the proceeds of the estate, and we shall in the meantime have the advantage of a wealthy leisured class, dependent on us, from whom to select our future locally recruited members of the Administration." (Rev. Circ., 1919, p. 26; Adm. Report 1918, p. 123).

co-operation of the Sheikhs in a system which played into their hands gave way to a more sober appraisal of sheikhal blandishments. The Government should retain full power to secure fair treatment for sirkals and fellahs. Tribes and sections should be informed that, provided their behaviour was good, their continued residence in the area assigned to them by the government was not likely to interrupted. In the interests of tribal peace in general and as a protection of the small man in particular, neither the transmission on death nor the transfer of Miri land should for the time being be acknowledged. The authorities recognised that they would have to undertake "extensive responsibilities in the way of providing credits, which can best be done on a co-operative basis." (1)

In due course, even more definite limitations of the sheikhal rights on Miri land were laid down. Officers were asked to remember that Shartnamas conveyed no recognition of any right of any kind vesting in the sheikh or sirkals to whom they were issued. They were temporary agreements between the government and a tribe or section of a tribe. The position of the Sheikh or sirkal was purely that of one member of the

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Footnote from previous page.
For a description of the Amarah Muqata system at the time of British occupation, cf. Review of the Civil Administration, 1914-1918, p. 36f.

(1) Note on Land Policy, Rev. Circ. No. 15, 1919, p. 31.

community selected by the Government with the approbation of his fellows to manage their common affairs. He may receive a remuneration from the Government as well as from the tribe for doing so, but he has no right to any land other than that which he cultivates himself. (1)

(b) Towards an active Land Policy:

As the Administration grew more intimately acquainted with the very different conditions in the more settled regions North East of Bahgdad and became subject to the influences of the capital itself, the great complexity of the land problem was more fully appreciated. But the Acting Civil Commissioner did not relax his firm intention to waste no time in tackling and solving "these perhaps most formidable of all the tasks"(2) he was confronted with.

In May 1919 after preliminary discussions, definite proposals were put forward by the Revenue Secretary and accepted by the Civil Commissioner for bringing the Political Divisions in turn under land settlement to be conducted by an agency set up for the purpose (3). The object put forward was two-fold: first to provide machinery for a systematic enquiry into land questions and to put forward recommendations for the measures

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(1) Rev. Circular, No. 19 of August 4th, 1919.
(2) Report of Rev. Dept. 1919 page 21.
(3) Rev. Circ., 1919 No. 15.

necessary to solve them; secondly, to find more rational methods for the realisation of state dues on land. The machinery suggested was the appointment of "Land Settlement Officers with suitable staff, who, with the aid of the Survey Department should get the country properly mapped, and with the aid of the Courts, should get a record of rights prepared. The land settlement for the whole country should be finished within six years, and possibly considerably less (1). Three suggestions were discussed in correspondence with "Higher Authority at Home" which considerably wittled down their scope (2).

As to the law which Land Settlement Officers should follow it was decided, that until more knowledge be accumulated, it would be unwise to attempt any alteration in the existing law - the Turkish Qanun al Aradih. But this decision, though undoubtedly sound, would not really advance matters much, because, "it was still a greater matter to find the law which should be followed than to follow it when found." (3)

Early in 1920 by a "Land Settlement Proclamation two divisions, Hillah and Baghdad, were forthwith placed under

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(1) Ibid. page 28.
(2) There should be no special tribunals for the disposal of land, as had been suggested, and no enquiry into title by the Land Settlement Officers, except in so far as the determination of boundary disputes involves such enquiry. Rev. Circ. 1919 No. 21.
(3) Howell Report of Rev. Dept. 1919 page 22.

settlement. (1) The Civil Administration had, however, little opportunity to show whether its action would correspond to its preparations. When the bloody events of the summer and autumn of 1920 - which in fact began with a dispute over agricultural loans (2) - came to an end at last, Sir A. T. Wilson's administration was superseded by a Provisional Arab Government of "Effendis", headed by the venerable Naquib of Baghdad.

(c) An Argument of Empire?

Characteristic of the approach to the agrarian question during this short period of British Administration was, to begin with, a sense of action. Possibly the desire to rebuild is naturally strongest and the inhibitions to act weakest immediately after a war. Maybe it was due to the influence of the Acting Civil Commissioner among whose faults a lack of driving power has not been suggested even by the severest critics of his policy in Mesopotamia. But there is another characteristic note in the British Civil Administration's approach to the problem. In their desire to obtain a realistic picture of the agrarian system, its functioning and the interplay of forces which constitutes the life of rural Iraq, the

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(1) The Land Settlement Proclamation of Jan. 5th 1920 in Compilation of Proclamations, Notifications, etc. op. cit. p. 32.

(2) The dispute arose with the Bani Huchaim at Rumaitha on June 30th, cf. London Gazette, July 5th 1921, p. 5330, Dispatch No. 3.

officers refused to allow themselves to be befogged by the intricacies of the Land Law or the technicalities of revenue assessment. Their insight into the reality of agrarian life sharpened their awareness of its social shortcomings; their sympathy lay invariably with the smaller man. "The very Arabs who are now formulating schemes for self rule" writes one Political Officer (1) "are a handful of aristocrats and landlords who would refuse and have refused to sit at the same council table as their fellahs." "The allegation is too universal to be untrue" remarks another "that their own chiefs and tribal heads were more tyrannous than their Turkish Governors." (2) A third speaks of "the struggle between the people and the oppressive type of Agha." "A chief factor in the tribal situation" he says "is the struggle of the cultivator against the Agha and the attempt of the latter to maintain his authority." (3) One report points out that "if the present Cival administration has done nothing better, it has at least given the fellah some consciousness of his rights as against his sheikh and his landlord." (4)

These officers thought in terms of a remoulding of Iraq's

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1) Admin. Report 1914-1918 page 26
2) Admin. Report 1918 Kifri District p. 420.
3) Admin. Report 1919 Arbil Division p. 6.
4) Admin. Report 1914-1918 p. 26.

rural society to meet better their own standards of social equitability. Settlement and recording of title appeared to them as a wearisome preliminary after which the real responsibilities of land policy were only to begin. In this field of Government activity as well as in others, they aimed at "meeting future as well as present requirements" from the very first (1). Their questions were concerned with the reshaping of the agrarian order: Should the Tapu tenure be extended? To whom should the titles be given? They might be given, it was argued, in the name of the tribe as a whole, or separate sanads might be given in the names of the component sections, or the sanads might be given to the sheikhs or to the sirkals, or finally each individual cultivator might be given a sanad in regard to his particular holding. There were objections against each of these alternatives. If a general sanad was given in the name of the tribe it would not prevent them from disputes inter se, and as the tribal system breaks down (as it certainly will) they would be involved in troublesome partition cases. The same objection applied to sectional sanads. If sanads were given to sheikhs and sirkals as representing tribes and sections,

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(1) Admin. Report Baghdad Division 1917 p. 1. This view was not shared by "Whitehall" which insisted that, until the danger of the Turkish attack was finally passed "the amendent of laws and the introduction of reforms should be kept within the narrowest possible limits." (Tel. to Sir Percy Cox in August 1917 quoted in Admin. Report Baghdad 1917 p. 1.)

they would become "more powerful and better able to oppress their fellow tribesmen and would certainly do so." Against the last proposal - that to give individual sanads - objections were equally strong. It would be difficult because the same fellah seldom cultivated the same piece of ground two years running. It would be expensive and useless unless the records were fully kept up. There was also "the general objection against the alienation of state lands to which modern economic theory is opposed." (1)

Above all, to give prematurely to the individual tribesman titles which "normally carry with them the power of alienation" would be "mischievous," because it "would mean the disruption of the tribal system for which we are not ready. Therefore, for the present, we recognise the tribesmen ..... en masse and not individually. But nothing should ever be done which tends to obscure the position that the creation of a class of small peasant proprietors is the object of our land policy." (2)

At this period the interest of the responsible men was focussed on the wider issues of land policy rather than of land settlement. Sir A. T. Wilson's Administration believed that it could afford to disregard the claims of vested landed interests to the role of decisive arbiter in questions of agrarian

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(1) Rev. Circs. 1919 p. 27.
(2) Rev. Circ. No. 19 op. cit. p. 32.

policy (1).

It is no doubt one of the strongest arguments of Empire that a disinterested outside agency is the best suited to promote the healthy development of a backward people in its early stages, by the exercise of a restraining influence on the powerful minority in its midst, for whom the temptation to abuse their power often increases with the substitution of a modern capitalist society for the old traditional life. It may be answered that achievement of Empire fell short of any such claim and that in spite of Lord Cromer's axiom of "good government" the squalor and apathy of the Egyptian fellah are not yet phenomena of the past. But Sir A. T. Wilson might, at the time, have replied with confidence that sometimes an argument is more conclusively proved by one clear success than invalidated by several failures and that he was in a position to provide that success. He believed in 1920 that if Mesopotamia were to be incorporated into the Empire, this would serve the best interests of the Iraqi people as well as those of Britain (2).

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(1) There can be no doubt that the nationalist issue during the 1920 rising was in part but the ideology in which aggrieved group interest found their expression. Among these, dissatisfaction with the agrarian policy of the Civil Administration figured prominently.

(2) C.f.i. Sir A. T. Wilson in Mesopotamia in 1917-1920 pg. 322: "I felt it to be in our power as in that of no other

A reflection on this short and abortive chapter in the history of Iraq's agrarian policy once more raises the question of how best to reconcile the aspirations for independence with the economic advance of dependent peoples.

Footnote (2) continued from previous page.
people to seek justice and to ensure it." "The average Arab, as opposed to the handful of amateur politicians of Bahgdad sees the future as one of fair dealing and material and moral progress under the aegis of Great Britain." (Tel. Political Baghdad to S/S for India, No. 9926, November 16th, 1918).

3. THE ANGLO-IRAQI REGIME: TOWARDS LAND SETTLEMENT. (1920-1932)

a. DISCUSSIONS AND PREPARATIONS (1920-1929).

α) The "Perplexing Predicament".

With the constitution of the Council of State of the Arab Government in November 1920, the British Officials at headquarters became formally advisors to the Iraqi Ministers,(1) and the executive authority passed to their Iraqi colleagues.(2) In the ensuing period the practical administration of a country with the complicated - according to the Iraqi Nationalists untenable - legal construction of an Arab kingdom under British Mandate had to struggle continuously with all the problems of dual control. In their desire to prove that this dual control was not workable and that the British end of it should be relinguished, the Iraqis would see this "perplexing predicament" as they termed it on every side and attribute to it all administrative difficulties.(3)

In the reports to the Mandates Commission of the League of Nations we find recurrent complaints about the unsatisfactory state of the administrative machinery. Officials in the districts, it is pointed out were too much engaged in politics and

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1. cf. Instructions to the Council of State issued by the High Commissioner (Special Report op. cit. 23) and the Transfer of Power Ordinance of July 6th 1921.
2. (ibid. p.292) The number of British gazetted officers fell from 364 in 1920 to 181 in 1923 and 118 in 1931.
3. Report 1928 p. . (cf. U. P. MAYER on "Britain and Arab Nationalism in Iraq" Contemporary Review, July 1941, p. 32 seq.)

were selected according to their political complexion.(1)

The grant of state land was subject to the influences of family or office.(2) Constructive work on land problems, involving a departure from the existing system, required initiative which was not easily found among the local officials; attempts to obtain experienced British Officers did not meet with success.(3)

The majority of the available qualified Arab Officials were trained in the Ottoman School and their predeliction for familiar methods and concepts was reflected in a distinct tendency, wherever possible to take advantage of Ottoman precedents. The form of mortgage legalised by the Turks in 1328 A.H. (1910) was introduced into Iraq in 1925.(4) It was suggested to deliminate town areas within which it was permissible to own freehold (Mulk) in accordance with "another "provisional" Ottoman law,(5) and as regards land settlement to adhere to the ~~origin~~ principle of the Turkish law of February 1328 A.H.(6)

More serious than the inevitable lack of experience and other shortcomings of a young administration was the no less inevitable one-sided class character of the Iraqi Government

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1. Report 1923/24 p.141.
2. Report 1929 p.165.
3. Report 1923/24 p.139.
4. Report 1925 p. 98; Report 1926 p. 96. So far in Iraq the only method recognised was "Wakalah Dawriyah" (conditional sale to the lender)
5. Report 1925 p.102; Report 1926 p.95.
6. Report 1925 p.99.

and the senior officials. One of the first acts of the Provisional Arab Government under the Naqib of Baghdad was to form a committee to settle the Muntafiq land quarrels. As the Report for 1922 pointed out, it was "disquieting that this committee should have been composed exclusively of members of the landlord class, that it made no attempt at an examination on the spot must in any case have rendered its deliberations valueless; its report justified the worst forebodings. After observing that it was the duty of the Government to protect vested rights the Committee recommended that the landlords should be given opportunity to establish their claims, and that all lands taken from them by the tribes should be returned." This action was told to confirm the fears of the tribesmen, that "the Iraq Government would prove to be a class government from which the rights of other classes of the population could be wrested only by force."(1)

But the struggle of landlord and fellah coincided with the division between town and tribe only under such particular conditions as prevailed in part of the Muntafiq as an inheritance from the days of Midhat's Reform, or - since the second half of the twenties - on the riverain tracts suitable for pump irrigation.(2) Elsewhere the interests of tribal chiefs and town

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1. Report 1922/23 P.71.
2. cf. below page 347 sq.

capitalists were to an ever increasing extreme identical. More and more sheiks adopted, as we have seen (1) the outlook of the land owners and, as men of influence and standing, were welcomed among the town "effendis".

(b) British Advice:

Throughout the Anglo-Iraqi period, British influence was exercised with a view to restraining the sheik and Mallak in the exploitation of their ascendancy over the fellahswhich was developing apace with tribal disintegration and fixation on the land. The single British offensive until 1930 in ostensible control of the State Domain Department "fought steadily against the domination of its field by influential private interests."(2)

The need for such moderating counsel was the greater since, with the progress of provincial administration more and more agrarian conflicts, which had hitherto been settled unilaterally by the judgment of the sheikal family and the tribesmen or, more often, between the ruling sheikh and his numerous brothers

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(1) cf. above p. 17 ff.

(2) Special Report op. cit. p.127. The possible influence of the State Domain Department must, however, not be overrated. The State Domain Department was in fact only a secretariat without a sensible executive power. It consisted on the border line of other and more inessential departments, that of the Interior (more directly interested in Tribal pacification and immediate local administration expediency than in scientific land administration), and that of Finance, (with its natural desire for immediate revenue and its reluctance to spend money without quick returns.)

threatened the peace. As administration penetrated to the mountainous regions of the north it found itself confronted with peasants in revolt against the exactions of tribal aghas and religious sheikhs. (1) Other agrarian conflicts came to the surface when in 1927 the test of strength between the Shiah Mutahids and the government offered an opportunity to the tribesmen to voice economic grievances in terms of religious antagonism. The Air Force had to be called in when the Shiah tribesmen of the Hatim (2) began to threaten hostilities against their Sunni landlords of the Manna' tribe. On the Shal el Gharraf sniping of unpopular Sunni Landlords by their lessees of the Miya' tribe led to the forcible eviction of landlords who had incurred special odium. (3)

In the case of serious disturbances in the Kut Liwa in 1927 in consequence of quarrels between landlords of large estates and their principal tenants, the government arranged for the parties to come together and to agree on terms whereby each made concessions to the other, winning in exchange a formal recognition of part of their claims. The rents were reduced

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(1) Report 1928 p. 47.
(2) Two Hatim villages (near Shatra) had to be destroyed by air action before their concentrations dispersed and the leaders submitted to authority.
(3) Report 1928 p. 21 The incidents occurred in connection with the introduction of the Tathlith method of fixed revenue based on the average yield for the last three years. This innovation seemed to the tribesmen to stereotype the then not admitted titles of their landlords.

and the landlords persuaded not to resort to eviction of the tenants without the consent of the local authorities.(1) As in this case, the hand of the British advisors could also be distinguished in a new effort to liquidate the problem of the Sa'dun of the Muntafiq. After another careful investigation, legislation was passed, establishing the machinery for an expropriation in favour of the state of land, the registered holder of which, though the possessor of valid documents, "has not exercised his right of ownership." The expropriation was to take place only if deemed necessary in the interest of public order and against full compensation of the value.(2)

(3) Tapu Land:

At first the extent of land registered in Tapu appeared sufficient to satisfy the demand for purposes of investment. The ~~sufficiently~~ formidable task of the Tapu Department was to locate and define the land and to facilitate and raise the efficiency of the machinery of transfer, transmission, and mortgage. The most urgent problems arose from the unsatisfactory recording of titles, and no major decisions of policy were required, once it was agreed that the path mapped out by the Ottoman Legislation should be followed.

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(1) Report 1928 p.22
(2) Law For The Settlement of Disputes of Muntafiq Lands No.23 of 1929.

The available information on Tapu rights was greatly added to at one stroke (1) when in 1927, under the terms of the Treaty of Lausanne, the Iraqi Government obtained from the Central Turkish Land Register in Istanbul photographic copies of over 250,000 entries concerning properties in Iraq. The area of surveyed properties (2) was steadily extended and the number of properties re-registered increased (3).

In the interest of capital investment in land, the law of mortgage of Tapu land was as we have seen, brought up to the level of the immediately pre-1914 Ottoman Legislation (4); also the demand for full proprietary titles in urban property was in due course accommodated (5).

(4) Miri Land:

The difficulties on Miri Lands were more complex. There were incessant conflicts, which arose from the disintegration of the customary tribal systems of tenure. With the assistance

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(1) Special Report op. cit. p. 204.
(2) Cf. f. i. 1925 Report p. 99; originally the Tapu Dept. had its own survey section (~~Dowson Report p. ——~~; Special Rep. p. 202).
(3) The area surveyed by the Tapu Department between 1921 and 1931 amounted to nearly eleven and a half million dunums. (cf. Special Report op. cit. 205).
(4) Cf. above p.
(5) Law For The Delimination Of The Mulk Boundary Round Towns cf. Report 1925 p. 102; Report 1926 p. 95. The Law put into operation for Iraq art. 2 (1) of the Ottoman Land Code.

of British advisors at headquarters, British inspectors in the provinces and the R.A.F. as a last resort at its disposal, the Government settled the more blatant disputes of occupiers inter se administratively in its capacity as ultimate landlord. (1)

The fact that occupiers of Miri land were largely dependent on the discretion of the local officials was at first regarded as a matter of little urgency. (2) The reason was that most of such disputes continued to be settled within the framework of tribe or village community. But problems of revenue assessment as well as the occasional cases between the occupiers and the government which had finally to be settled in court, began to draw the attention to the vagueness of the rules applying to Miri land.

Reports refer to the state's "theoretical position of landlord" and to the existing occupier as its yearly tenant at will. (3) But the State's position, it was recognised, "differed from that of other landlords," since long tribal occupation of

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(1) The settlement was the business of the Rights Branch of the State Domain Dept. of the Ministry of Finance in conjunction with the Directory of Tribal cases in the Ministry of Interior which was to "examine and give opinion on tribal disputes over land," Report 1929, p. 164; Ministry of Interior Regulations No. 20 of 1929, art. 7(b).

(2) As to certainty of tenure under such conditions cf. f. i. Report 1929 p. 47; "in some provinces a regrettable tendency on the part of officials has been observed to reverse the decisions of their predecessors on inadequate grounds."

(3) Report 1923/24 p. 139; Report 1926, p. 80; Report 1929, p. 165.

Miri land, could deprive the government of its freedom of disposal. (1) Although no right of occupation was "contemplated by the existing law", (2) tribal occupiers "could actually be evicted except by force." (3) The most obvious, though hardly satisfactory attitude for the government to adopt in this contradictory position was to acknowledge the distinction between its de iure unrestricted right as landlord, and its de facto recognition of certain occupancy rights. (4)

(a) Improved State Landlordism.

In the early years of the Anglo-Iraqi regime, the policy as regards Miri lands preserved continuity with that evolved under the Civil Administration. A re-examination of the question confirmed the view that a general application of the Tapu system could not provide "a satisfactory basis for the settlement of the agrarian problem." (5) For the defective application of the Tapu system had allowed a practice of absentee landlordism to grow up; it was inapplicable to tribal areas; anything like permanent allotment of government land

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(1) Report 1926 p. 80.
(2) Report 1929 p. 47.
(3) Report 1923/24 p. 139.
(4) cf. f. i. in the Law on Land Revenue of 1927 it was provided that for a period of not more than five years, the Government may abstain from the collection of Mallaḫkiya(in respect of lands which, though unalienated property of the government, had for 10 years not been treated by the government as subject to payment of rent (art. 12 The Agricultural Land (Rates) Government Demand Law No. 42 of 1927) (5) Report 1923/24 p. 138

was undesirable in a country where the irrigation system is so incomplete and where the government should maintain full power of securing a proper return on the large capital outlay on irrigation. (1)

The unsatisfactory or at least unequal discharge by the government of its functions as landlord was fully realised. "In theory perhaps" it was pointed out, "a landlord is a landlord, neither more nor less; but in practice the government exercises its functions as landlord in a widely different degree of completeness. The variations are governed rather by accident than by design .... "

New suggestions were put forward as to how, by a more equitable assessment of the government's "rent", a system of ten year leases of Miri land could be made to offer both continuity of tenure and adequate returns. A juster and more practicable method of assessment would have to take account of the amount of time and money spent by the government in performing its duties as landlords. "The government rent should be calculated on the capital value of the land at approximately twenty years' purchase; further demands should be assessed with reference to the cost of the services, including interest, amortization and maintenance

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(1) ibid.

charges. (1)

The improvement of the conditions of government leases should no longer be held up by considerations of policy in the selection of suitable tenants; the object of maintaining powerful or friendly sheikhs or large land holders should not be allowed to prevail to the extent it did. The extravagance and improvidence for instance of many of the Amarah Muqata' holders was notorious. "Politics" demanded the continuance of the old sheiks "with their shiftless ways", it was complained, and prevented the establishment of new lessees drawn from "a more business like class and having no traditional dignity to maintain." (2) As could be foreseen, the pro-sheikhal tribal policy had come to clash with business like considerations of revenue policy.

Some experiments on newly reclaimed lands on the Yusufiyah Canal, which were undertaken to give the new concept of the government's role as landlord a practical trial, were far from successful. In view of the inadequacy of the administrative machinery it was from the outset considered unlikely that

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(1) Report 1923/24 p. 136
(2) That the conditions regarding mode of cultivation, rotation of crops etc. which were included in the leases were disregarded by the tenants (thereby throwing out of gear the distribution of water and undermining the fixed assessment) was accepted as proving the inadequacy of the administrative machinery to enforce more elaborate leases. The adversity of the season and the necessity of closing the canal for silt clearance for an unusually long period was not admitted to question the applicability of fixed assessment under the conditions prevailing in Lower Iraq.

progress on these lines would be rapid. Moreover, fixed assessment of demands could not be made until the area concerned had been surveyed and information had been collected as to the land values and the cost of services.

(b) Progressive Alienation of Domain Land.

By the end of the Anglo-Iraqi Regime, however, the policy as regards Miri land had vered round completely. Agricultural development had made considerable strides. The desire of land owners and sheikhs to lay hands on more land for cultivation or for investment, introduced the question of the alienation of Miri lands from a fresh approach. In March 1929 an Alienation Branch was created in the department of State Domain and the laying open to alienation of all uncultivated Miri land was being considered. (1)

Previously, it was pointed out, the grant of state land had been subject "to every kind of nepotism and cajolery". Attempts to introduce public auction for vacant flow lands had met with failure. (2) It was now considered "a big advance" when the State Domain Department secured its Ministry's approval to the grant by auction of "pump-lands" which were free from occupancy rights.

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(1) Report 1929 p. 165.
(2) Report 1929 p. 165.

The question of to whom alienation should be made was taken up again. "The question was complicated", it was pointed out, "by the fact that although in the past, government has regarded itself as the absolute owner of the State Domain and the existing occupiers as yearly tenants at will", it now appeared that "a very comprehensive system of land ownership exists among the tribes. As any system of alienation which ddisregarded existing customs in the matter of land holding would be likely to result in tribal unrest, the need for a close study of this question is apparent." (1)

New legislation might be necessary to guarantee that the grant of state land to occupiers should "conform reasonably to existing custom." (2) Official enquiries were made - for the first time it seems - into the various forms of tribal tenure. "The enquiries as far as they go", reported the State Domain Department, "show that very little tribal land is communally owned. There are, however, a large number of long established individual claims to possession." (3) It may be assumed, that the government was not quite alive to the fact that the collective element in tribal systems of tenure is not invariably expressed by the collective holding of the land, and that it is

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(1) Report 1929 p. 165.
(2) Report 1928 p. 152.
(3) ibid.

therefore not necessarily absent in the case of tribally recognised individual rights of occupation. (1)

But towards the end of the mandatory regime, actual conditions on Miri land were as little affected by the new policy of progressive alienation as they had previously been by the policy of improved State Landlordism. The terms under which the bulk of Iraq's cultivated land was held had not been greatly improved. The summing up of the State Domain Department's achievments in the Special Report of 1931 (2) is couched in terms of unrelieved disappointment. "Even in the absence of maps and statistics" it points out "it might have been expected that the Department would be able to place itself in definite relation (those in some form of landlord and tenant) with the occupants of its estates; that machinery for leasing would have been established, tenures (even of locally varying types) defined, and in general rights over state owned lands and water classified and as far as possible standardised. Of all this, however, little has proved possible. The wide divergence between theory and practice in matters of land occupancy, the darkness in which the Department has been compelled to work in the absence of maps, the preoccupation of local officials to whom it must look for information, the absence of an approved land policy or even formula

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(1) cf. above p. 264 ff.
(2) Special Report op. cit. p. 125.

implying the recognition or non-recognition of the commonest types of occupancy claims .... have prevented the State Domain Department from fulfilling the whole of its nominal functions.

(e) Customary and Capitalist Land Utilization:

The change of policy in respect of Miri lands during the second half of the twenties was the result of the transfer of the State Domain Department from the Ministry of Finance to the Ministry of Irrigation and Agriculture in 1927. The transfer had been thought advisable because at the time the irrigation pump developement (1) had made of the exploitation of the riveran tracts the most burning issue not only for the administration of Miri lands but also for the agricultural progress of the country as a whole. By 1930 the roughly 2,500 irrigation pumps in commission represented a capital outlay of more than £2,000,000. (2) The capitalist mode of land exploitation had entered on another offensive against the customary system of tribal land utilization.

During the years 1927/1929, 1,057 irrigation pumps were installed (3) along the rivers and canals and nearly as many times the same embittering wrangle between the town capitalists

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(1) On pump irrigation cf. also Dowson Report op. cit. p.14 ; A. Bonne, Monthly Bulletin of Agricultural Economics Feb. 1934.
(2) Department of Overseas Trade Report 1933 p.44
(3) Dowson Report op. cit. Table p.29

and the tribal occupier of the land repeated itself.

A prospective pump owner, usually an enterprising townsman, would cast his eyes on a suitable tract of riveran land. Most of these tracts were sporadically cultivated by tribesmen who irrigated a small fringe with primitive lifting appliances. The tracts not actually cultivated were usually subject to tribal occupancy claims; the tribesmen objected to the land being leased in the name of another for fear of impairing his claim to it. The townsman demanded protection for his pioneering enterprise; the tribal occupier insisted on his prior rights based on continuous occupation, the validity of which was commonly questionable beyond the fringes. (1) The suspicion with which the pump owner found himself confronted, interfered with his efficient and profitable use of the water made available by his pump. This in turn made him the more anxious to aquire greater control over both land and labour which, he claimed, only the position of land owner would give him; he felt hampered by the fact that he could neither mortgage nor sell the land.

So far the factor of scarcity of agricultural land (this commonly important motive force of land settlement and land reform) had been rather weak in Iraq. It had never to any.

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(1) Report 1927 p. 173; Report 1929 p. 164.

degree been coupled with large capital investments.(1) Now both these conditions occurred in the riverain tracts, which were potentially among the most valuable lands in the country. They enjoy the advantages of proximity to the main roads as far as such existed, as well as to the navigable waterways; they frequently possess a high natural fertility, being part of the alluvium deposited along the river ridges; and their relatively high level provides a certain amount of natural drainage and also minimises the dangers of high floods.

This favoured category of land was not insignificant in extent either. In 1930 the pump irrigated area was estimated at about 7,400 square kilometres,(2) or about 18% of the total irrigated area of the country.

It was over the control of these lands that the most acute conflict arose between the tribesmen and what is commonly referred to as the progressive elements of the country. No wonder it was reported in this connection

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(1) Demand for land exceeding supply without the presence of larger capital investments existed specially in the hill areas and in the valuable rice tracts on which rivalry between adjoining tribal groups is now intense.

(2) Dowson Report, p. 29 and p. Table X. p. 470 below.

in 1929 that "the ancient enemity between tribesmen and townsmen appears to be increasing."(1) The pump movement, however, attacked tribal society from within as well as from without. Many sheikhs or sarkals acquired pump installations themselves(2) thereby weakening and sooner or later obliterating the ordinary tribesman's right to the land.

The necessity to solve the problem of the riverain tracts, more than any other single motive, forced the hands of the Government at last. The pump owners included the most influential men in Baghdad. They demanded a better title to the land than the cultivation agreements which the British Director of the State Domain Department was willing to concede them.(3)

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(1) Report 1929, p. 164.

(2) Cf., for instance, Report 1927, p. 173;

(3) Report 1927, 173; Report 1929, p. 164.

2. Sir Ernest Dowson's Report.

By a resolution of the Council of Ministers of December 22nd 1929 an invitation was extended to Sir Ernest Dowson, a man qualified by previous experience in Egypt and Palestine, (1) to visit Iraq, and to report on the steps required.

The resultant report, submitted in December 1931, is perhaps the greatest State Paper so far prepared for the country. It was a gratifying parting gift, rendered by Britain at the moment when she was preparing to relinquish her share in the responsibility for Iraq's progress.

According to the terms of reference advice was requested on the practical execution of land settlement. But it soon transpired that there was little precise authoritative and systematic information in the headquarters of the government as regards land conditions generally, and the methods of holding, transferring and transmitting land actually practised from day to day throughout the country. Without such knowledge an attempted settlement of rights to land would be of little avail as the function of an effective land register is "simply to mirror clearly and faithfully rights to land existing at any and every moment..." and "it is useless to devote money and

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(1) Sir Ernest Dowson had been Surveyor-General of Egypt and later Under-Secretary of State for Finance and Financial Advisor to the Egyptian Government.

effort to burnishing the mirror so long as it will only have an unintelligible tangle to reflect."(1) In order to give helpful advice on the problems put to him Sir Ernest Dowson felt the need to extend the scope of his enquiry. Thus apart from dealing fully with the technical aspects such as surveying, registration and departmental co-ordination the report also gives an authoritative statement on the existing land conditions in the country, and moreover, puts forward important proposals on land policy.

To establish security and clarity of tenure a general definition on a legal basis of both statutory and equitable rights to land is clearly indispensable. None had so far been attempted. The first question raised, therefore, was whether an entirely new statute law should be introduced to replace the Ottoman Land Code. It was still, as it had been in 1919, "a greater matter to find the law which should be followed than to follow it when found."(2)

Sir Ernest Dowson was against a breach in the continuity. Although the Ottoman Land Code had never been properly assimilated or generally applied in Iraq, it had none the less gradually affected both local concepts and local practice deeply. The old Ottoman Land Code was no longer an entirely foreign code and it could be more readily and more closely adapted to local needs than any new importation. It should

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(1) Dowson Report, op. cit., p. 6.
(2) Report of the Rev. Dept. 1919, No.78, c.f. above page 309

be drastically mended but not ended.[1] To abandon Ottoman Law for an entirely new one would amount to an error resembling that originally made by the Turks.

The amendment of Turkish Law should be carried out in such a manner as to allow due consideration to be given to customary usage. The Ottoman Code was foredoomed to fail "because it attempted prematurely to cast in the rigid mould the fluid practices of a still preponderantly primitive society." Within the framework of any body of land laws considerable elasticity would have to be allowed, for supplementary or even exceptional provisions, to meet varieties of local circumstances or local customs. The establishment of security of tenure, unless major considerations of policy intervene, had to be sought for in conformity with customary doctrine.[2] These necessities had to be kept in mind when facing the indispensable task of reconciling actual with lawful tenure of Miri land.

a) <u>The case against the general introduction of a proprietary tenure</u>:

Would it be possible to combine such principles with an implementation of the Land Code's original purpose of making the tapu tenure the universal tenure of all cultivated state lands? At the time the State Domain Department steadfastly advocated "alienation" of Miri land,[3] but Sir Ernest Dowson took up the older thread and went back to the policy first

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(1) Dowson Report, p.18.
(2) Ibid., p.38.
(3) C.f. above p. 32 Footnote

defined under the Civil Administration.(1) He held that, excellent as the chief characteristics of Tapu tenure are, its general introduction would constitute too ambitious a plan to be practicable at present. "It is what the Ottoman Government attempted and failed to do, and the causes for this failure must be remedied before that attempt can be successfully repeated."(2) Fresh grants in Tapu tenure should for the time being be prohibited, or very severely restricted. Even if by the completion of the land survey and the establishment of an effective land registry the necessary pre-conditions for a general application of Tapu tenure would in due course be provided, the evidence of weighty arguments of principle would still speak against it.

Firstly, Sir Ernest Dowson placed great emphasis on the advisability of not parting prematurely with state ownership.(3) The greater restriction of the state's rights over land in the case of Tapu, as compared to Miri land raises a strong

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(1) C.f. above p. 303 seq.
(2) Dowson Report, p.75.
(3) He objects "as loose and even misleading" to the common practice of referring to grants of Miri land in Tapu as "alienation of state land", which seem to connote to the Government as well as to the public the transfer of land hitherto held by the state to private ownership, whereas the legal ownership under Tapu tenure remained specifically reserved to the state (Dowson Report, p.34). As to the continued use of the terminology c.f., f.i., the Land Tax Law (No.73 of 1936) which still bases the rates of taxation on the difference of "alienated" land and Miri land (art. 6), alienated lands are defined as "Miri lands registered in Tapu or lands the usufruct of which is established by documentary or other sufficient evidence." (art. 1)

case against a wider application of the Tapu tenure before conditions had advanced much further. The "enormous territories of Miri land now existing," he pointed out, "constitute the principle capital of the nation. It would seem wiser for the state to retain the residuary freedom which it possesses on Miri land, and the use of Miri land for national purposes... For many years to come el 'Iraq will possess a superabundance of potentially valuable agricultural land so that in planning new works it should always be possible to rearrange holdings to the common advantage of the holders and the state. But if a general policy of granting the land in Tapu tenure is adopted in advance of the planning of the national estate, expropriation would have to be resorted to to resume land so granted."(1) A thorough and careful consideration of the future needs of the country in the way of public works, of areas to be utilised as extensive pasture or developed as forests, fisheries, and so on, of territories to be otherwise specially earmarked for communal or other reasons, should precede any appreciable extension of Tapu tenure.

A general extension of the Tapu tenure was inadvisable secondly because "the greater part of el 'Iraq is not yet ripe for the complete freedom of individual dealing with and

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(1) Liberal p. 35.

mortgaging of land that Tapu tenure confers... Until the great mass of smaller holders have gained much greater economic stability and experiences than at present they possess, any general freedom to mortgage holdings would merely be an incitement to the piling up of unproductive debt."

This argument, valid in any backward agricultural country, applies with special force where tribalism survives. "So long as tribal and other communal divisions remained strong, unrestricted individual freedom to dispose of land would be dangerous to public peace and contentment."(1)

The existence of customary communal land rights should be taken into consideration and this could be achieved only by the retention of "some measure of discretionary control" over the lawful owners. "In the first place, so long as there are tribal areas (dirah) which must continue to be recognised, it may be necessary to restrict the holding within those areas to members of the tribal group concerned. Secondly, the suitable successor on the death of the holder should be settled by agreement in accordance with prevailing custom.(2)

b) The *[illegible]* of the possessory Tenure of Miri Land:

In view of these considerations the report advocated not the abandonment but the perfection of the existing category of Miri land. The simplest, the quickest and probably the

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(1) Dowson Report, p.35.
(2) Ibid., p.37.

only feasible method of placing it on a more satisfactory basis was, however, to accept to the utmost possible extent the present simple concepts and practices and to concentrate upon making their application more systematic, more equitable and more sure. Any tenure that is to be operative in practice must be understood and approved by the mass of actual land holders and social leaders.(1) Most of the day to day work is necessarily to remain in the hands of the official on the spot who is familiar with the people concerned. For many years to come, at least, the tenure of the great mass of Miri land throughout the country must be regulated locally if it is to be governed by law at all.

Generally speaking it would probably be sufficient if the lease was made with the accepted head of the tribal section (Reis el-firqa) as such, or legislative provision might be made to recognise tribal sections as juristic persons, represented in each case by a duly appointed head or small council (lujna) when preferred. In the event of the death of the accepted head or other representative of a tribal section, a substitute would need to be nominated forthwith. When there was no disagreement, such nomination would, no doubt, be a matter for the tribal section concerned, but the local authority should be empowered to make the nomination

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(1) Ibid., p.36.

after consultation with the members of such a section, when the latter were unable to agree.(1) The responsibility of a recognised holder of Miri land to his family or tribal group should primarily remain a matter between himself and that family.(2)

A suitable guide for the authorities in the grant of leases to holders of Miri land could be found in the so-called Lazma right. In the discussions that have taken place regarding the legal recognition of customary prescriptive claims to Miri land, more particularly in connection with the installation of pumps, the term Lazma came to be generally applied to these claims. Since the war of 1914-18 "the conception of the tribal or sub-tribal Lazma seems to have weakened, and that of the corresponding prescriptive claim of an individual or smaller group to have been to some extent substituted, though "the approptiateness of the term in the latter sense is disputed."(3)

Sir Ernest Dowson proposed as the tenure for the greater part of Iraq's cultivable land a system which should consist of a lease granted on simple standard terms, normally for a

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(1) It is only in connection with the riverain tracts that Sir Ernest Dowson directly faces the problem of corporate rights of tribal groups. It may, however, be assumed that his remarks are meant to apply to the problem of tribally held Miri land wherever it arises (Cf., in particular, p.23 ibid.).

(2) Complaints of abuse could always be brought before the local authority and possibly in certain cases before the Qadi, ibid., p.37.

(3) Ibid., p.26. "Regarded as a label for any prescriptive claim to occupy and hold Miri land, it seems to have held the field and to have been commonly understood and accepted."

ten-year period. If held by long established holders or their descendants, they should normally be renewable in practice, although terminable in form. The renewal should require a formal act on both sides which would keep the nature of the tenure in the public mind and, at the same time, the existing records up to date. Holdings of Miri lands, including the riverain tracts, should not be transmissible on death, although the claims of the deceased holder's family should in accordance with prevailing custom be recognised. Neither was mortgaging, directly or indirectly, reconcilable with the tenure. Possibly some restrictions should also be exercised over the pleding of produce and agricultural implements.(1) The nature and methods of the assessment and payment of the revenue contribution, which represents the Miri holders amalgamated rent and tax to the nation, should be carefully redefined.

Although "owing to the scarcity and mobility of the country's existing population, and to the backward state of its agricultural development, there should be no difficulty for very many years in preventing any uneconomical congestion of the agricultural community on the land," Sir Ernest Dowson stressed the need "in the interests of the nation and the agricultural community as a whole...to recognise in a practical

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(1) Ibid., p.37.

way from the first, the economic limitations set on both the fragmentation of holdings and the multiplication of share-holding" which the freedom of action retained by the Government on Miri land would make it easy to avoid.(1)

The Iraqi Land Legislation: On the Road towards Private Property. (1932 - 1940)

Sir Ernest Dowson's technical recommendations for the setting up of a machinery of land settlement and registration were generally accepted. But his proposals for a solution of what he called "the main problem of tenure"(2) were considerably modified in the ensuing land legislation.

The development of the riverain tracts had given great force to a demand for fuller rights on miri land, than those offered by terminable leases from the state. In as far as the Dowson Report was satisfied with a merely administrative control of the Domain lands it appeared to recommend a retrograde development. The contention was that what was a necessary protection for the primitive tribal occupier of Miri land would be an undesirable impediment to the pump-owners or other farmers willing to sink capital in their holdings. The Report, it was held, had not taken sufficiently into account the wide range of possible occupiers of Domain land and the heterogeneity of their interests in it, which could not well be covered by a

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(1) Ibid., p.77.
(2) Ibid., p.74.

general system of terminable standard leases.

The Land Settlement Law of 1932,(1) following this line of argument, adopted the ingenuous device of introducing a new legal category of state land. Amending or superseding the Ottoman Land Code, the Law recognises the categories of Mulk, Waqf, and Metruka lands, but entirely reshapes the classification of State lands. Miri land was now defined as the comprehensive category of state land, comprising all lands which were neither Mulk, Metruka or Waqf. There are three types of Miri land: Tapu, Lazma, and Miri Sirf.(2) By including Tapu land, the law confirms that by the grant in Tapu the state confers the usufructuary possession only, without the raqaba. Lazma is the new statutory category of state land giving the grantee less independence than the Tapu holder, but a considerably freer hand than the lessee of Miri Sirf. Miri Sirf is defined negatively as the Miri land granted neither in Tapu nor in Lazma; it includes the lands known under the Ottoman Land Code as Mewat.(3)

1. The Lazma Tenure:

The Report's proposals were adhered to inasmuch as the grant of Tapu was not accepted as the universal tenure into which the bulk of loosely defined prescriptive claims to Miri

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(1) The Land Settlement Law, No.50 of 1932 applies to-day in the amended version as Land Settlement Law, No.29 of 1938.
(2) Settlement Law 1938, art. 10 (a).
(3) Art. 6 (a).

land should be crystallized. But the Lazma tenure as described in the Lazma law[1] is a kind of "Junior" Tapu right, a much more "advanced" tenure than the Report deemed suitable. In fact the Lazma right gives the holder greater freedom than did the Tapu tenure as it stood at the time of its introduction into Iraq.[2]

The Lazma right is based on the legal recognition of a prescriptive claim to the possession of Miri land based on productive occupation. The Settlement Officer is to grant Lazma in Miri land, not granted in Tapu, and situated in areas expressly specified by regulation, to the Iraqi citizen[3] or his successor who for the last 15 years enjoyed its usufruct. Both the cultivation of the land and the planting of trees, according to local practice, are to be recognised as the exercise of usufructuary possession.[4] The right of succession follows the rules of the Ottoman Law of 1913, which abolished most of the restrictions previously imposed on the free inheritance of Tapu lands.[5] The Lazma right may be transferred by sale or gift and may be mortgaged.[6] A certain control by the authorities over these tramsactions is, however, maintained by the provision that registrations of

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(1) Lazma Law No.51 of 1932.
(2) Cf. above p. 277 ff.
(3) In the Law of 1938 the restriction to Iraqi Nationals applied only to the prescriptive acquisition of the Lazma right. The Law No.26 of 1941 (amending Law No.29 of 1938) extended it to the prescriptive acquisition in Tapu rights as well.
(4) Art. 11 (a).
(5) Art. 6, i.e:, according to the Law of 3rd Rabi'al Aqwal 1331 (Law of Inheritance of Immovable Property) cf. above p.
(6) Art. 3 Lazma Law.

transfers and mortgages may be refused if "in the opinion of the competent authorities they would be calculated to cause a disturbance of the peace or else to reduce a holding to an uneconomic size."(1) To prevent the undue splitting up of the Lazma holding, the Law provides, moreover, that in the event of the share devolving on an heir being below the economic limit, and, failing unanimous agreement amongst the heirs, the holding as a whole is to be sold by auction and the proceeds of the sale to be divided among the heirs.(2)

The Lazma holder may cultivate the land and use it in any other productive manner. He may plant trees and erect buildings on it which then become appurtenant to the land and cannot be transferred separately.(3) The Lazma holder need not cultivate the land himself but may let it to tenants. The Lazma right lapses, however, if for four consecutive years it has not been used productively "either directly by the possessor or indirectly by lease or loan."

In case of expropriation of Lazma land for public purposes the Lazma holder is entitled to half the amount which under like circumstances would be due as compensation to the Tapu holder.(4) In the case of conversion of Lazma land into

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(1) Art. 4. ibid. A *nizham* is to specify from time to time under which conditions the right of refusal shall be exercised.
(2) Art. 7 Lazma Law.
(3) Art. 2, and art. 5 Lazma Law.
(4) Art. 9 ibid., alternatively the Lazma holder may be given land situated in the neighbourhood and equal to the expropriated land.

Freehold (Mulk) one half of the value (Bedal Mithl) has to be paid, in the case of Tapu land, a quarter, and in the case of Miri Sirf,[1] the full Bedal Mithl.

2. The Rights to the Riverain Lands:

The policy pursued by the State Domains Department throughout the years of the pump boom had been prompted by the desire to safeguard, as far as possible, the interests of the occupying tribal cultivators. The sheiks or sirkals, as representatives of their tribal groups, had been given ten-year leases, enabling them to enter into cultivation agreements for the same period with the pump owner. It was hoped thereby to achieve the two-fold object of preserving the claims of the occupiers and give the capitalists sufficient certainty of tenure.[2]

Sir Ernest Dowson criticised the policy on the grounds of undue liberality in favour of the occupier. "If prescriptive claims were to be recognised," he pointed out, "on the only clear and equitable basis possible — that of effective exploitation of the land — it was important to investigate and record the existing limits of such exploitation before these limits were effaced, which was almost inevitably to be the case in consequence of the extension of cultivation after the installation of pumping plants." Had this delimination been

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(1) Law for the sale of Miri Land No. 11 of 1940, art. 2 and 3.
(2) Report 1927, p.173.

properly carried out in time, the original occupier "could have justly accorded considerably smaller areas than are now claimed." A balance of unencumbered Miri land would have been available for exploitation.(1)

He referred to the suggestion that the most practical course would be to allow a specific area per adult male cultivator. But though he admitted that under certain circumstances this might be the only possible course he did not favour it because it flavoured too much of re-allotment. "As a general rule it is preferable that the physical recognition of the limits affected by prescriptive claims should be based upon reasonably attested previous exploitation of the soil."(2)

To solve the tangle of the riverain lands the Lazma tenure was now called upon, the origin of which was so closely connected with the very problem of the pumpmdevelopment of Miri lands. Enjoyment of the usufruct for fifteen years as the qualification for the Lazma right was found to be too vague and too general a ruling for the purpose. The Settlement Law of 1932 consequently contained a special provision which in effect established a presumption of law in favour of the pump owner; "the pump owner shall normally be regarded as having enjoyed usufruct of land irrigated by his pump unless

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(1) Dowson Report, p.32.
(2) Ibid., p.53.

it was cultivated before the installation of the pump" and within fifteen years prior to the date of promulgation of the Settlement Law. In the latter case, the Settlement Officer might take cognisance of any agreement concerning the land and of the area actually cultivated by the different parties.(1)

The Land Settlement Law of 1938, however, superseded this ruling and attempted a more casuistic treatment of the problem.(2) If the land was exploited for fifteen years prior to the installation of the pump, the original cultivators shall be regarded as enjoying the usufruct in double the area exploited by them at that time. For the remainder of the land the existing agreements between owner and occupiers shall be applied, provided they are clear and cover all parties concerned. In the absence of a satisfactory agreement the decision as to the usufruct is left to the discretion of the Settlement Officer with due regard to local practice. If the riverain tracts have not been exploited for fifteen years prior to the establishment of the pump, either the agreement is to be commuted or, failing that, the Settlement Officer is to give such decision as to the possession as appears to him just, at the same time taking cognisance of local practice."

If there are persons on the land who may be deemed to have

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(1) Art. 11. Land Settlement Law 1932.
(2) Art. 11 B.15.

"an old interest in the land they shall be counted among those enjoying usufruct therein."

If we are to visualise in concrete terms the meaning of this ruling, which so evidently strives for an equitable solution, it has to be remembered that the original exploitation, even if several cherrads were employed, covered as a rule only a small fraction of the pump irrigated tracts.(1) Once the provisions of the Settlement Law of 1938 are fully applied, the map of the riverain lands will show, as a typical picture, the sizable Lazma holdings of the pump owners on which the tribesmen work as tenants or labourers, and, wedged into them on the edge of the river, the small parcels on which the tribesmen enjoy usufructuary possession in their own right as long as their holdings are not incorporated into the larger estates.

The indications are that the tribes will lose their say in the exploitation of the valuable riverain tracts, either because the pump owner acquires control, or because "the pump" hastens tribal disintegration. To counteract this trend permanently will not be in the power of a legislation, however well-meaning, as long as it cannot rely on effective social and economic measures for the benefit of the tribal cultivators. The question whether the Lazma tenure has rendered a positive contribution to the problem of the

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(1) For a comparison of the capacity of pump and primitive lift irrigation, cf. Mohamed Saleh, op.cit., p.78.

riverain tracts will be answered differently according to the observer's point of view. The Iraq government has not been able to devise a solution - if such exists - which does full justice to the two equally legitimate but conflicting claims - a man's right to live the life he likes on his land and the interests of economic development.

The Tendency towards Proprietory Rights.

Sir Ernest Dowson's strong recommendation of a strictly possessory tenure as alone suitable for the mass of the cultivators for some time to come, which was already disregarded by the Land Settlement Law, has been thrown overboard completely by a more recent legislation.(1)

The Land Settlement Law provided that fresh Tapu land could be created by the acknowledgment of prescriptive claims, and thereby reintroduced in effect the haq alqarar,(2) which, - as a court decision in 1925 confirmed - could not be applied in Iraq under the Ottoman legislation in force.(3) According to the Land Settlement Law, land should be granted in Tapu not only if registration could be proved or valid documentary evidence produced, but also if it has been planted for not less than ten years with not less than forty trees per donum,(4) and, alternatively, if the usufruct has been enjoyed and the

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(1) Law for the Sale of Miri Land, No. 11 of 1940
(2) Cf. above p.
(3) Report, 1925, p.100.
(4) Provided that the age of most of them is not less than ten years and that the number of fruit-bearing trees shall not be less than twenty dunum (Art. 10(b) Land Settlement Law of 1938).

land has been productively used in accordance with local agricultural practice for a period of not less than ten years, provided no land rent has been paid during the time.

The new legislation also provided that Lazma land could be transformed into Tapu land without payment, if a plantation of not less than forty trees per donum has been maintained on it for ten years.(1)

The Law for the Sale of Miri Lands of 1940 introduced the possability of an immediate change of either of the three categories of state land into mulk, as well as for a step-by-step advance from Miri Sirf to Lazma and from Lazma to Tapu.

Miri lands situated outside the boundaries of towns and villages(2) shall, after approval of the Minister of Finance, be registered as mulk in the name of the person who enjoys its usufructuary possession or has planted it with trees, against payment of the full Bedal Mithl in case of Miri Sirf, for half the Bedal Mithl in case of Lazma land, and for one quarter of it in case of Tapu land.(3)

The Minister of Finance may grant in Tapu by means of public auction Miri Sirf lands, provided that the area of each plot so granted does not exceed 5,000 dunums;(4) he may cause lands granted in Lazma to be classed as granted in Tapu

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(1) Art. 11 (c) Land Settlement Law of 1938; Art.2 Lazma Law of 1932.
(2) For land inside town and village boundaries cf. art.2 of the Law for the Sale of Miri Land of 1940.
(3) Art. 3, ibid.
(4) Art. 4 (1), ibid.

after collecting one quarter of the bedl mithl.(1)

The legislation establishes the machinery for a general up-grading of possessory into proprietory tenures by a progressive alienation of the State's residuary right.

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(1) Art. 4 (2), ibid.

III. Principal Issues of Land Policy in Iraq.

1. The Need for a Positive Land Policy:

Since 1932 in many districts the survey party has been followed by the Settlement Commission, and a Land Register, in keeping with modern demands, is building up.(1) The Ottoman Land Law has been amended so as to meet the anomaly of the retention by the State of the legal possession of the bulk of miri land. The introduction of the lazma tenure provides the Government with a wider choice as to the conditions under which it may dispose of its domain. But how the refined instrument can be put to best advantage is far from established. An inventory of land rights and the necessary machinery for keeping the inventory in order is being created, but it remains to be decided whether these achievements will continue to be treated as aims in themselves or only indispensable pre-requisites of an active land policy which would play a prominent part in a general policy of reconstruction.

a) Land Settlement and Land Policy:

There can, undoubtedly, be no real progress in Iraq without certainty and security, both for the cultivator and for the landlord as to their rights in the land. To achieve

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(1) By February 1936, 9667.8 sq.km.of land had been settled, i.e. about 10% of the cultivated area. (Himadeh, Iraq. op. cit., p. 121).

this, in Sir Hilton Young's views, transcends, in importance "any other measure of reform that can be undertaken by the Government."(1) But the establishment of certain and secure conditions of tenure may be accepted as a sufficient land policy by itself only in countries where land rights are, on the whole, already well defined and generally recognised or where agriculture is either a static or a minor industry; above all the state could be satisfied with granting security of tenure if uncontrolled private transactions of land could be relied upon to bring about co ipso satisfactory conditions of land holding. Neither of these alternatives can, however, be maintained to hold good in the case of Iraq to-day.

When land rights are still fluid, it is particularly regrettable, though to some extent inevitable, if a first inventory of land rights has to precede and cannot coincide with the execution of a definite land policy. For without the guidance of a clear policy, the "determination of the ownership" of interests in the land "such as usufruct, lazma, mugharissa"(2), which the Settlement Officer is charged to undertake, is a matter of peculiar difficulty in a society in the stage of rapid, social and economic transformation. The difficulty has been well illustrated in the one case which has so far demanded closer attention. On the riverain lands

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(1) Report on Economic Conditions and Policy, dated 24th June, 1930, op. cit., p. 171.
(2) Land Settlement Law 1938, Article 3 (2).

the rule, that the title goes to the usufructor, has proved insufficient, and in need of amendment.(1) A definite policy had to be laid down to settle the conflict of the capitalist investor and the occupying cultivator. The simple formula of recognising the status quo serves even less when applied to the complicated partnerships, and the numerous patterns of collective rights and duties characteristic of tribal systems of tenure.

We have seen how the absence of a policy for miri land expanded the scope of administrative discretion.(2) Similarly, the Settlement Law took repeated recourse to the device of asking the Settlement Officer to "give such decisions as to the usufruct as appear to him just and, at the same time taking cognisance of local practice."(3) The need for a free hand on the part of the officer responsible is not questioned by the fact, the criterion of the "just" decisions is, in case of conflicting interests a reliable guide only when based on

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(1) Cf. above p. 347 sq.
(2) Cf. above p. 325 sq.
(3) Cf. Land Settlement Law 1938, Art.11 (b) 3 and 5. The Settlement which was started in the Muntafiq under the Law of 1929 (cf. above p. 322) had been satisfied with recording the tribal lands, free of tapu rights, as miri, without any settlement of the rights of those in occupation of it. Sir Ernest Dowson criticised this policy and suggested remedies for the omission (Dowson Report, p.51) without assuming, of course, that these rights should be crystallized forthwith into an advanced tenure like the Statutory Lazma Right.

certain clear principles of policy. Without these, a settlement, especially in tribal lands, is not only sometimes a particularly delicate operation, but entails also the danger of prematurely crystallising rights to the land. The mere investigation of tribal rights in the course of settlement precipitates their individualisation; a mere ascertainment of usage tends to be interpreted as the authoritative confirmation of a right. Even if sheikhs, sirkals, or fellahs should be found to have held the land in usufructuary possession for 15 years, it may not always be advisable to give legal sanction to an actual position which may be merely the expression of a certain balance of tribal forces far from stable and final under conditions of tribal disintegration.

b) <u>The "trend"</u>:

The risks of a premature or unwise crystallization of land rights could be faced with equanimity if certainty of tenure could by itself clear the path for a final solution of the agrarian difficulties of the country, instead of ushering in a host of fresh problems. So far, in Iraq, the pressure exercised by the different classes who hope to obtain a transferable or mortgageable right to land, has succeeded in throwing off, together with tribal and other pre-capitalist limitations, many of the restrictions which before the introduction of the lazma tenure, the State was able to exercise

on domain land. This pressure is still increasing and appears to be leading to a progressively more liberal definition of private land rights.(1)

Sir Ernest Dowson's warning against the premature grant of a tenure which gives "complete freedom of individual dealing with and mortgaging of land"(2) was perhaps the most important message which his Report intended to convey. It deserves the most careful attention, coming as it does from someone with his intimate knowledge of land conditions in Egypt. The indications at present are that Iraq, disregarding the warning, is bent on imitating, rather than avoiding, the mistakes of the "elder brother". It seems that Iraq is passing through a phase similar to that which began in Egypt about 1850. By then, communal ownership was practically extinct and the usufruct of the cultivators was made hereditary.(3) The proprietary character of the holdings was progressively strengthened, until by 1881 nearly all of the one-time khara; lands had passed into full ownership of the holder. On the one hand, the Government favoured the class of small landholders; on the other, the rapid increase of the cultivated area was

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(1) As to the parallel development in the Ottoman Empire before 1914, see above p. 277 sq.
(2) Dowson Report, p.35; cf. above p. 336 sq.
(3) Cf. especially the Egyptian legislation of 1854 and 1858.

due to the concession of estates to large land owners.(1) Thus the typical extremes of land holding have developed, the large estates occupying nearly 40% of the land, while the plots owned by the mass of the cultivators are of a size far below the economic minimum.

The process of fragmentation of holdings, however, set in only comparatively late in Egypt,(2) and, for a considerable time to come, will constitute no acute danger in Iraq. Nevertheless, following Sir Ernest Dowson's advice, the Land Settlement Law, introduced machinery for the prevention of uneconomic subdivision of holdings - a useful, though at present somewhat academic measure in Iraq.(3)

The more characteristic development of the moment is a fresh wave of accumulation of land titles in the hands of townsmen, sheikhs and aghas. Until 1932 the limited amount

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(1) Crouchley, op.cit.,pp.127 and 161; nearly 40% of the land is in the hands of large owners and land companies, 30% are owned by over two million smallholders with less than 5 feddan each (1 feddan = about one-fortieth acre.)

(2) The number of holders up to 5 feddan has almost quadrupled since 1896, whereas in the remaining categories of land owners no appreciable changes have taken place.

(3) In Egypt, original attempts to check fragmentation proved unavailing after 1881, when succession according to the rules of the Shariah Law was introduced. The question is not yet acute as to how fragmentation could be avoided in Iraq once mulk should become a widespread tenure of agricultural land (cf. above p.357). On the principal questions involved cf. J. Schacht, Saria und Qanun Immodernen Egypten, Der Islam, 1932 fasc. 3.

of tapu land effectively checked this tendency. It would seem that with the introduction of the lazma tenure the process which followed the introduction of the tapu tenure 60 years ago[1] is now repeating itself. The lazma tenure professes to favour the occupying cultivator as did the tapu tenure, but neither of them provides any effective guarantee for the stability of small peasant holdings. The new security of rights and of their enforcement withdraws the protection which the economically weaker occupier often enjoyed against his overlord or mallak. The transformation of tribal cultivators into tenants and farm labourers is gaining fresh momentum. The discrepancy between the professed intention of the land legislation and its actual consequences demonstrates the need for a more definite land policy.

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(1) Cf. above p. 283 sq.

2. Main Problems of a Positive Land Policy.

The demand for an active land policy has been strongly voiced in Iraq especially since the second half of the 'thirties. Though none of the constantly changing governments took practical steps to allot miri land on any considerable scale to small cultivators, the promise to do so figured in more than one Government pronouncement.(1) In speeches in Parliament and in the Press sentiments of a distinctly land-reforming character found expression. In the Chamber a deputy would call for a change in the agrarian system in favour of smallholders, by allotment of uncultivated land and partition of large estates. He maintained that such a policy was practicable in spite of the resistance of the big landowners. The change should be carried out only gradually, but time was passing, and the cultivators, who are the basis of the country, continue to live in misery.(2) In the press it was pointed out that the Latifundia system impedes agricultural progress; that the present agrarian order should be condemned as a belated feudalism; that the tribal rebellions, which absorb the

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(1) Cf., for instance, Abu Timman Bey, Minister of Finance, on the programme of the Government, al Balagh, (Cairo) 8th January 1936; on the programme of the Hikmet Sulaiman Government cf. interview of the Prime Minister in Le Temps (Paris) 1st June, 1937, and al-Balagh (Cairo) 14th December, 1936; on the programme of the Midfai Government, cf. Oriente Moderno 1937, p.526.

(2) Speech of Sulaiman Beg Fattah, al Balagh (Cairo) 9th March, 1936.

energy of the Government, are in most cases caused by the dissatisfaction of the tribesmen with the grant of land rights to their sheikhs.(1)

The aim of a positive land policy, being to render the maximum possible contribution to the improvement of the standard of living of the people, its task consists in designing an agrarian system, able to guarantee on the one hand the optimal productivity of the cultivator's labour, and on the other hand the equitable distribution of the wealth derived from it. It will generally be conceded that the methods of achieving these objects will have to be determined with careful consideration of the traditions and institutions which - according to their value - may have to be superceded, transformed, maintained, or even revived.

The foremost purpose of the present discussion is to reach conclusions as to how the progress of tribal and agrarian policy in Iraq can best be co-ordinated; it is not to give a complete blue print for a land policy based on the above mentioned principles. We lack the most elementary statistical informations on land conditions in Iraq; it would be idle to try to forecast the organization of international investments after the war. The framing of a land policy involves political issues outside our present scope, issues which have not been simplified since the panacea of a liberal age - private property

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(1) Cf. the series of articles in Al'Iraq, June 26-30th and July 1st, 1936.

in land, peasant proprietorship, partition of communal holdings - can no longer be unquestioningly accepted.

a. Private or State Ownership of Land.

Shall the State transfer to the individual the full property of land, or its "legal possession", or shall it retain a free hand as to its disposal? The final answer to these questions is still outstanding. Iraq is still one of those Eastern countries which John Stuart Mill congratulated on their good fortune in not having allowed the property of land to pass into private hands.(1)

The justification for the State's claim to the ownership of the land has varied in the course of time. The idea of the Waqf for the benefit of the Moslem community, or of the right of the conquering Sultan, has given way to "general objections of modern economic theory against the alienation of State land"(2) to which a Revenue circular of 1919 referred.(3) In the past the struggle between the idea of State and of private property for the most part directly concerned only a small oligarchy of big landholders in Iraq who were desirous of holding their position in their own right against a jealous Government. In the future also the possibilities of a democratic form of private landownership have to be considered.

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(1) Papers on Land Tenure, Dissertations and Discussions Vol. IV.
(2) Cf. above p. 226 sq.
(3) Cf. above p. 314

The modern reasoning in favour of State ownership has been expounded under the civil administration, during the early years of the Anglo-Iraqi regime and, with particular emphasis, in Sir Ernest Dowson's Report.(1) The acceptance of the theoretical soundness of these arguments is no longer restricted to a particular school of economists. The body of expert opinion, which favours some degree of land nationalisation in Great Britain, claims that it is not concerned with making farming conform to any general theory of political or social structure,(2) but is "looking for a system that will work, and that is to be judged by the way that it can ensure efficiency".(3) There can be little doubt that important arguments brought forward in favour of nationalisation of privately owned land in Great Britain apply a fortiori against the "alienation" of State lands in Iraq.

First of all in Iraq the greater part of the cultivated land is still owned by the State. What elsewhere is a new departure, involving a break with long cherished principles, is in Iraq the confirmation of the status quo and the acknowledgment of ancient traditions.(4) In Iraq the issue is not encumbered by the formidable deterrents created in less

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(1) Cf. above p.314 ; and p.325 ; and p.334 .
(2) Cf. the Uthwatt Report 1942 Cmd. 6386; Cf. especially the publications of Sir A.D. Hall, C.E. Orwin, etc.
(3) A.D. Hall, Reconstruction and the Land, 1942, p.276.
(4) Cf. above p. .

fortunate countries by the necessity of designing and setting to work a special machinery of expropriation and compensation.

(1) Equitable Distribution of the Income from the Land:

There are, moreover, as may confidently be anticipated, few countries whose face will change more fundamentally within the near future. The danger is that the wealth which the material progress of the nation will create in the way of increments to land values, instead of being secured for the nation may be fortuitously presented to landowners and land speculators. In some respects the very intensity of the pressure, at present, on the eve of great developments, exercised in the direction of proprietory rights in land, may be taken as a warning against the grant of such rights. Under the Law for the sale of Miri Land, unless it is handled with great restraint, the State may be granting property in land to individuals against the payment of a bedl mithl which, a few years hence, may constitute a mere fraction of its value after irrigational development, building expansion and rail and road construction have taken place. The lion's share of the dividend from the Government's expenditure on schemes for the national welfare would thus accrue to the landowning class.

(2) Increasing the Productivity of the Land:

A rise in the low level of productivity of Iraq's agri-
culture(1) depends largely on the rate of capital investment, in view of the importance of the irrigation system, a large

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(1) A. Bonne, 1943. op.cit. p.53 gives the following estimates for net productivity per head of male agricultural earners in Middle Eastern Countries in 1934/35: (International Units)

Country	Male Earners in Agriculture	Total Net Production	Net Productivity per Head
	in 1000	in millions	I.U.
Egypt	3,424	308.6	90.1
Turkey	3,354	366.4	109.2
Syria	650	63.5	97.6
Iraq	600	55.9	93.2
Cyprus	60	8.6	143.1
Transjordan	60	5.4	90.1
Palestine			
Arabs	121	22.6	186.3
Jews	18	12.5	683.3

As regards its staple grains, wheat and barley, Iraq is further from the higher yields of Egypt than from the extremely low returns which the Palestinian fellahs eke out of their stony hill country. The level of Iraq's yields, lying somewhere between that of Palestine and Syria, complete fails to reflect the large share of irrigation cultivation which they include. The yield per acre of Iraq rice, though not much inferior to that of India or Burma, does not reach half that of Egypt or Japan (according to the estimates published by the Agricultural Institute in Rome) opcit.).

Cf. Table XII p. 472.

part of the investment has to come from the State.(1) Many of the functions of a landlord, and especially the capital outlay which matures only slowly but is essential in developing and preserving the land, has to be assumed by the State if they are not to go by default. A solution of the problem of drainage, which grows rapidly more acute with the application of intensive irrigation, is beyond the capacity of individual owners.(2)

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(1) It was generally recognised as one of the most objectionable aspects of the Asfar Concession of 1924 (cf. below p.315) that it provided for the exercise of control over key irrigation works by private concessionaries. As to an appreciation of the power which the control of irrigation confers, cf. as a notable example from the "imperialist" era the prominence given to irrigation in the British Acting Residents plans for extending Great Britain's position in Mesopotamia (July 1913): "To gain control of this (irrigation) system and create an imperium imperio is important. Control of water will give control of revenue assessment, perhaps control of collection." (Report on Events in Turkish Iraq, 1913) It appears that in the past, too, the dependents on a centrally controlled irrigation system has mitigated against the development of full proprietory rights (cf. above p.230)

(2) As to the additional difficulties (through the existence of full property rights) of remedying the neglect of provisions for drainage in Egypt, see Crouchley, op.cit., p.245. The need for a nation-wide drainage system is even greater in Iraq. - Though fortunately, at present, it would mean prevention as much as cure - because the peculiar nature of the rivers renders them largely useless as drainage channels. Moreover, the quantity of salt in solution of the Euphrates and Tigris is larger than that of the Nile. (Willcocks, op. cit. p. XIII.) It has been calculated that in Iraq on land from which both a summer and a winter crop is grown, some 8000 lb. of salt per acre is added each year by irrigation water alone. (Paterson, Tropical Agricult. op. cit., p. 254; cf. also J.F. Webster, Alkali Lands in Iraq, 1921; J.F. Webster, and B. Viswanath, a Further Study of Alkali Soils in Iraq, 1921. Bulletin of the Empirial Institute, vol. 26, p.170; as to experiments carried out in Anglo-Iraqi period see reports 1923-24, p.170; 1926, p.108; 1927, p.127; 1928, p.150; Report 1931, p.146.)

Controversial issues arise as soon as the crucial question is asked whether there remains sufficient ground on which the private landlord may be more effective than the State.

(a) The Iraqi Landlord.

The great mass of the landholders at present, rather than risking the uncertainties of investment in agricultural machinery or other improvements, tend to be satisfied with the small returns of an extensive, very low capitalised exploitation. The landlords who possess initiative, the ability to take a long view and who are able and willing to sink sufficient capital in the land, are, for the time being exceptional rather than typical. The absentee owner is usually not in a favourable position to take an active share in the development of his land. The small farmer has so far been unable to find the necessary capital or to use it to the best advantage.(1) The boom of 1937 evoked among some more enterprising farmers a demand for agricultural machinery

(1) An Agricultural Bank has been established only in 1940 (cf. Law No. 18 of 1940) to take over the quite insignificant business concerning agriculture of the "Industrial and Agricultural Bank". The small cultivator still depends on the money-lender, who is often his landlord's sirkal.

and especially tractors.(1) But the smallness of the numbers involved and the practical absence of imports of artificial fertilizers(2) indicate how so far only a negligible minority of the landowners are ready or able to improve methods of production.

It may well be doubted whether the fault can be attributed, so exclusively as is sometimes done, to the prevailing share system, if the effective partnership, which a well-balanced landlord-tenant system affords, has so far not developed in Iraq. It remains to be seen whether the performance of the average landlord would appreciably improve with the substitu-

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(1)

	1935		1936		1937	
	Quantity	1000 I.D.	Quantity	1000 I.D.	Quantity	1000 I.D.
	(in tons)					
lizers						
anures						
tural	6	0,02	12	0,037	74	0,128
her	-	-	1	0,013	1	0,025
ul-						
l						
nery	-	2	-	4	149	9
	(in Nos.)					
ors	12	12	1	0,374	26	12

(2) The practical absence of imports of fertilizers is the more significant because the need for them has risen with the decrease of the available farmyard manure through the substitution of canal or pump irrigation for mechanical lifting appliances worked by animal power.

percentage of the gross output. In fact the share system is well suited to the requirements of the absentee landlord. Being unable to supervise cultivation effectively, he appreciates the share system as an accepted device to prevent the fellah from gross neglect of cultivation. There can however be little doubt that if developments are allowed to follow their natural course, the share system will in many cases develop into some more modern variety of the landlord-tenant system.

The most significant of the manyfold causes which so far have delayed this development (1) is, however, in our connection the continued rentability of the traditional primitive methods of cultivation. In 1930 Sir Hilton Young voiced the opinion that market conditions confronted Iraq with the alternative of introducing far-reaching improvements in her agricultural system or of paying a heavy penalty for its backwardness. "Nothing that anybody can do here," he pointed out, "can make the world buy more 'gulf grain' ... than it wants. To increase the production of these things, as Iraq has done of late, is only to increase difficulties. Variety is needed, as well as quality.... Markets for cheap stuff are speculative markets." (2)

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(1) As for the advantages for the landowners of maintaining under conditions of labour shortage the share system (as applied in Iraq), in so far as it forms an integral part of agrarian tribalism cf. above p. 176 sq.

(2) Hilton Young Report, 1930, op. cit., p. 198.

It does not prove the inaccuracy of Sir Hilton Young's statement in the long run that the ten years subsequent to the verdict have brought no conclusive affirmation of its correctness. Iraq has fared relatively well on the markets with her increased output of cheap produce. A continuation of the old methods has paid well enough in good years, beside having the advantage in days of stress to avoid the financial risk which capital investment entails.

The short supply of agricultural labour sets limits to the expansion of commercial crops in so far as their growing requires increased cultural attention. It certainly puts serious obstacles in the way of a simultaneous increase of the cultivated area and more intensive forms of cultivation. Where a choice will have to be made, it will often be in favour of a further extensification of methods. A fuller exploitation of the land could be achieved only by additional labour or the introduction of machinery. But agricultural labour will remain scarce as long as the growth of population does not overtake the increase in cultivable land, and agrarian policy will have to be materially altered before agricultural machinery could effectively step into the gap.

It appears that the disproportion between the size of the population and the magnitude of the potential agricultural wealth of the country is, for some years to come, bound to grow even more marked. The large scale reclamation of

irrigable lands by the completion of irrigation key works is only just beginning. The ancillary works and canals which are to make possible the full utilisation of the area commanded by the Kut barrage may be far from completed before the Habbaniyah ~~acreage~~ Escape which is under construction at present, may provide a further large addition to the cultivable lands of Lower Iraq. At the same time the new rail connection with the Mediterranean, must be anticipated to stimulate production in Upper Iraq. The exportable surplus is bound to increase even if the present backward standards of production remain fundamentally the same. The danger exists that as long as there is no sufficiently strong economic pressure, enforcing a change in the customary methods of cultivation, the interests of the landowners and of the nation as a whole may tend to diverge, since a continuation of the present primitive methods inevitably involves a delay in the improvement of the standard of living of the mass of the cultivators.

So far neither the state nor the private owner has evolved improvements of the prevailing system sufficient to guarantee the provision and direction of adequate investment in Iraq agriculture. A number of notable attempts at overcoming the deadlock have however been made by public as well as private agencies.

(b) Foreign Concessionaires.

There was a time when the development of the country by means of foreign concessionary companies, seemed the most obvious course to adopt. In his book on "Die Bagdadbahn", Paul Rohrbach had set out such plans, in the eventuality of the development of Mesopotamia falling to Germany.(1)

In 1919 H. St. J.B. Philby, in a memorandum on cotton growing in Iraq, which he prepared for the Civil Administration, pointed to the success of cotton development by British companies in Punjab and Egypt. "There is no reason" he concluded, "Why similiar or greater success should not attend such an experiment in the development of Mesopotamia;"(2) he suggested that the Government should call in the British Cotton Growing Association. But the Association's attitude towards Iraq cotton was determined by the desire to wait for the results of the necessary preliminary and experimental work. In autumn 1919, two delegates of the Association had toured the country and soon afterwards that measure of co-operation on a small scale with the Department of Agriculture was established, to

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(1) P. Rohrbach, Die Baghdadbahn, 2nd ed., 1911, p. 28; S. Ruete, Die Aussichten des Anbaues der Baumwolle in Nord Mesopotamien, Beiträge zur Kenntnis des Orients, vol.I, 1923. The German plan (put into effect before the war 1914-18 in the Adana area) was to obtain large concessions for German companies and to let out land in small parcels.

(2) H.St.J. Philby, Cultivation of Cotton in Mesopotamia, Preliminary Memorandum, 1919.

which nevertheless the progress of the ensuing year owed much.(1) After the termination of the Mandate, however, the Association sold the ginnery established by it in Iraq in 1920. Its complete withdrawal from the country, though sufficiently explained by the renewed failure of the cotton crop and the economic crisis, was motivated also by a belief that British cotton development could be more advantageously carried out on British administered territory. The heading of Sir W.H. Himbury's last Report on cotton growing in Iraq, in 1932 "from Iraq to the Sudan"(2) may be taken symbolically.

In 1925 Sir Hilton Young reiterated that it should be possible to interest private capital in irrigational development on a large scale.(3) This was said at the time when the affairs of the so-called Asfar concession agitated the minds of the public in Bagdad. In 1924, to meet the "increasing demand on the part of the public for the execution of schemes alleged to be highly profitable,"(4) a concession was awarded by

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(1) On the early history of cotton in Iraq cf. in particular: Roger Thomas, Report on Cotton Experimental Work in Mesopotamia, 1918-19, Baghdad 1920; Evan Guest, Annual Report on Cotton, Department of Agriculture Memoirs, No. 15, 1931; A. Eastwood, Empire Cotton Growing Review, July 1931, p. 178 f.

(2) 'From Iraq to the Sudan', British Cotton-Growing Association 1932; cf. also the previous reports Sir H.W. Himbury, Iraq as a Source for Increasing Raw Cotton Supply, 1925; do., Iraq and the Sudan, 1929; see also Sir H.W. Himbury, Cotton-Growing in Mesopotamia, Near East and India, 1925, p. 414 f.

(3) Hilton Young Report 1925, op. cit. p. 37.

(4) Special Report, op. cit. p. 180.

the Council of Ministers to a group of Iraqi politicians and officials, headed by Dr. Hajib Beg al Asfar, for the irrigational development by private enterprise of a large portion of central Iraq.(1) The so-called Asfar concession(2) gave the concessionaires the right to study and prepare detailed schemes and estimates for agricultural development in the Middle Euphrates and Diyala areas, including the schemes for the Habbaniya escape and the Feluja barrage; large scale agricultural demonstration was to furnish the necessary financial data as to the probable returns. The company or companies, formed to carry out the major schemes on the basis of the information obtained, were to hold concessions for a period of sixty years at the close of which the assets would revert to the Government.(3) Considerable reductions of the land tax were promised to the concessionaires.(4) English circles were interested in the concession. The irrigation department referred to it as "a most important event" and was ready for full co-operation.(5) The concessionaires announced their intention

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(1) The concessionaires included Hamdi Beg al Pachachi (In 1940 appointed President of the Baghdad Chamber of Agriculture.) and Thabit Beg Abdul Nur.

(2) The Asfar concession dates back to 1909 when the Asfar family (of French origin) put forward a large scheme for the development of former Saniyah estates in different parts of the Empire.

(3) Report 1923/24, p. 118.

(4) Hilton Young Report, op. cit. p. 23.

(5) Sir Thomas Ward, ex-inspector general of irrigation in India, as irrigation expert for the concessionaires, selected the most promising schemes from the information placed before him by the irrigation department. Report 1923/24, p. 169.

to irrigate an area of 500,000 acres each of cotton, wheat and barsim, though their expectations centred on the possibilities of cotton. But neither was it an easy matter to attract British capital to a notoriously difficult country which was no part of the Empire, nor was the Iraqi public friendly towards the idea.(1) The great scheme ended in a scandal, but not without having led to the creation, under the terms of the concession, of a British company, the Diyala Cotton Plantation Ltd.,(2) afterwards renamed Latifiyah Estates Ltd.

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(1) In the Chamber of Deputies feeling ran high in 1928. It was demanded that those responsible for the concession should be called to account for their errors. A resolution for the impeachment of the whole of the Cabinet responsible was put forward. By a small minority the resolution was referred to a parliamentary committee together with another resolution proposing the impeachment of Hamdi Beg al Pachachi for retaining his seat in the Chamber although he had been an original concessionaire in the Asfar concession and held 30,000 shares in the Latifiyah Company.

(2) The Diyala Cotton Plantation Ltd. under the original concession was granted 108,000 acres in the Diyala area. It began operations in 1925 but with little success because, it was stated, the land had been too hastily selected. Moreover it was found that the obligation entered into on both sides had been based on insufficient data. In 1928 the original concession was cancelled and replaced by a fresh agreement of more modest dimensions by which the Latifiyah tracts of about 62,000 acres on the left bank of the Euphrates were granted the company in Tapu. The new scheme found at first, no more favour with public opinion. The Finance Committee advised the Chamber to accept the Latifiyah Concession Law because it provided the only possible escape "from the dangerous commitments" of the Asfah Concession. When ultimately the Draft Concession Law was passed with 46 to 17 votes, it was only as a pis aller compared to the original concession. Cf. Law for the grant of the Latifiyah Estates to the Latifiyah Estates, Ltd. No. 49 of 1928.

The new concession retained the control of irrigation for the government, it undertook to construct and to maintain a canal with regulators which was to remain its property, (1) although the company agreed to repay the capital outlay.

The company has to some extent succeeded in demonstrating the advantages of a systematic lay-out, energetic management and the application of modern methods for the maintenance of fertility.(2) But its commercial success was not considerable enough to attract imitations. The Latifiyah estates remained the only example of direct exploitation of Iraq's agricultural resources by foreign enterprise.(3)

Large scale development by foreign private companies will scarcely be called upon to play a prominent part without a drastic change in the political climate, for which there are few indications at present.

The Foreign Concessionary Company is not valued according to its ability to achieve a high productivity. It will continue

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(2) Mr. Garbett, the local director of Latifiyah Estates Ltd. is at present a member of the Administrative Committee of the Bagdad Chamber of Agriculture.

(3) Another British concern, the Wolfra Syndicate, had started operations in 1925, but had been unable to take the first hirdle. Whilst the Diyala Cotton Plantation, from the outset, relied on English management, the Wolfra Syndicate hoped to escape the difficulties, arising from conditions of tenure and from the share system by co-operating with local landowners. (Cf. Report 1925, p. 69 f; 1926 p. 66 f.)

to figure low on the list of desirable forms of land exploitation as long as it is believed that an undue percentage of the additional wealth created by it is bound to figure in the national income of another people.(1)

(c) Development by Public Agencies:

If the Government has not so far taken itself a hand in agricultural exploitation to any notable degree, this must be attributed to (perhaps not always convincing) financial reasons rather than to disinclination based on grounds of policy.

Already under the Anglo-Iraqi regime, the Department of Agriculture prepared a programme for large scale demonstration farms to be run on commercial lines, and to be distributed over the country in such a way as to provide examples for each main type of agricultural enterprise.(2) "If funds could have been allocated to start even one such farm" it was claimed, "personnel could have been trained upon it and funds could have been accumulated from working profits to provide for subsequent expansion."(3)

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(1) The susceptibilities of Iraqi Nationalism can be gauged from the fact that by special amendment the restrictions to foreigners in the acquisition of lazma rights (according to the Law of 1938) has, in 1941, been extended to Tapu rights as well (Cf. above p. 345 note 3.).

(2) At present of the three experimental Farms of the Ministry of Agriculture that at Abu Ghuraib has some commercial production.

(3) Special Report, op. cit., p. 190.

The State Domain Department suggested in 1926 and again in 1930 that the Government should itself proceed to the active exploitation of its lands or part of them. A sub-department should be formed to conduct practical farming operations. But the suggestion was not pursued either, mainly because of the "chronic lack of funds" to form the capital of such enterprises.(1)

Attempts to give a practical test to a more responsible interpretation of the states role as landlord achieved no striking success.(2) There may however be recalled in this connection - though we have to go back half a century - one outstanding example of the effective discharge of the function of the landlord by a to all practical purposes public agency, namely the Saniyah Administration of Sultan Abdul Hamid.(3)

It is true, the estates were hand-picked and consisted of the most fertile land in the country, and that the administration benefited in many other ways from its privileged position. But as a possible pattern for the exploitation of the State Domain, the example of the Saniyah Administration deserves nevertheless closer attention.

(2) "Encouragement" of Private Investment.

The capacity of the more enterprising section of the Iraqi landlord class has been illustrated by the irrigation pump

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(1) Ibid., p. 126.
(2) Cf. above p. 327
(3) Cf. above p. 299 sq.

development. Its appeal to the private Iraqi investors lay in the promise of attractive and immediate returns. In the excessive optimism of the boom atmosphere of the late twenties many acquired pumps on easy payment terms or on credit, and started farming, speculating on the current high prices, without either the requisite knowledge or capital to succeed. When the slump came, pump irrigation was sustained by generous assistance from the government, as it had previously been encouraged by tax exemption and the supply of cheap fuel.(1) "The Government has nothing to spare" commented Sir Hilton Young(2) "for the mere relief of private purses by subsidies concealed or open."

Thus, being spared through the grant of subsidies the real necessity of offsetting higher production costs by higher production, the pump owners did not devote any sustained effort to raising the value of their output by fully exploiting the

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(1) As to the legislative measures favouring the pump owners cf. for instance 1. Law for the Grant of a Loan to Cultivators for the Purchase of Fuel Oil No. 37, of 1930. 2. Amendment thereto No. 43, of 1930. 3. Law for the Right of Fifty per cent of the partial Exemption Demands on Pumps No. 96, of 1931. 4. Law for the Right of Demands in Respect of Pump Lands No. 8 of 1933. It also seems that the rate of 2% or - in case of less favourably situated lift lands - of 1% of the annual harvest - is fixed very low if compared with the 15% and 10% paid for flow lands. Moreover, only lift lands have for assessment purposes been classified in categories according to their distance from the markets, i.e. Baghdad and Basrah (Land Taxation Law No. 73 of 1936 art. 1 and 7; Lift Land Area Regulation No. 40 of 1936.)

(2) Sir H. Young Report, 1930 p. 171.

possibilities of improved irrigation. The majority did not care to introduce innovations, apart from the actual installation of the pump. They often neglected measures indispensable to the maintenance of soil fertility, contingent on pump irrigation. They continued to produce the traditional barley and wheat by the familiar methods of cultivation. It is true that at the time of the pump boom about 90% of the cotton crop was grown on farms irrigated by pumps. But the fact that the number of bales produced annually barely exceeded the number of pumping engines, proves that the power employed on cotton irrigation was only a very small percentage of the total available.(1)

The areas brought under cultivation by the pumps by no means represented a net gain to Iraqi agriculture. The already scanty agricultural population was often merely shifted from established farms to new ventures where more favourable terms were offered them.(2) The increase in production on the pump lands was thus to a certain extent only achieved at the expense of other less profitable lands. The ensuing displacement of labour inevitably involved serious economic and social repercussions. The pump movement shows as a debit the wastage which uncontrolled private investment is liable to entail; but it can on the other hand boast as a credit a lasting achievement which would otherwise not have been possible at the time.

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(1) Eastwood, see Empire Cotton Growing Review 1937, p.180.
(2) Special Report, op. cit., p. 198.

Caution is, however, necessary in concluding from past failures as to the inadequacy of any system so far adopted in Iraq, since it might quite rightly be objected that none of them has so far had a fair trial. The indications are that the most likely line of advance lies in the development of suitable forms of cooperation between state and farmer, such as agricultural exploitation by semi-public bodies; a state supervised or controlled system of agricultural cooperative societies (perhaps similar to that evolved in Turkey)(1); state tractor and machine stations (fashioned after the Turkish pattern on the Russian Model)(2); the organisation of cheap agricultural credit etc. The particular circumstances of each scheme will determine whether the state is to assure the best results from its cooperation with the farmer by retaining rights to the land or not. The decision may depend largely on whether the services of the state are designed to benefit a small class of land owners or the mass of the rural population, as the latter case would dispose of the objection against private ownership, raised in the interest of equitable distribution of the income from agriculture. For, as Charles Gide

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(1) Cf. below p. 392 and Appendix B.I.

(2) A scheme on such lines, under the auspices of the Agricultural Bank, was ready before the outbreak of war. To begin with, 150 tractors should be organized in three groups of 50, serving the Baghdad, Diyala and Kut areas. The tractors should be leased to the landowners on a daily rate.

points out "it is surely possible to say that ownership will be just as when everyone as when no one owns."(1) What then are the prospects of transforming Iraq into a country of small peasant proprietors?

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(1) Encyclopaedia Britannica 1936 vol. 13 p. 654.

b. The Prospect of Peasant Cultivation in Iraq.

The demand for an alienation of state land is no longer pressed only to suit the interests of the land owning class. It has, in more recent years, been brought forward as energetically by spokesmen from the opposite camp. In the spring of 1936 a debate on the land questions in the Chamber revealed a strong current of opinion favouring the fostering of a peasant class.(1) The large landowners and the "feudalism" for which they stand are accused of being enemies to a healthy development of the country. The land should be partitioned in small holdings for which an average size of 5 feddan has been suggested.(2) Sections of the press continue to raise the issue of a redistribution of the land.(3) Promises of an allotment of non-alienated miri land to fellaheen, tribesmen and nomads has become an almost regular adornment of government programmes. According to a government announcement in 1936, the uncultivated miri land should be given Iraqi citizens with full regard to prevailing customs.(4) The Prime Minister Hikmet Suleiman promised that the state domain would be distributed

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(1) Himadeh, Iraq, op. cit. p. 56.
(2) Cf. The speech by Suleiman Beg Fattah in al Balagh (Cairo) 9th March, 1936, and on a draft law prepared by the Ministry of the Interior al Iraq (Baghdad) 7th April, 1936. It may be assumed that the size of 5 feddan as a rough definition of the lot viable has been taken from the Egyptian Five Feddan Homestead Legislation.
(3) Cf. for instance al'Zaman June 30th, 1943.
(4) Al Balagh (Cairo) 8th January, 1936.

to the greatest possible extent and in accordance with equitable principles.(1)

A free peasantry - which for so long now has represented the universally acknowledged remedy for the wrongs of an anachronistic feudalism - had already been recognised as the desirable ~~free~~ foal in land policy by the Ottoman Legislation and by the British Civil Administration.(2)

Which are the principal issues raised by a policy which aims at the creation of a peasantry either by the grant of uncultivated miri land to fellaheen or tribesmen or - as the reformers demand - by the partition of large estates as well?

(1) Problems of the Small Farm:

The main economic argument in favour of the "green revolution" which swept the eastern and central European Countries after the last war was the need to provide employment on the land for the rural surplus population. When, in England, small holdings have received the special care of the legislature for the last fifty years, this was prompted largely by the desire to settle men, forced into idleness, on the relatively idle land. Iraq, on the contrary, seeks a remedy for its shortage of labour and has no problem of structural unemployment.

The labour shortage provides a strong case in favour of the larger unit of agricultural exploitation, which generally

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(1) Le Temps (Paris) 1st June 1937; al Balagh Cairo 14th December, 1936.
(2) Cf. above p.277-4; and p.305-4.

speaking, can be more economic in labour requirements and enables the economic substitution of machinery for man power. Iraq's two staple crops, barley and wheat, lend themselves to large scale mechanical cultivation, and the unbroken flatness of the alluvial plain and of the large part of the Jezirah provide favourable conditions for it. The Department of Agriculture, anxious to propagate the advantages of modern farming methods, thought in terms of large units. 5,000-acre farms were suggested as the minimum area on which a full cycle of mechanical operations could be demonstrated.(1) The distribution of water for irrigation can be carried out more economically under a system of large farming units.

In other words, the to-day widely acknowledged economic weaknesses of the peasant system speak strongly against its application over a large part of the country.(2) Iraq is in the favourable situation of not needing to contemplate the necessity of putting up with a system of lower productivity pending the progress of industrialisation schemes.

It is true that the drawbacks of peasant farming have been overcome by certain countries - usually advanced ones -

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(1) Special Report, op. cit. p. 190.
(2) Cf. for instance J.A. Venn, The foundation of Agriculture Economics, 1933, p. 147 f; R.L. Cohen, Economics of Agriculture 1940, p.45; D. Hall, op. cit. p.274f. For full bibliography cf. E.von Dietze, Encyclopaedia of Social Sciences under "Small Holdings" and "Peasantry".

in which the peasantry is old established. In Lower Iraq, however, farming by independent peasants has rarely, if ever, been widespread, and, used as he is to the direction and the assistance of the sirkal or tapu holder, the individual cultivator has had little opportunity of developing the qualities of independence, or that desire to work on his own which distinguishes the peasants. The country, which has developed a sturdy class of independent peasants, may be regarded as fortunate, on grounds of social and political stability. But, generally speaking, it seems no more promising to try to create a class of "yeomen" out of tribal survivals to-day, than would be in England an attempt at reviving the "yeomen" after the development of estates has long since shown that their time is passed. In none of the Arab countries have the fellahîen revealed any striking aptitude as peasants.(1) The Iraqi tribal cultivator with his desert background, is not likely to be more successful in overcoming the difficulties which beset independent peasant cultivation to-day

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(1) This statement might, though, have to be qualified, in the case of Egypt. - Cf. some more recent works on the question of the cultivators in the Arab countries, cf. especially: H.H. Ayrouth, Moeurs et Coutumes des Fellahs, Paris 1938 (with Bibliography); A. Latron, La vie rurale en Syrie, 1936); M. Sarrage, La necessite d'une réforme agraire en Syrie, 1936 (esp. p.91 f); Scemama, La Tunisie Agricole 1938 (esp. p.181 f). Cf. also Roberts' (op. cit. p.213) somewhat sweeping conclusion on the Arab cultivator in North Africa: "As raw material for a policy of peasant proprietorship in a virgin country, he is almost hopeless."

unless co-operation, or effective government guidance and assistance are not merely loosely attached to the system of peasant farming, but conceived as indispensable and integral parts of it.

(2) Problems of the Large Farm:

But the case against the small agricultural unit does not imply that there is no room or even no need for peasant cultivation, or that the introduction of a system of large-scale exploitation would not be faced with problems of its own. The fact is, that where a healthy peasantry is already established, as in parts of Upper Iraq, it should, as far as possible, be respected; it should be encouraged where either the natural lay-out of the district (as in some of the hilly or mountainous country east of the Tigris), or the type of crop (as in case of the fruit and vegetable gardens in the Baghdad or Dyala areas), favours the small or actually forbids the development of large holdings. The essential point is, however, that a transformation of the present agrarian system into one based on the large unit of agricultural exploitation would be beset with no lesser difficulties than a change over into peasant farming.

Characteristic for the share system in Iraq is large ownership combined with small exploitation. The average size of the Sheikhs or Town owners estate in the Shitwi

area may be about 2,000 donams, let out by him in parcels of about 40-100 donams per fellah.(1) The change of the fellah's plot into a small holding in his own right requires less immediate structural modification of the system than transformation of the fellaheen into workers on a large estate. Since tribal membership is rapidly losing its value as a means of protecting the interests of the individual cultivator, the share system has become the last ditch of defence against the, apparently, inescapable degradation which a capitalist society holds in store for him.(2) It has so far not been possible to break to any extent the share tenant's resistance against his being turned into a wage-earning agricultural labourer. Most schemes for large-scale exploitation have suffered shipwreck over this difficulty because the share system "ill-fits the requirements of estate development on modern lines, however well it may serve the patriarchal system.(3)

The share system is a time honoured device (applicable to food crops) for combining smallscale subsistence farming with market production. As long as barley, wheat and dates remain staple crops, it retains a certain raison d'être, though at the risk of postponing the introduction of suitable cash crops. If, however, it has to go, in view of its many

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(1) In the rice area the size of the fellah's holding averages 4-5 donams.
(2) Cf. above p. 176 sq.
(3) A. Eastwood, Empire Cotton Growing Review, 1931, op. cit.

disadvantages it has to be kept in mind that the change-over from food to cash crop, from subsistence farming to market production, has necessarily to be a gradual process and that, at least for the transition period of unpredictable duration, the dissolution of the share system into large estates may be more difficult and more Harmful to the social fabric than that into small self-sufficient peasant holdings. Large exploitation at the present stage in Iraq's social development is faced with the danger of producing latifundia worked by an amorphous mass of fellaheen. (1)

The peasant system, in spite of the political and social virtues from which it derives its strength, and the fervour of its protagonists, offers no appropriate solution unless the drawbacks of the small unit, and the isolation and weakness of the individual peasant can be effectively overcome. The large unit, though it offers economic advantages in view of the physical conditions of the country and the scarcity of cultivators, is problematic from the social and political aspect. We must, therefore, enquire as to what are the prospects for a successful application in Iraq of the principal systems so far evolved for neutralising the economic weakness of the small unit, (i.e. agricultural co-operation), and the social dangers of the large estate, (i.e. collective farming).

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(1) And if it is not replaced by a modified landlord-tenant system, (Cf. above p. 370)

The modern ideas as to modifying the system of individual peasantry or as to its abandonment are of special importance for Iraq in view of the surviving traditional forms of collective land utilisation.

C. Agricultural Co-operation and Collective Farming

(1) Agricultural Co-operation.

The Agricultural co-operative movement which, especially since the last war has extended to most oriental countries, has not yet struck roots in Iraq. The impulse towards it, under Sir A.T. Wilson's administration was not followed up. In some districts under the Civil Administration cultivators and smaller landowners were encouraged to take up the leases of Government properties on a co-operative basis.(1) The rebellion, and the ensuing constitutional changes of 1920 prevented the British officer, who had specially been sent to India in 1919 to study the co-operative credit movement in the Punjab, from applying his experiences.(2) When an Agricultural Bank was first projected, the distinguished co-operator, C.F. Strickland, was invited to become the manager, but was unable to accept.

More recently a fresh interest in co-operation could be observed. Before the war a special section for agricultural co-operation in the Directorate-General of Agriculture was projected with the task of "imparting the co-operative spirit among the farming classes as well as of training and assisting

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(1) Admin. Report. Rev. Dept. 1919, p.22.
(2) Revenue Circular No.97, 1919.

them to found co-operative societies."(1) When, in 1940, a Government Agricultural Bank was established,(2) to take over the agricultural activities of the Industrial and Agricultural Bank of 1935,(3) its objectives included assistance "in the formation of co-operative societies for cultivators and to making advances to them." But no active steps have so far been taken to establish primary societies.

If Iraq with Syria, Iran and Afghanistan constitute to-day the only group of states in Asia without a co-operative movement,(4) this is largely attributable to their political framework, but also to some extent to difficulties inherent in the agrarian situation.

There ought to be room in Iraq for co-operative organisation among the more advanced farmers. According to its constitution, the Date Association is intended to form "co-operative societies of date growers and to participate therein."(5) Other producers of cash crops, and of export crops such as cotton and linseed in particular, may be considered as in a similar

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(1) Ministry of Economics regulation No.91 of 1939, Art.5 (h). Cf. also Ordinance No.59 of 1939 for the establishment of the Ministry of Social Affairs Art. 2 (f), according to which the new Ministry is charged with the "control of co-operative societies".
(2) Cf. Law for the Creation of an Agricultural Bank No.18 of 1940, Art 2 (13).
(3) Law No. 51 of 1935.
(4) Cf. Strickland, Co-operation for Africa, p. ; Strickland, Co-operation in India, p.
(5) Ordinance No.6 of 1939, Art. 14.

category. There exist, moreover, farming communities settled in groups of villages east of the Tigris and elsewhere, whose supervision offers no special obstacles, and whose fruit and vegetable production, mainly destined for the towns, represents sufficient value per land unit to justify the establishment of credit and marketing societies.

But the great mass of the cultivators still provide difficult ground for the introduction of societies of the Raiffeisen type. Obstacles to contend with include the extensive methods of cultivation, and shifting cultivation in particular; the scattered groups of huts and of small villages; the large extent of subsistence farming, slowing down the development of a complete money economy; the share system which divides rights and risks in regard to the crop; the system of land tenure, according to which the cultivators who would be organised in the societies, rarely possess a title to the land. Though none of these circumstances if taken alone, offers an unsurmountable obstacle, yet in conjunction they represent a marked hindrance to a widespread and early introduction of credit societies.

But co-operative theory, and - to a lesser extent co-operative practice also - has proved resourceful in attempts to adapt itself to the peculiar requirements of the backward rural masses, who are not yet fit to avail themselves of

credit or marketing societies.(1) For that purpose modifications of the classical pattern of agricultural co-operation, both as regards the function of the primary society and as regards the relation between the State and the co-operative movement have been suggested and are being tried out. The primary society among backward cultivators, it is suggested, should put a special emphasis on the educational aspect of co-operation, and assume a leading role in "rule uplift". If desirable to guarantee the societies' stability, the State should be less hesitant in taking an active hand in co-operation than has been the rule in more developed countries.

So far, the actual achievement of agricultural co-operation, as an instrument for the advance of the backward cultivators, has tended to lag behind expectations, and its record, especially in Arab countries is not striking. Because co-operation presupposes a belief in the innate character, commonsense and initiative of the human species, even in its most humble and ignorant members, it has always thrived best when linked with a living ideology. In the East, and particularly in Iraq, its chance seems to lie in a close alliance with the forces of a constructive nationalism.

(2) Collective Farming.

"Candid observers...agree in the testimony that as an agriculturist he has hitherto been in the mass, either per

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(1) Problems of Agricultural co-operation in Moslem countries are more fully discussed in Appendix B.I. below p. 427 ff.

head or per hectar, the least productive of all...whether as a result of nature or of nurture; of climate or of race; or of centuries of oppression and illiteracy."(1) Within the space of a few years the application of collective farming has turned this description - which fits the Iraqi tribesman no less than the "typical mujik" about whom it was made - into a historical reminiscence.(2)

What makes collective farming as a technique prima facie attractive for conditions in Iraq is that it is based on the large unit and favourable to mechanised agriculture. It enables economy not only in man power but also in skilled agriculturists and technicians, because of the smaller number of units to be served. Collective agriculture allows for no

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(1) S. and B. Webb, Soviet Communism, 1937, Vol. I, p.234.

(2) The effectiveness of the system as a means of raising the standards of life and the standards of cultivation among a backward agricultural population, is almost universally recognised to-day, but the price paid in terms of human freedom is considered too high by its critics. Cf., for instance Hubbard, Soviet Agriculture, 1939. It appears, however, that sometimes the dwelling on "the loss of individual liberty", which collective farming entails, means applying no more adequate standards of judgment on the background of oppression and illiteracy than would a facile parallel between the achievements of ten years' collective farming in Russia and thirty years' co-operative effort in India.

There is in fact no wide margin between the looser form of collective farming, and state-directed systems of co-operation. But collective farming has not yet reached the stage (attained by co-operative agriculture long since) when it is generally accepted as an agricultural technique which is fully detachable from the specific political framework and ideology in connection with which it was first developed.

less scope as regards the adaptation to local requirements than co-operation. Of the three principal types developed in Russia the least collective, the kolkhosi, which preserves the individual holding of land, but unites labour and management, may be well fitted to absorb certain tribal systems of cultivation which function on similar lines. The sharing of the proceeds among the members of the kolkhosi might be successfully grafted on to the concept of the old share system.

Collective farming, as an instrument for the social advance of a backward rural population, provides an opportunity of catering not only for an élite, but of effecting a community of primitive cultivators as a whole, and may thereby avoid the danger of adding a new cause of disintegration, which has been observed in connection with the introduction of agricultural co-operation in tribal societies.(1) Moreover, when the process of disintegration has already set in the time factor is of crucial significance. Against this, the co-operator does not always quite convincingly insist that the question is not "at what pace but in what spirit and towards what goal" one proceeds.(2)

State intervention into agricultural production being already in the line of the Government's policy before the introduction of collective farming would in so far be only a further advance on the adopted road. Nor exist obstacles on

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(1) African Survey, op. cit. p.1481 f.
(2) C.F. Strickland, Co-operation for Africa, p.41.

institutional grounds against the establishment of collective farms on miri land.

IV. Conclusions: Tribal Policy and Land Policy.

A study of the land legislation of Iraq by itself would convey no inkling that the majority of the rural population is still affected by some form of tribal affiliation. It practically ignores the existence of tribalism.(1) The law is satisfied with occasional references to "local custom", which is to be taken into consideration when certain provisions are applied. The land legislation is an outstanding example of the general reluctance of the Iraqi legislator to make separate provisions for the tribal population, because of his fear of thereby giving implicit recognition to the existence of a dual society which he is disinclined to acknowledge. To allow, however, for a gradual and well-guided integration of the tribal population into the State and a unified society, a special land regime is of no less importance than a separate legal system.

1. The Prevention of Spoliation.

A policy of early crystallisation of land rights, a restriction of the State's right to the land and the introduction of private property of land - not without risks in any backward society - is a truly hazardous course to follow in the case of a tribal population. This lesson has been unmistakably brought

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(1) The only explicit references to tribes are in one or two provisions of minor importance as, for instance, in the above-mentioned ruling as regards "hor" land. (Cf. above p.260 Ref.)

home to the French Administration in the Maghreb, which for 80 years has become a veritable testing ground of various land policies designed to meet the conditions of a disintegrating society of Arab (and Berber) tribes.(1)

The ultimate aim of French policy on tribal lands, in spite of many "tactical" changes, has always been the same: the establishment of an individual peasantry. But the short cut towards this end attempted in Algeria, proved a cul-de-sac, and has consequently been carefully avoided in Tunis and Morocco. "Many of the evils of modern Algeria" it has been said, "can be traced to the operation of the law of 1873" which facilitated the individualisation and unrestricted exercise of land rights.(2) Its results were to engender a spirit of speculation among the tribes thereby shattering the tribal organisation, and in the end to deprive them of their land. "The very idea of property," said a French Governor-General, "such as the Roman law and long centuries

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(1) Of the rich French literature on the "Terres collectives", cf. in particular: A. Bernard, Les Communs Algéro-Marocain; De Chavigny, La Terre Collective des Tribus en Algérie et Tunisie; Dumas, La Population Indigène et la Terre Collective des Tribus en Tunisie; L. Housset, Le Statut des Terres Collectives et Fixation au Sol des Indigènes en Tunisie; G. Kaspar, Koloniale Boden-rechtspolitik Frankreichs in Tunesien; Louis Milliot, Les Terres Collectives au Moroc; Pouyanne, La Propriété Foncière en Algérie; Rectenwald, Etudes de Legislation Tunisienne; Souluragnou, Rapport sur Les Terres Collectives; Sultan, La Politique Foncière en Tunisie.

(2) Cf. L.Franck-Chauveau, Report "Propriété Foncière" in Journal Officiel 1893.

of progress have made it with us, was foreign to the Arab spirit... We thought to free property before freeing man."(1) French literature on the subject is more or less unanimous on the lesson of Algeria: "Nous avons fait en Algérie l'expérience de la mobilisation des terres collectives. Les administrateurs sont unanimes à conclure qu'elle a ruiné les fellahs qui en ont bénéficié écrasés sous le poids de leurs dettes, évincés par les spéculateurs ou par les partages, ils ont grossi la foule des prolétaires et des assistés."(2)

The special regime for the "terres collectives des tribus" in Morocco and Tunis is meant to allow for the organised supervision and guidance during the period of transition from tribal customary land rights to private property.(3) The demand for land by European settlers has not influenced the shaping of this policy to such an extent as to render its lessons inapplicable for Iraq. The system of the "collective lands" is more effectively organised in Morocco and Tunis where the pressure of the European settler is less than in Algeria, and in Algeria, too, to protect "l'indigène contre lui même,"(4) has,

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(1) V.Piquet, V. La colonisation française dans l'Afrique du Nord 1912.
(2) L'Afrique Francaise, June 1937.
(3) The most important legislation is contained for Morocco in the Dahir of April 27th 1919; for Tunis in the Decret of December 30 1935.
(4) Cf. Housset, op. cit. p.86; the Decret of 1935 excludes from the acquisition of land in recognised tribal areas foreigners and Moslem Tunisians who do not own land in the District (Art.10).

since the days of the Senate Consulte of 1863, been recognised as an indispensible requirement.

Iraq is only just entering a new stage when the dangers arising from the absence of a special regime for tribal lands will become more apparent than hitherto. As long as most tribal landholders were tenants of the State, the Administration had a free hand in co-ordinating tribal and land policy as necessity arose. It was with the assumption that the State retained unrestricted control of the domain lands, that Sir Ernest Dowson and his predecessors thought it possible to dispense with a systematic discussion of preferable systems of letting land to tribal occupiers. It may be held that this left too much scope to official discretion; questions such as whether or when tribes should be recognised as juristic persons represented by the sheikh, or when the sheikh's, or the tribesmen's rights should be acknowledged - were issues deserving of decisions above the level of provincial administration.

But even the recourse to the local officials' insight in customary rights and trends of development is no longer feasible to the same extent wherever the lazma tenure has been introduced in tribal areas. Its appearance has given a new aspect to the question of a special regime for tribal lands. If the lazma tenure is not to become an instrument for an indiscriminate speed up of tribal disintegration, the decisions as to

where it is to be introduced and in which manner require careful consideration. Districts suitable for the tenure are according to the Law, specified by regulation of the Ministry of the Interior;(1) in the specified areas lazma rights are granted in the first instance by the Settlement officers in accordance with the provisions of the Lazma and Land Settlement Laws which ignore the existence of tribal land holding. In making their decisions, both the Minister and the Settlement officers have to fall back on their discretion. Yet the delimination of areas ready for the introduction of the lazma tenure presupposes a definition as to which areas are unsuitable for it in its present form, - in other words, of the purely tribal lands. It appears that a certain legal definition and ensuing delimination of tribal lands is more necessary than ever.

If this were undertaken the rich store of experience gained in the Maghreb could be drawn upon. In Iraq, for instance, it seems still to be readily assumed that individually held land need no longer be regarded as tribal,(2) whereas the recent legislation on "terres collectives" makes a special point of including in them not only "terres de cultures et de parcours dont les membres de la collectivité se sont partagés la jousissance à titre familial ou individuel."(3)

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(1) Land Settlement 1932 ~~Lazma~~ Law, Art.11.
(2) Cf. above p. 329
(3) Art.1; On "terres de jouissance familiale et individuelle" cf. also Art.21.

Also the definition of a tribe should not in this connection be too narrow. For instance, in Upper Iraq many villages may be considered as "tribal", although the Agha is foreign to the tribe.(1) Everywhere in Iraq "tribes" have originated, as we have seen, from an ad hoc co-operation in the exploitation of land.(2) We may, for the present purpose, with the Tunisian legislator, define as a tribe "Tout groupement - administratif, familial ou quelconque - qui justifie d'un droit de jouissance collective."(3) As has been suggested under the British civil administration, and, (though only incidentally) by Sir Ernest Dowson,(4) the tribes might, as in the Maghreb, for the purpose of land holding be given juristic personality.(5)

2. The Promotion of Development.

But provisions against spoliation from without are of little avail as long as they are not combined with measures for the prevention of "spoliation" by internal stagnation. In the Maghreb the legislation for the "terres collectives" provides a - perhaps rather cumbersom - machinery for gradual guidance from collective usufruct towards individual property. The development up to the stage of individual usufructuary

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(1) Cf. above p. 269-72.
(2) Cf. above p. 187
(3) Art. 2, ibid.
(4) Cf. above p. 309 ; and above p. 340 .
(5) Art. 3 (f) ibid. The tribe is represented by an elected council composed of heads of families (Art. 6,7,8.); the Caid presides on the Council (Art. 9 ibid.).

holding is intended to take place inside the tribal unit,[1] and the partition of tribal lands which this involves, is unhampered by anxieties to give the impression of re-allotment. The tribal land is not meant to crystallise into individual holdings through a confirmation of the status quo (as it does in effect according to the Iraqi Land Settlement Law), but by allotment to the chiefs of families according to the "number of children over which they exercise paternal power."[2] The transformation of the usufruct of the family or individual into private property takes place by decree,[3] on the recommendation of the "Conseil de tutelle centrale"[4] - which has a majority of officials - which, together with the "Conseil de tutelle locale",[5] supervises and directs tribal land matters. Even after the grant of property rights the tribesmen cannot alienate his land for ten years, "unless to the benefit of the members of his tribe." He can mortgage it only for "améliorations foncières permanentes et au profit des organismes officiells de crédit agricole."[6] After the period of ten years unlimited proprietary status is finally reached, and the authorities retain only the loose control entailed by

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(1) i.e. Douar in Algeria; Djemaa in Morocco; Tribe in Tunis.
(2) Decret of 1935, op. cit. Art.22.
(3) Ibid., Art. 27.
(4) Ibid., Art. 16.
(5) Ibid., Art. 14 f.
(6) Ibid., Art. 30.

the necessary registration in case of sales and mortgages.

Some machinery on similar lines may well be suitable for Iraq, provided the emphasis is placed on a guided process of adaptation rather than ~~of~~ disintegration of tribal society. Our discussion of tribal policy has shown that the disappearance of tribal traditions, and the social discipline and dignity which tribal life at its best can offer, are neither desirable on general grounds, nor necessary for political reasons. It has followed from our discussion of land policy that, if the improvement of standard of living is the ultimate criterion, that, generally speaking, neither the transformation of the tribesmen into tenants of private landlords, nor ~~that~~ into independent peasants provides, ~~on the basis of~~ judging from experiences elsewhere and of prevailing tendencies in Iraq itself, the most promising line of advance.

The aim of any tribal policy is no doubt the careful integration of the political, economic and social aspects of the tribal problem. It appears that, given a positive, well-defined and sustained policy, such an integration may be achieved, without being faced with the dilemma of reconciling incompatible desiderata - so often believed to be the invariable embarrassment of tribal policy. Necessities of security and central administration do not inevitably involve a sacrifice of the important social desideratum, the preservation of tribal values; nor, for that matter, is increased productivity best assured by completely individualising the producers.

The adaptation of the traditional structure of tribal society to the new requirements would preferably take the form of a transformation of tribal methods of agricultural exploitation into a modern co-operative or collective system.(1) Less integrated tribes and those raising crops which are more economically produced on small farming units, may be more readily fitted into the framework of the co-operative society. The advantages of collective farming may be greater in the case of a settlement of tribes on newly reclaimed lands suitable for grain production. Even if there were some truth in the argument that the Arab cultivator, because of an "innate individualism", provides no suitable material for co-operation, it would apply only to the non-tribal fellahs, and not hold good as far as tribesman or recently detribalised fellahs(2) are concerned. The authorities, in executing such a policy, would have a free hand on miri land, and would be in a position to draw on their vast experience in agrarian matters acquired throughout the provinces by the administration of the Domain Lands. A policy on such lines, if ably carried out, may effect a considerable advance towards the accepted objectives: A more rapid rise in the standards of living, avoidance of a further extension of "feudal" conditions, and the preservation of the social heritage of Arab tribalism.

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(1) Cf. Appendix B. II. p. 439 below.
(2) Cf. Appendix. B.III. p 449 below.

E. Postscript.

Social and Ideological Forces.

1. Rural Reconstruction.

The rate and direction of the progress of land policy will be determined by the social and ideological forces in the country, which, in the scope of the present discussion, can only be briefly indicated.

It would be a mistake to assume that in Iraq the necessity of placing planned economic reconstruction in a sound social setting is not being given prominent consideration. "Iraq is in the need" it is pointed out in the press, "of economic planning in relation to social principles."(1) It remains, however, an open question whether the country will be able to turn back in time before reaching that agrarian impass at which other Eastern countries have arrived, illegally because under imperial administration they were no free masters of their destiny.

There is more than one indication of a deepening consciousness of the imperative need to improve the conditions of the cultivating classes. Greater attention has been paid for some time to individual symptoms of rural backwardness. The appalling standards of health and hygiene, and the prevailing illiteracy and general lack of education are no longer ignored

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(1) Al'Zaman, Leading Article. June 30th, 1943.

in Baghdad. In recent years, as in other Eastern countries the idea has gained ground that these various approaches should be co-ordinated. According to the teaching of the American University at Beyruth "it is not one of the single factors" which "constitutes by itself the rural problem... The rural problem is all of these factors and several others taken together. In a word it is the problem how to uplift life in all its phases at the same time."(1) The desire for an all-round improvement of village life has found expression in the Law for the Construction of New Villages.(2) Unlike the Turkish Village Code of 1924 by which it is influenced, it does not aim at affecting all villages but cautiously restricts itself to the construction of new villages and, to the replacement of old ones as this becomes necessary.(3) The site is to be decided

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(1) A. Tannus in Dodd, op.cit. p.621. On the "integrated" approach in the co-operative movement, cf. Appendix . It may be that this "monistic" approach is specifically attractive to members of Eastern societies. On India, cf., for instance, Khan Mohd Bahir Ahmad Khan in Plunkett 1935, p.287: "If the aim is improvement of the village life as a whole...the area to be covered includes education, sanitation, medical relief, provision of games, improvement of agriculture...and a hundred other things."

(2) Law No. 70 of 1936.

(3) D.E. Webster, Turkey of Ataturk, 1939, p.263, called the Turkish Village Code "a beautifully idealistic piece of legislation, the general enforcement of which was impossible; but it did set a standard, a sort of goal towards which to work." As to experiences with Model villages in Egypt ~~see~~ Mohamed Ali, cf. Ayrouth. op. cit. p. 174 f.

and plans are to be drawn up by the Ministry of the Interior; it undertakes to supply the material, but not the labour, for the construction of a place of worship, a school, places for medical aid and bathing, a public garden, and last, not least, the water supply.(1) The construction is to be carried out under the supervision of the Ministry with the assistance of the village council.(2) The first village under the Law was erected near Hillah in 1937(3) and was intended to serve as a model village. Sums for village improvement figured in the Capital Development Work Schemes of 1936 and 1938.(4) Shortly before the outbreak of war a comprehensive scheme for village improvement was prepared, for which the Capital Development Plan of 1939 provided 300,000 dinar to be spent within four years.

Also in 1939, the establishment of the Ministry of Social Affairs provided new machinery for a co-ordinated approach to rural reconstruction, by allowing the concentration under the heading of Social Affairs of activities which so far came under

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(1) Art. 2 and 3.
(2) Art. 4.
(3) A.M. Djamalzadeh, op.cit., p.207; Jamali, op.cit., p.118 considers the establishment of a model village "one of the best immediate aids that could be rendered to the tribes in their state of transition."
(4) Law for the Five Years' Capital Development Work Scheme, No.33 of 1936: 100,000 dinars for village improvement; Law for the Five Years' Capital Development Work Scheme No.45 of 1938: 25,000 dinars for village improvement and housing scheme; Four Years' Capital Development Plan, No.37 of 1939: 300,000 dinars for the village development scheme.

the competence of various technical departments, in particular, health, education and agriculture.(1)

Great obstacles will, however, have to be overcome before social reconstruction can pass on from such palliatives to a programme which focusses on the causes rather than the symptoms.

2. The "Urban" Outlook:

A serious impediment to a healthy solution of the agrarian question in Iraq is that a town-bred nationalism is not very well suited to help in bridging the old gulf between tribesmen and townsmen. The forces of nationalism, which alone to-day seem capable of transcending class interests, and religion and social divisions, have not so far shown in Iraq the strong concern for the cultivating classes which characterises the new Turkey, with its distrust of "cosmopolitan" Istambul and Izmir. Lower Iraq cannot even count on the slender bridges of understanding which link town and country wherever a class of feudatories has been securely established on the land.

Well-meant advances on the part of the town are easily discouraged by the gruff reception with which they meet. "Educational workers among the tribes should not be recruited from cities and towns" urges Mr. Jamali, "for these are not(2)

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(1) i.e., for instance, agricultural labour, co-operative societies, organisation of villages (Ordinance 59 of 1939 for the establishment of a Ministry of Social Affairs).

(2) Op.cit., p.113.

well received by the tribes." The distrust of the tribesmen is matched by the inadequacy for their task of many even of the élite of educated Iraqis who venture to work among their fellow countrymen in the villages. It was reported in 1938 that "Les jeunes gens de Baghdad qui se repandent dans l'ensemble du pays en qualité de fonctionnaires se plaignent beaucoup des difficultés de la vie matérielle qu'ils éprouvent loin de leur ville natale. Pour les célibataires le Ministère de l'Economie et des Communications propose de construire des boarding-houses pour faciliter leur conditions d'existence dans les villages. Ceux qui sont mariés devraient recevoir les maisons comfortables, construits par l'Etat pour lesquelles ils payeraient un loyer."(1)

The difficulty witnessed by town Arabs in acclimatising themselves to a life in the country is stressed rather than mitigated by an artificial and speculative though surprised outlook on agriculture and rural life found among the minority of Arab intellectuals who genuinely desire to transcend the limitations of their urban background, and who recognise that "in order to create a vigorous healthy nation" they must strive "first of all to recreate the village life". "The modern city, with its thousands of artificialities," they may exclaim,(2)

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(1) La France Méditerranée et Afrique, 1938, fasc. IV, p.116; cf. also Jamali, op. cit. p.113 confirming that "a city bred man cannot live comfortably with the tribes for any length of time."

(2) Cf. Afif J. Tannus, op.cit. p.618: "It is an utter impossibility to conceive of moving the nation ahead and leaving the village backward... The centre of gravity of national life lies in the village."

"was never the cradle of the human race...we must go back to mother nature where we can find her in order to satisfy a deep mysterious yearning of the human personality for its place of origin... We have to work in the fields and watch life created from death in response to the touch of a human hand."

3. Feudalism:

The greatest obstacle in the way of constructive agrarian planning is, however, what is commonly referred to as a modern form of "feudalism", with which the larger part of the Arab world is implicated. What is usually meant by the much-abused term in this case is merely the dominating position - politically, economically and socially - assumed by a small minority of large land owners. The pattern of power in Iraq to-day can be said to correspond to this simplified model only with important qualifications. But there can be no doubt that the interests of the rural masses are far from adequately represented in the seats of power, and that it is difficult to predict through which agencies a re-adjustment of the social balance could be brought about.

Examination of the Statute Book of Iraq suggests that the Deputies from the "land owning class which has been predominant in Parliament"... have not failed to make free use of their position. Many of the financial measures granting remission of arrears in revenue and of other financial legislation which was passed by the Chamber for the benefit of Iraq

as a whole," particularly after the agricultural crisis of 1931, have especially favoured their own class.(1) Cabinet Ministers were known to tolerate or favour the grant of land to their friends and relatives.(2) In the face of continuous criticism the precaution was taken,of inserting in the Law for the sale of Miri Lands a clause, excluding from participation in public auctions of domain land, the Prime Ministers and other ministers, officials of the Province and Districts in which the land is situated, and relatives, agents, or employees of either of these.(3)(4)

Discussions on the possibilities of altering the constitution and of reforming and revitalising the party system have(5)(6)

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(1) Ireland, op.cit., p.432. Cf. especially the legislation in favour of the pump owners,above p.370 "The attitude of Parliament to personal agrandissement -- at the expense of national interests", says Ireland (p.441 f) was emulated by Cabinet Ministers who were "known to take advantage of their position for personal profit."(An outstanding instance has been the passage of legislation remitting revenue on lands irrigated by pumps by a Minister of Finance who, as one of the largest owners of such lands, saved himself £3,000 in taxes annually.)

(2) Cf. for instance, the sharp attacks against these malpractices by Yusuf Ismail, in Filastin, 12th January, 1937.

(5) No.11 of 1940.

(4) Art. 8, ibid.,

(5) In December, 1942, the formation of a Committee for the Amendment of the Constitutional Law was announced (Iraq Times, December 20th 1942). The Committee would sit under the chairmanship of Jamil al'Midfai and the British advisers to the Ministries of Justice and of the Interior would be invited to attend its meetings.

(6) During a meeting of the Finance Committee of the Chamber, on December 5th 1940, a lengthy discussion took place between the deputies on the ~~1940~~ conditions to which parliamentary life had been reduced in the country. In former years and even under the Mandate the Chamber of Deputies performed

(contd. on next page)

rarely ceased in Baghdad since the fall of Sidqi Pasha's semi-dictatorial government. Many proposals center on the idea of a strengthening of the Executive.(1) It is impossible to foretell in which way such political reforms, if they were to materialise, would affect the agrarian policy of the Government. Surveying the past functioning of political institutions in Iraq and the economic and intellectual dependence of the bulk of those entitled to the vote, it is easy to understand the apprehensions of some Iraqis that the present trends, though they may lead in the wrong direction, may have

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(Footnote (6) contd. from previous page)
its political and democratic function of holding the Government to account for its conduct and controlling its activities in accordance with the Constitution and democratic principles. The deputies unanimously agreed that, if it was desired, to strengthen parliamentary life, and the spirit of the Constitution, it was necessary to make a tenacious effort to form political parties to serve the country in Parliament and outside it. (Al Bilad, December 6th 1940.) Cf. also for instance the leading article in al-Zaman 23rd April, 1943, urging the necessity of forming political parties in the country. The absence of political parties in Iraq had produced "painful experiences", the consequences of which were still obvious. There could be no real democracy unless the rulers and representatives of the nation could be held to account by means of "parties, societies, the Press and free expression of opinion". Cf. also Oriente Moderno: 1939 p. 332 f. Nuri es Said on the need for Internal Reform.

(1) Late in 1942 a Royal Iradah was issued, setting up a Higher Court - consisting of four Senators and four members of the High Court of Appeal - to pronounce on the compatibility of certain proposals with the Constitutional Law. The Court decided by a majority of five to three, that the provision of Article 22, that "no modification may be introduced into the Constitution during the Regency concerning the King's prerogatives," did not preclude an extension of those prerogatives. (Iraq Times. December 20th, 1942).

to run their course; that the unique possibilities of building aright from the outset may be wasted; ~~that~~ and Iraq, following other oriental countries, may have to pass through a phase of accentuated hardship for the masses. The present current, from which only a new and determined policy could ~~pull~~ rescue the country ~~back~~, will, it is feared, carry it towards some form of planning and extensive enlistment of government services to the benefit of the land-owning class, ~~on the one hand, and~~ and at the same time towards de-nationalisation of the land and proletarisation of the tribal population, ~~on the other hand;~~. We may witness a combination - as far as this is possible - of a controlled agriculture with a liberal land policy. On the other hand, it is realised in Baghdad that without a well designed agrarian order, Iraq will not be able to catch up with more advanced nations. The earnest desire for national rehabilitation may yet find ways and means of ensuring a more promising course of development.

APPENDICES

A P P E N D I C E S

TO PART I

A. I. The desert origin of the rural population (The anthropological argument)[1]

The preponderance of desert stock among the rural population,[2] as it appears to follow from the historical evidence, is confirmed by the results of the still rather sketchy anthropological field work in modern Iraq and the Near and

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1. It seems an irresistible temptation to compromise racial arguments by using them to obtain accommodating or 'interesting' results, apparent also in the case of Iraq: cf. for instance A. T. Wilson at the time, anxious to achieve the dissociation of Mesopotamia from the policy of the 'Western Arabian School' maintained in 1918 (Nov. 16th, Telegram to Secretary of State for India, quoted in Ireland, op. cit., p. 138): "the almost entire absence of political racial or other connection between Mesopotamia and the rest of Arabia". H. St. J. Philby, on the other hand, anxious to demonstrate the Arabs' love of liberty, speaks of 'the Bedouin stock to which (not only the people of Syria but) the bulk of those of Mesopotamia belong by origin' (Journal R. Cen. As. Soc., 1920, p. 114). Mr. Shanklin expounds the theory that because of similar measurements and blood groupings the Rwala Bedouin and the American Indians have to be considered as offshoots of one common primitive race (Journ. of Anthrop. Inst. of Gt. Brit., 1935, p. 380 f.).
2. It is to be hoped that an element of conjecture in our argument will soon be reduced by anthropometric investigations among the settled rural population. So far they have been mainly concerned with the Bedouin. Studies throwing a light on the degree of 'Arabisation' in individual districts (as have recently been carried out in Egypt by Dr. Abbas Ammar, Racial Elements in the North-Eastern Province of Egypt, Jour. R. Afric. Soc., vol. 40, p. 159 ff., and Jour. of R. Anthrop. Inst., 1940, p. 147 ff.) have yet to be undertaken in Iraq. Field's research (op. cit.) pays only little attention to this problem.

Middle East generally. Physical anthropology seems to overstep its proper territory if it aspires to shed light on such compound entities as nations and civilizations, and we cannot expect it to provide us with a definition of the "Arab"; but it may be capable of isolating physical characteristics of the desert tribesmen who, in recent centuries, seem to have received little blood from the sedentary population.

According to the physiometric research carried out these last ten years,[1] the various tribes of the Syrian desert, in spite of considerable differences between them, "represent variations of one common race"[2] of dolichocephalics or mesocephalics. In the principal towns of Iraq, on the other hand, brachycephalic types seem to form the majority,[3] which may be attributed to the survival of ancient Hittite and Sumerian elements in the urban population.[4]

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1. W. M. Shanklin, Anthropology of the Akeydat and Mawaly, American Journal of Physical Anthropology, 1936, p. 217 ff.; The Anthropology of the Rwala Bedouin, op. cit.

2. Shanklin, Rwala Bedouin, op. cit., p. 381.

3. Kappers in Koningkl. Akad. Van Wetensch. te Amsterdam, 1930, vol. 33, p. 806; quotes 64 brachycephalics in a sample of 102 in Mosul, Bagdad and Basra.

4. Seligman, The Physical Character of the Arab, Jour. of R. Anthr. Inst., 1917, vol. 47, p. 214 ff. Already von Luschan (Early Inhabitants of Western Asia, Jour. of R. Anthr. Inst., 1911, vol. 41, p. 235) pointed out that the generally-called 'Jewish type' of nose is seldom found among Bedouins and frequently among the 'Arabs' in the towns.

Before, however, drawing conclusions from this difference between town and country, we must remember that though the round heads can be taken as being of non-Bedouin origin, not all long heads must necessarily originate from the desert. There were dolichocephalics among the skulls excavated at Kish, and other indications confirm the presence of long heads in ancient Mesopotamia. A comparison of the measurements of the excavated skulls with those of contemporary Iraqis of the Kish area shows, however, that in Sir Arthur Keith's words 'the average cranial capacity of the ancient Mesopotamian exceeded that of the average modern inhabitant of Central Iraq'.[1] Whether or not the modern Iraqis can be regarded as descendants of the old Semitic people of the river land still remains an open question.[2]

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1. Sir A. Keith, Introduction to C. H. Field, Arab of Modern Iraq, 1935, p. 76.
2. C. H. Field, The Arab of Iraq, Amer. Jour. of Physical Anthr. 1936, p. 52, maintains that sufficient positive proof has been obtained that 'the basic type of the population of the Nile Valley and the Tigris and Euphratis Valley has remained little changed during the past 5,000 years'. He bases this conclusion on the similarity of the indices of some of the skulls excavated at Kish with those found among Arabs of the Kish region today. He attaches, it appears, little importance to the evidence for a larger cranial capacity of the ancient skulls, and under-rates 'the difficulty to correlate the data of a living population with skeletal remains'. (Shanklin, Amer. Jour. of Phys. Anthro., 1936, p. 248.) Sir A. Keith in his Introduction to Field's work on the 'Arabs of Central Iraq' does not follow him the whole way, and puts as a desideratum what Field considers proved: 'I expect that it will yet be proved that the Arab of today is the descendant of the man who built the ancient cities and early civilization along the Euphratis and Tigris river'. (Op. cit., p. 76.)

We may never know whether or not a sedentary agricultural population of a racial composition similar to that of the modern North Arab or tribesman ever existed,[1] and if so whether it survived in sufficient strength to have a major influence on the ancestry of the modern Iraqi.

If, however, bearing this fact in mind, we confine ourselves to an interpretation of the actual evidence available, the geographical distribution of round heads and long heads seems - in conjunction with the known historical facts - to justify the assumption that the local predominance of long heads in modern Iraq can be taken to coincide with a predominance of Desert stock.

The tribal Arabs, it has been found, differ in type from the living inhabitants of the settled areas in Syria, Lebanon, and Upper Mesopotamia,[2] as well as from those of the towns. The difference grows less the farther south we go in the settled regions: the brachycephalic component of the population decreases and the decrease is very rapid south of Bagdad.[3] In Upper Iraq a difference in cephalic indices has been observed between Moslem and Christian 'Arabs', the Moslems

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1. Cf. on this problem L. H. Dudley Buxton, The Peoples of Asia, 1925, p. 103 ff. and Lit. on p. 252 f.

2. Shanklin, Akeydat, op. cit., p. 250; Rwala, op. cit., p. 380.

3. Kappers-Parr, Introduction to the Anthropology of the Near East, op. cit., p. 29 f.

conforming more to the desert Arab types, whereas the Christian Arabs (confirming the notion that religious differences in the Near East frequently have a deep social root[1]) show a greater affinity to the Armeno-Khaldo-Assyrian group.

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1. See U. A. Kappers, Kon. Akad. van Wetensch. te Amsterdam, Proceedings, vol. 35 (1932), p. 217; Leland W. Parr in Introduction op. cit., p. 193 reports a striking difference in the blood-type of Christian and Moslem Arabs in Syria.

Appendix A. II.

Note on Nomadism.

A. There are two principal interpretations of nomadism which treat it mainly as a socio-historical phenomenon:

1. Nomadism is a normal stage in human development which in some isolated regions has been anachronistically preserved. This view - though still sometimes taken for the prevailing opinion (1) - is no longer scientifically tenable. (2) It collapses once we have to assume an agricultural stage as preceding the domestication of animals. (3)

2. Nomadism is an exceptional phenomenon, an "arrested civilization" without the possibility of historical development which, in our dynamic age, is doomed to final extinction. (4)

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(1) Cf. in case of Iraq: Boesch, op. cit., p. 351.

(2) Cf., for instance, Max Weber, Aufsätzezur Sozial- u.Wirtschaftsgeschichte, p. 34 f; Bernard-Lacroix, Annales de Géographie, 1906, p. 152; C.D. Forde, Habitat, Economy and Society, p. 461.

(3) E. Hahn (Demeter .., Versuch einer Theorie der Entstehung unseres Ackerbaues, Lübeck 1896; Das Alter der Wirtschaftlichen Arbeit, Heidelberg 1908; Die Entstehung der Pflugkultur, Heidelberg 1909) performed the valuable service of attacking the dogma of pastoral priority which since seems to be finally refuted by archaeological discoveries. (Cf. in particular R.Pumpelly, Explorations in Turkestan, Washington 1905 and 1908.)

(4) A. Toynbee, Study of History, vol. III, p. 20 seq. against For a criticism of this view cf. O. Lattimore, Inner Asian Frontiers of China, p. 328 f, and The Geographical Factor in Mongol History, Geographical Journal, January, 1939

B. Nomadism is primarily an economic-geographical phenomenon:

3. Nomadism is mainly determined by the distance of natural conditions to which it is the appropriate though not necessarily the "forced" response. It is to be "justified" by the existence of marginal lands of seasonal pasture which are uneconomic for agriculture.(1) Even if it were merely a hypothetical argument, it would be worth while to point out the possibility of a re-orientation of primary production of food stuffs which, while restricting cereal production, would result in a new extension of the pastoral domain.

The economic-geographical interpretation of nomadism does not question the probability of the final decay of the traditional nomadic societies. It holds, however, that they will disappear primarily for reasons which are not specifically connected with the nomadic way of life. The nomads may succumb - and under "laissez-faire" they certainly will succumb - because tribalism, their traditional form of social organization, is subjected to a process of disintegration, and not because there is no

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(1) Cf., for instance, Bernard-Lacroix, Annales op. cit., p. 154; H.A.R. Gibb, Near East, op. cit., p. 83; Special Report op. cit., p. 237.

room for nomadic shepherding. With sufficient encouragement, as is commonly granted to agriculture, the nomads might be as adaptable as the settled tribesmen to ways of life and methods of production more in keeping with modern conditions.

When, however, by pacification of the migration areas, increasing divisions of labour, etc., the tribal ties of the nomads have atrophied, the "natural" evolution of traditional nomadism (wherever migratory pastoralism is economically justified) will be towards "transhumance," i.e., the seasonal movement of herds and flocks in search of pasture are continued, but they are accompanied only by an adequate number of herdsmen, whereas the majority of the people have settled down to the life of sedentary cultivators.(1) Whether this surviving core of "legitimate" nomadism can still be termed nomadism is questionable. Can transhumance be included in a wider definition of nomadism or are migration of the nomad people as a whole and tribal organization integral elements of nomadism? A. Toynbee presumably favours the

(1) On a recent description of European transhumance, cf. for instance, F.C. Erickson, Transhumance in the Land Economy of Schachtenthal, Economic Geography, vol. XIV, 1938, p. 38 f. In this part of Switzerland conditions impose "a high degree of movement that approaches nomadism through much of the year."

wider definition regarding the "cowboys" as a "latter-day nomadism which has been begotten in the new world by our Western society."(1) Also the transhumance of the Kurdish hill tribes is commonly referred to as nomadism. It appears, however, since decisive criterion of nomadic society is the migratory existence of the people in question, that transhumance (presupposing fixed abodes from which the seasonal migrations of the herders issue and to which they return) should be considered as outside the sphere of nomadism proper.

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(1) Toynbee, op. cit., vol. III, p. 21, note 1.

Appendices to Part 2.

B.I. Notes on Agricultural Co-operation in Moslem Countries.

At a time when the co-operative movement in many Western countries seems to have lost in intensity what it has gained in extent, advocates of agricultural co-operation for backward Eastern countries often have maintained some of the old missionary spirit. In the case of India, even the sober language of the Royal Commission's report speaks of "the great hopes for many millions of peasant proprietors ... who may be led to a better life through a sound co-operative movement. If co-operation fails, there will fail the best hope of rural India."(1) Whereas in the West it could be argued that co-operation has usually worked on ground already covered by other and, in their fashion, effective agencies, in backward agricultural countries co-operation claims to be breaking new ground. Co-operation alone has the possibility, of obtaining a footing inside the rural community itself. "It provides the best means of preparing the way for the expert, whether educational agricultural, veterinary or medical, and of bringing him into direct contact with the daily life of the masses."(2)

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(1) Royal Commission of Agriculture in India Report, 1928, p.468; cf. also Professor Kaji in Plunkett, op.cit., 1932, p.221; Vera Anstey, Enclyp. of Soc. Science: "the significance of the co-operative movement is to be judged in terms of the magnitude of the problem of rural reconstruction."

(2) Vera Anstey, ibid, Vol. 4, p.370.

1. The Function of the Primary Society:

Agricultural co-operation has come to be looked upon as a comprehensive instrument for the progress of the backward cultivator. "The whole life of the agriculturalist should be encompassed by the co-operative movement."(1) Their emancipation from the usurer and the middleman remains a primary issue, but the credit and sales or purchases co-operatives are increasingly regarded as integral elements of a more comprehensive scheme, aiming at the inclusion of various other aspects of rural life within the scope of co-operation.

"If the history of co-operation in the provinces has taught us anything in the last 30 years" remarks the Registrar of Co-operative Societies in Punjab(2) "it should be that only a comparatively small proportion of the rural population is as yet fitted by character and education to be trusted with the co-operative credit organization." Two answers are possible in face of this widespread experience. The one is the method developed in Turkey, where earlier co-operative endeavours were refuted as having paid insufficient attention to the special conditions of the country.(3) The remoter districts, with extensive grain and livestock production, small widely scattered villages, small productive expenditure in

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(1) Plunkett op. cit., 1940, p. 276.
(2) F.B. Wace, ibid, 1939, p. 438.
(3) Willbrandt, ibid, 1939, p. 125.

cash, and little production for the market, are left outside the scope of co-operative effort; it limits itself to the co-operative organization of a few more favoured districts of large and more easily-supervised villages, where market production per land unit is considered high enough to justify the grant of loans of an economic amount.

The alternative answer is that, until conditions are fit for credit and marketing organizations, the sphere to which co-operation applies should not be pinned down, but rather extended to fit the particular conditions of the cultivators. A vast scope for co-operative work has been discovered suitable for the masses, if not yet ripe for the specific economic function of the credit or marketing society. The beginning of co-operation should not be associated "with the act of borrowing someone else's money"(1). The premature declaration of war on established commercial channels should be avoided and the requirement of extensive finance be rendered unnecessary.

Not the village bank, but village reconstruction, should come first. Better living societies, better farming societies, adult educational societies, arbitration societies and so forth have been founded in India. Lately attention has been given to the question as to whether the primary society should not be a multi-purpose society, catering as one body for the

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(1) C.R. Fay, ibid, 1938, p. 241.

variety of needs of the villagers.(1)

2. The Function of the State:

The changes which have taken place in the function of the state in agricultural co-operation to some extent reflect the new interpretation of the task of the primary societies in undeveloped areas. Co-operation of the classical self-help type, (based on voluntary association, membership responsibility and self-government,) which suits an educated and fairly homogeneous community, as, for instance, the Danish farmers, is no longer expected to meet the case of the illiterate cultivators of the East without major modifications.(2)

It was recognized that the movement was, as a rule, not a spontaneous growth, but a Government policy.(3) But this was interpreted as a mere sponsorship by the Government, whose function it was to "start co-operative societies and then to

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(1) Professor Kaji presents the case of the multi-purpose "comprehensive or integral society" in his foreword to Mr. E.M. Hough's book on Co-operation in India. Distinguished British co-operators as C.F. Strickland or Campbell, however, consider the policy of integrated societies as unsound. Cf. Plunkett, 1940, p. 274; Strickland, "Co-operation in India" p. 49. On Better Living Societies, cf. Strickland, Co-operation for Africa, p. 21 and 37.

(2) Cf. however, introduction to C.F. Strickland "Co-operation for Africa, 1933, p.XI. Strickland insists on full adherence to the principle of voluntary association also in case of societies for primitive communities. (p. 3)

(3) Sir H. Plunkett's evidence before the Royal Commission on Agriculture in India quoted by H.M. Hough, The Co-operative Movement in India.

withdraw"[1]. Experience in Punjab, however, has shown that "when the driving force of an individual officer was withdrawn from the area ... the movement collapsed"[2]. Similarly in Egypt, the society successfully brought to life by the devotion of Omar Lutfy Bey and supported by Prince Hussein Kemal in 1908, rapidly faded out after Lutfy Bey's death in 1911.

There can be little doubt that in less developed countries the State has a permanent function to discharge in the co-operative scheme. How far the State's interference was legitimate, is a question which was brought to the fore with new urgency by the crisis of 1930. It was asked, whether the great elasticity of the co-operative method would allow for the partial abandonment of the principle of voluntary association (in line with the general change of attitude with regard to State intervention in agriculture), or whether voluntary association embodies one of the unalterable principles of co-operation. Co-operators, though not unanimously, came to visualize their future policy in terms of a "State-aided programme of agricultural reorganization in which co-operation plays a part"... "Everywhere", it is pointed out, "the emphasize is on co-ordination, not only between the different forms of co-operation, but between the State and voluntary co-operation, so that in this co-operation there is

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(1) Cf. on this problem Prof. Fay in Plunkett op. cit. 1938, p.246.
(2) F.P. Wace, Registrar of Co-op. Socs. Punjab, Plunkett, 1939, p.450.

frequently an element of compulsion for the recalcitrant minority."(1)

The function actually assumed by the State in co-operation varies according to the political framework of the country in question. In India, nationalist opinion tends to oppose even the "paternalistic" handling of co-operation by the authorities,(2) whereas in independent Eastern countries the forces of a constructive nationalism are anxious to work through the agency of the government. In Egypt co-operation, by the law of 1923, changed from the principle of self-help to that of state-aid(3) which became, however, effective only with the establishment of parliamentary rule in 1927.(4) At present the aim in Egypt appears to be to transform agricultural co-operation into a mass movement through government propaganda and education

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(1) C.R. Fay in Plunkett, op.cit., 1938, p.245.
(2) Cf. as to the largely politically inspired attitude of the All-India Co-operative Institutes Association in favour of release from official control, Plunkett, 1935, p.299f., on the problem of supervision of primary societies in India, cf. ibid., 1932, p.225f. 1940, p.263.
(3) Rashad, ibid., 1940, p.263. The second vol. of Dr. Rashad's work on Co-operation, Cairo 1935, (2 vol.) (in Arabic) = the Standard Work on Co-operation in Egypt.
(4) The co-operative section of the government was reorganised to become in fact a state co-operative union, undertaking the work of propaganda, education, inspecting, auditing, and so forth; In 1935, after the set-back of the crisis, a five-year plan for a concentrated co-operative effort was laid down. The schools, the radio, the press, were ultilised for co-operative education and propaganda (Plunkett, op.cit., 1936.

but to restrict government activity otherwise to inspection and supervision. The Turks, on the other hand, concluded from the failure of their earlier attempts with more orthodox methods of co-operation, (1) that a change of system was necessary. "Mass membership" and "voluntary association" (2) were abandoned. Marketing co-operatives, in particular, became practically state organisations. (3) "The alternative" it was held, "is not between free co-operation and state-directed co-operation, but between state-directed co-operation or no co-operation at all ... Only "tutelage" and the state-directed formation of the societies, made it possible to give the peasant within the frame work of

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(1) The first attempt of the republic to create an agricultural co-operative credit organisation, undertaken in 1924 fell flat. The law of 1929, on the other hand, led to a mushroom growth. (Within two years something like 600 credit societies, with 50,000 members, were founded) But the increase in balance sheet figures were due mainly to an artificial inflation of the members indebtedness, on the one hand, and of their compulsory deposits, on the other hand. From 1933 onwards, the disappointed peasants lost interest and the movement stagnated.

(2) According to the new Law (o.2836 of Nov. 1935) the formation of co-operative[illegible] requires the sanction of the Ministry of Economic Affairs. Offences by their officials against the rules laid down are punishable according to the regulations applying to civil servants; members of credit societies are compelled to join such co-operative marketing societies as may be formed, and to deliver to them all produce coming within their sphere of operations.

(3) In the field of marketing co-operatives, the formation is no longer left to chance demands by the peasants, but each year, following a ministerial order, one or more big organisation is set up with a number of local societies and a union at the head, to deal with a new product or a new area. Cf. op. cit., 1939, H. Wilbrandt, p.122.

general agricultural policy some opportunity of enjoying the advantages of co-operation."(1)

3. Disappointments:

It remains to be seen how far these new ideas about the scope of the primary society as well as on the function of the State in co-operation will give the movement fresh strength for tackling the agrarian problems of backward countries. There is no denying that the results, so far achieved bear no comparison with the solidity of the case of co-operation. The immense benefits rendered by the movements are beyond dispute. But not even in the Punjab has co-operation touched more than a fringe of 10 per cent. maximum of the cultivating classes. In the countries of the Middle East and in North Africa its contribution remains invariably limited and could never be interpreted as providing an answer to the agrarian problem.

In Egypt, after years of propaganda, total membership (part of which is all but nominal) amounted to 80,000 in 1939.(2)

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(1) Wilbrandt, ibid, p.131 f. In keeping with the repeatedly avowed respect of the New Turky for democratic principles (which in face of realities, have to be shelved rather than cancelled), it is emphasized that the new policy has been adopted "not without a realisation of its dis-advantages and dangers... Not soon or suddenly but at least little by little the bridle will be relaxed and in the end the tutelage abandoned."

(2) About 800 Societies, of which 750 were agricultural. Paid-up-Share Capital £220,000; Turnover, £1,000,000. For details cf. the reports by Dr. Rashad, Director of Co-operation in Plunkett.

In Turkey, as we have seen, co-operative organization is considered suitable only for an élite, and the highly developed "village uplift" movement is carried on through other agencies. In Palestine, where there were 116 rural Arab credit co-operatives in 1939, the official explanation for the meagre results was that "awake to the dangers of a too rapid expansion unaccompanied by patient education and constant supervision the Registrar proceeded cautiously in the formation of new societies among Arab cultivators."(1)

The Sociétés de Prévoyance des Indigènes in French North Africa, though they can look back on a relatively long history(2) and, being compulsory, can boast impressive membership figures,(3)

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(1) The Palestine Co-operative Law, was drafted in accordance with Mr. C.F. Strickland's advice. In 1934, prior to the outbreak of rebellion, their existed 44 villaged credit and thrift societies. (Plunkett, ibid, 1936, p.307). After the pacification of the country, but mainly in 1937, some progress was made, followed by renewed stagnation in the years before the war. (Ibid 1941, p.236). The fully developed Jewish Co-operative movement in Palestine need not concerned in this context. As for details on the Co-operative Movement in Palestine, cf. Plunkett 1933, pp.64 and 96; 1934, p.105; 1936, p.305; 1938, p.273; 1939, p.438; 1941, p.235.

(2) Sociétés de Prévoyance were started in Algeria after the famine of 1868.

(3) The Sociétés de Prevoyance are, in practice, official organizations giving, however, scope to elected Councils and Committees with advisory functions. (For a short survey of the system of Société de Prévoyance in the French Colonies, cf. Lord Hailey, An African Survey, p.1477.) - The 52 Moroccon Native Friendly Societies had 1,200,000 members in 1939 (Plunkett, 1939, p.431). The Sociétés de Prevoyance in Algeria had about 500,000 members in 1928 (A. Bernard, Algeria, 1929, op. cit., p. 394).

had no radical effect on the conditions of the rural masses.(1)

4. Possibilities:

It is an axiom of co-operative history that the movement has succeeded in playing a major role only where it was closely linked up with another movement which gave it idealogical impact.(2) The inconclusive progress in backward Oriental countries is, in some degree, attributable to the fact that in primitive communities, even more than in a fully rationalized world, the co-operative spirit cannot be kept steadily alive (after the societies have lost their attraction as a novelty) by the mere promise of material advantages, which are not even always readily discernable.

Even a genuinely humanitarian imperial administration encounters great difficulties in getting the new system rooted in strange soil. To some degree this may be accounted for by the inherent disability of a "Colonial" system of co-operative development. The presence of European settlers in greater numbers, on the other hand, has usually produced a dual system of co-operative institutions which tended to emphasize

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(1) After the North African agricultural crisis of 1935/37, a new start was made and fresh hopes raised by the formation of Native Wheat Co-operatives which were anticipated to "play a considerable part in native economic life". (A. Cramoix in Plunkett, 1939, p. 432).

(2) E. Glück, in Encyclp. of Soc. Science.

the charitable and dependent character of the native section.(1)

There is, however, no evidence to substantiate the belief that a National Government would be either willing or in a position to put more drive behind the movement. The inconclusive results in Egypt are significant in this respect because here the situation was exceptionally promising. On the introduction of the parliamentary regime, a self-made Fellah Minister, Fathalla Barakat Pasha took over the Portefeuille of Agriculture and showed a serious interest in co-operation. Saad Pasha Zaglul, himself of rural origin, favoured the movement and looked upon it as an important practical means for training the people of Egypt in democracy.(2)

National Governments have, of course, not eo ipso, been able to allocate larger funds for constructive purposes than dependent Governments. In Egypt the staff of officials could not be increased to cope with the expanding movement because of lack of means.(3) In Turkey it was a major reason for restricting the movement to an advanced minority of farmers, that societies formed by them - it was hoped - would be

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(1) In French North Africa, in keeping with French Colonial policy, the more prosperous native farmers are accepted in European societies, but the bulk of the Arab and Berber cultivators "En général restent en dehors". (A. Bernard, l'Algérie, 1929, p.493).
(2) Plunkett, op. cit. 1940, p. 264.
(3) Ibid, p. 253.

capable of bearing the cost of administration themselves.(1)

The question remains unanswered as to whether, under conditions of political independence, there would be a better opportunity of testing the chances of agricultural co-operation in the less advanced Oriental countries, which lie in its being linked together - through the medium of the Rubal Reconstruction Movement - with the forces of a constructive nationalism. One pre-condition of this alliance of forces would, however, be that Eastern nationalism succeeds in detaching itself from its town bred outlook. It has not yet done so, and it is not in India only, that one may hear the complaint, that the co-operative movement failed to attract to itself young men intent on national service.

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(1) Wilbrandt, op. cit. 1939, p. 123.

B. II. Co-operative and Collective Farming and Surviving Communal Forms of Agriculture.

It was in the natural course of events that the lines of thought which oppose the indiscriminate individualization of surviving communities would ultimately meet and merge into those which stress the dangers and drawbacks inherent in a system of individual peasant ownership. The meeting has occurred in an immensely different setting and from opposite angles in the case of co-operative and of collective agriculture. The issue arose in the first place in connection with discussions on "socialist" agriculture; we may give a brief sketch of them first, also because they paid particular attention to the argument (which still agitates some minds) as to whether a period of full individualization can, under certain circumstances, be "skipped" or whether it forms an inevitable stage that cannot be dispensed with.

1. Collective Farming and the Village Community.

The problem of the surviving village community, in its relation to modern socialist forms of agriculture,

figured in the theoretical discussions between Marx and Engels and Russian socialist intellectuals during the last quarter of the nineteenth century. The controversy then was whether the old Russian village community, the Mir, could be transformed directly into socialist forms of production without an intervening stage of individualization.

The scientific discovery of the Mir by the Westphalian Baron von Haxthausen (1) had been taken up by the Narodniki. Russia, they maintained, could be spared the adverse experience of private property in the West, and could be led directly into socialism by a general application of the system of the Mir which - in the opinion of the orthodox Slavophils - proved the collective nature of the Russian people.

In opposition to this thesis Marx pointed out that it was "a ridiculous presumption" to consider the Mir as "specifically a Slavonian or even exclusively Russian" form of communal property, as it could be proved "to have existed among Romans, Teutons, and Celts; and numerous examples of it were to be found in India though in a partly ruined state." (2)

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(1) Studien über die Inneren Zustände des Volkslebens und insbesondere die Ländlichen Einrichtungen Russlands, 1847/52.
(2) Karl Marx, A Contribution to the Critique of Political Economy. Translated by N.J. Stone, 1904, p. 29.

As for Marx the "fully developed individual" was an indispensable pre-condition of socialism; he considered the break-up of the primitive community, which "made of men the slaves of tradition," as "the conditio qua non of European-ization."(1)

But the fathers of dialectic materialism did not adhere to the quasi fatalistic determinism of some of their pupils. Once the new socialist forms having been successfully introduced elsewhere (at first, they thought, in the most capitalist countries of the West) "the backward countries," wrote Engels, "can learn from the example how it is done .... and can set out on an abbreviated process of development. In that case, however, they can do so with assured success. And this applies to all countries of the pre-capitalist stage."(2) ~~As well as Engels~~ Marx maintained that the Mir "was the most exquisite chance that history had ever offered a people."(3) The Russians could gradually adopt a mechanized large-scale agriculture and base it on still effective old associations. Thus they could utilize directly the modern forces of pro-

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(1) To Engels, June 14, 1853, in Karl Marx' and Friedrich Engels' Selected Correspondence, 1934, p. 68.
(2) Engels, Internationales aus dem Volksstaat, p. 66, Nachwort of 1894.
(3) Reply to Michailowsky quoted by Engels, ibid., p. 69.

duction as social property, and ~~thus~~ arrive immediately from an individualist small economy to a collective large economy.(1)

But the Russian left-wing "Marxists" thought that "capitalist truth would immediately prevail over Narodnik utopias." Following Plechanoff, Lenin asserted that the collective economy of the future could emerge only from a developed capitalist system. Thus the Bolshevists agreed with the "Zarist" policy of an early dissolution of the Mirs and of the establishment of individual peasants. They regarded as inevitable a stage during which, within agrarian society, the class antagonism was to develop. In Lenin's opinion full private property in the land was the most effective promoter of agrarian unrest. Only through the medium of class divisions, Russian society could ~~could~~ precede to communism.(2)

Once, however, the Soviets came into power they tried a "short-cut." After 1921, Lenin held that, with the help of political power, it should be possible to "regulate the

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(1) Draft of a letter from Marx to Vera Zasulic, in Marx-Engels Archiv (Frankfurt a.M.), vol. I, passim, and Die Briefe von Karl Marx und Friedrich Engels an Danielson (Nikolai-on), herausgegeben von K. Mandelbaum 1929, p. XV.

(2) The agrarian question in Russia at the end of the 19th century, in V.I. Lenin, Selected Works 1936, vol.I, p. 216 f.

development of primary production and to prevent its following private capitalist lines." His co-operative plan was based on the expectation that the middle peasants, under conditions of Soviet administration, would not be divided into a village proletariat and a village bourgeoisie, but that they could be organized into marketing co-operatives and gradually be led to adopt collective exploitation of the land. In the course of this process the peasantry should "transform its own character" and obtain an understanding of the aims of the State as a whole.(1) But the scheme failed. Class divisions developed and produced frictions, and finally Stalin enforced by resort to violent methods the immediate introduction of the collective system.

Retrospectively, it can scarcely be doubted that in the ultimate success of the collective farm the surviving forces of the old Mir have played an important role. In 1923 and 1924 individualization was allowed, but was taken advantage of only by an enterprising minority. In 1927, 95 per cent of the land was reported to be still within the sphere of the Mirs, "these obstinately surviving organisations."(2) In particular the general meeting of the collective farmers which possesses wide discretionary authority has "caught much of the primitive democratic spirit of the old Mir."(3)

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(1) Bucharin, Weg zum Sozialismus, 1925, p. 85 f.
(2) John Maynard, The Russian Peasant, p. 164.
(3) Ibid., p. 312. Cf. also S. and B. Webb, op. cit., p. 272 f.

2. Agricultural Co-operation and Tribal Society.

The co-operative idea and the questions arising out of the survival of traditional communal forms of agriculture were destined to meet in the practical administration of Colonial Empires and the British and Dutch Empires in particular. The task of Colonial administration, according to Lord Lugard, is "adaptation: the endeavour to bring the new into harmony with the old; to make it seem that the inevitable changes grow out of the indigenous institution." Agricultural co-operation seemed to offer a means of applying this doctrine, not only in the political and judicial, but also in the economic and social sphere. Co-operation would become a valuable instrument for "guidance in the conflict between the old order and the new forces and temptations which threaten alike the social fabric and the individual."(1) "Sometimes it will even be possible to use the co-operative movement during the period of transition in order to slow down the process of disintegration while, at the same time, effecting a new orientation in the right direction .... These new forms of co-operation rejuvenate the old connection owing to the energy of its more progressive members."(2)

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(1) Introduction to Strickland's Co-operation for Africa op. cit. p. VIII and X.
(2) De Kat Angelino, op. cit. p. 401.

This programme has been formulated with reference to such heterogeneous surroundings as Africa, India and the Dutch East Indies, though it has not yet been applied on a large scale anywhere. The programme has been well stated in a setting which is probably most similar to that of Arab tribalism, in a Report on Native co-operation in Morocco, which pays special attention to the aspect of traditional co-operation.(1) Communal property administered by the Djemaa of the Berbers of the Middle Atlas, the different forms of mutual aid, as well as the display of collective solidarity found among them(2) are held to offer "a point of leverage for co-operative action". It may be, it is pointed out, that such and such a traditional institution is in decline at a particular place. "Even where they have disappeared altogether, it is only within recent years and the spirit which animated them cannot be completely extinct." The task is not "to consolidate such institutions wherever they are in a mouldering state" but "to retrieve and revive their spirit for new ends". It is, therefore, "desirable in co-operative work to make immediate use of elements which exist among the native

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(1) M. Colombain, then Chief of the Co-operative Section of the International Labour Office, reported on the invitation of the French Government. The report appeared in Bulletin économique du Maroc, vol.IV. July, 1937.

(2) The community makes itself responsible in whole or in part for what may be called the civil liability of each of its members (blood money, fines, etc.).

population. It will be a factor in the success of the co-operative plan if it can be grafted on to a deeper traditional life, and in order to avoid a break to pass more easily from the old to the new, from the known to the unknown. There can be nothing but gain for co-operative education in abandoning European terms, and creating institutions which will not be called co-operatives but will make use of existing terms."

In Iraq itself, a sideway approach to the idea can be recognized in Mr. Jamali's discussion of tribal education, which is based on the idea that "native ways and methods should be utilized and encouraged if they are worth preserving."(1) "The tribes should be educated to become real productive agents." The tribesmen should be "accustomed to organization and to constructive co-operative work, to appreciate organization and co-operation by providing examples of the fruit of such work."(2) Education "should combat the habit of inactivity and laziness which the Bedouin has acquired;(3) it should provide the most adaptable means and methods of production and put them at the disposal of the tribes; it should train the

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(1) Op.cit. p. 113, Jamali proposed the establishment of a teachers' training centre for tribal folk. "The entire community of the pupils should be governed according to the best that the tribal codes and customs can provide. They may practise electing their own Sheikhs and may learn to reason about their customs and laws and decide on modifying them." (p. 119)

(2) Ibid, p. 106.

(3) Mr. Jamali in his book (op.cit.) does not distinguish between Bedouin and tribesmen.

Bedouins to appreciate and to use these modern means and methods." Attention should be paid to the "fair distribution of the products among members of the tribe". The expected resistance of the Sheikhal class should be overcome by "proper legislation based upon an appeal to desert tradition and to Arab generosity and better education in economics."(1) The aim of "integrated" education is to be "social reconstruction."(2)

These ideas of education bear such an intimate relationship to those inspiring the above-mentioned co-operative approach, that it appears difficult to conceive for the machinery, which would be indispensable for their practical implementation, any other than that developed by the co-operative movement.

It appears that the two approaches, though born and bred in an immensely different spiritual climate, show similarity, both in the premises from which they start and the conclusions they reach. In both cases the danger of "individualization" are rated highly, and it does not matter so much in our connection whether the communal aspect is emphasized primarily in order to preserve the most appropriate atmosphere for the shaping of future individual forms of agricultural production, or whether collective forms are appreciated for their own sake. Modern co-operators, as well as the socialist thinkers, believe

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(1) Ibid, p. 107.
(2) Ibid, pp. 106 and 114.

in the adaptation of integrated traditional forms to new methods and needs because the dangers of transition may thereby be mitigated and a solid basis for the new forms provided. The collective, as well as the co-operative solution claim that they are capable of preserving and fostering the old democratic spirit. Both feel that they provide a method of bringing out local talent and leadership, and put them to effective use.

It may be accepted that a well-conducted transition from surviving communal methods of agriculture directly to co-operative or collective farming could render a very valuable contribution to the problem of "westernization" - provided local circumstances are not adverse to such a policy.

B. III. The Arab tribe as "material" for Co-operative or Collective Agriculture

Co-operative literature argues freely in terms of "national temperament and racial ability"[1] as a criterion by which to anticipate the success with which a co-operation may be introduced - or as often to explain its failure.[2] There is a remarkable consensus of opinion among those who know the Arabs and Arab civilization well, as to the strong - often excessively strong - individualistic strain in the Arab character. They are said to show a "tendency to anarchy and a fundamental incapacity for organization and discipline".[3] "Their character would not seem to

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1. Cf. Plunkett, The Editor, 1941, p.101.
2. Cf. for instance, as regards China, the 'quality of the human material' is praised (W. K. Campbell, Co-operative Adviser of the League of Nations to the Chinese Government, Plunkett, 1940, p.291, f., whilst the Burmese are blamed as 'thriftless' and knowing 'no sense of responsibility'). Ibid., 1941, p.101. 'The co-operative ideal' it is held, 'is well-suited to the genius of the Indian people'. (E. M. Hough, Indian Co-operation, op. cit., p.252), whereas in England it is 'doubtless a factor that the very qualities of independence and desire to work on his own which make a man decide to become a small farmer, make him decline and distrust co-operation with his neighbours'. (Daniel Hall, op. cit., p.164).
3. D. de Santillana, Legacy of Islam, p.309. - For a valuable collection of observations on the Arab character, cf. Caëtani, Studi, Vol. I, p.396 ff.; also, Lammens, in Berceaux, op. cit., p.187, and "Islam", translated by Sir D. Ross, 1929, p.8; Huart, Histoire des Arabs, p.1 to 43; Goldziher, Moham. Studien, Vol. 1, p.1 ff. Of modern Arab authors stressing the 'individualism' of the Arabs, cf. for instance, Antonius, Arab Awakening, p.52 and 87; Jamali, op. cit., p.106.

justify any extensive scheme of co-operation", for they seem to be "shiftless to a degree and more prepared to violate the spirit of credit associations than to take advantage of their faculties".[1] Even those who were determined to overcome such difficulties and to persuade the Arab cultivators of the advantages of co-operation were prepared for the hard task of influencing "a great race whose social traditions are an obstruction on the road to economic independence which co-operation offers".[2]

Here, as in the case of all generalisations about racial capacities, there are, however, too many traps for one to make headway. The old co-operative reply to such arguments is that the co-operative spirit is most effectively produced by co-operating. But discounting the value of arguments from national character, an analysis of the character of a still integrated tribal society[3] by inferences drawn from its institutions may still be helpful in assessing the possibility of transforming it successfully into modern co-operative units.

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1. Roberts, op. cit., p.252, on the Algerian fellah, - a judgment which may here be quoted in view of widespread similar opinions on the faculties of the Arab fellah in all corners of the Arab world.
2. Plunkett, op. cit., 1933, p.64.
3. The following arguments, in spite of methodological shortcomings, may be justified as long as Arab tribalism remains all but "terra incognita" for the social anthropologists.

In the Arab tribe each member owns his flocks and cultivates his individual acre. Rich men gain in honour and influence, while poor men sink into insignificance. At the same time, the tribal unit has (somewhat euphamistically) been said to provide the combined functions of an 'insurance company, a providence society, unemployment benefit, old-age pensions, and every other device of man to make the future safe. Should he die, his family, widow, and children will be cared for.'[1] We can distinguish in Arab tribal society, side by side, individualistic, competitive and co-operative elements. On which of them have we to place the emphasis?

Is it on the Arab's alleged individualism, the causes for which are believed not far to seek in his desert background? 'L'âpre désert, où se dresse sa tente,' says Lemmens,[2] 'le force à vivre dans l'isolément, lui et les siens. La solitude farouche exaspère son individualism.'

But social systems are not so simply determined environmental factors. Desert life or nomadic life is no sufficient explanation, still less proof, of a

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1. Glubb, J. Cent. As. Soc. 1935, p.26.
2. Berceau, op. cit., p.187.
3. Cf. on this general problem, for instance, Mead, op. cit., p.462 ff.; C.Oeberg, American Anthropologist, Vol. 45, p.58 ff.

prevalence of individualistic motives in a primitive society. The habits and institutions of settled tribes or sections, as compared with the nomads undergo "little radical change" and their "ways of thought suffer no alteration".[1] In Iraq, agricultural and nomadic groups exist closely integrated within the same tribal section. Irrigation - though on the face of it promoting co-operation, because it serves a wider group beyond the owner of the plot next to the water supply - is, in some societies known to be the basis on which a ruthless competition has been built.[2] Concerted group action on the part of the villagers, as, for instance, in the construction of huts, does not necessarily correspond to a generally co-operative pattern.[3]

On the other hand, the changes of environment and technology, which accompany the transition from a nomadic to an agricultural existence, constitute such deep changes in the objective situation in which tribal life functions, as to leave some distinctive marks on it.[4] It cannot be

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1. Arab of Mesopotamia, op. cit., p.31.
2. Mead, op. cit., p.463.
3. Cf. Oeberg, op. cit., p.58.
4. Cf. for instance, H. Field's description of the building of a hut in the Hillah district; "the never-ending chain of men carrying water, stamping the clay, kneading it into balls, and carrying it to the mason, enables rapid building of the side walls". (Arab of Central Iraq, p.86).

doubted that in the long run, sedentarization is bound to affect the character of the tribal system even if we leave out of account the powerful influence of culture-contacts which coincide with sedentarization. The relative recentness of the decline of the desert nomads, who maintained the uniformity of Arab tribal society, may justify our accepting in the following remarks the pattern of the nomadic tribe and its institutions as a typical background for Arab tribal society as a whole.

Regarding the position of the individual in the tribe, we see the limitations of that environmentalism to which, for instance, Lammens adhered when he pointed out that "chaque voisin devient, pour ainsi dire, un rival, venant lui disputer l'eau parcimonieuse du puits et les maigres pâturages".[1] This applies - and that alone matters - only to inter-tribal relations, but not to conditions inside the effective tribal unit itself. The tribesman does not lack security in relation to his fellows; there is no fighting within a group of loosely integrated lineages, as is characteristic of societies with competitive emphasis.[2] The tribe is, on the contrary,

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1. Berceau, op. cit., p.187; see also Caetani, Studi, Vol. 1, p.381 f.
2. Mead, op. cit., p.480.

a closed group within which the individual's status is defined, and within which he is given security. The whole kin is bound to mutual protection, both aggressive and defensive; the Ahl protects him from injustice and suffers for his guilt.[1] Internecine fights are subject to severe sanctions. The highly developed system of sanctions, which controls the tribesman's adherence to the tribal code, the regular judicial procedure of the sheik or Majlis as well as the highly developed law of vengeance[2] are in themselves indications of a co-operative society.[3]

Whereas in a competitive society the status of the individual will often be measured as shifting up and down on one common scale,[4] the Arab tribe is equalitarian, a "commonwealth of brethren", as Doughty called it.[5] A specific rank and competition for that rank exists in Arab tribal society only in the sheikal stratum - a phenomenon which is by no means incompatible with a clear co-operative emphasis of the society as a whole.[6] The somewhat vague rules determining succession to the sheikal

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1. Musil, Rwala, op. cit., p.49 and 489.
2. Ibid., op. cit., p.426 f. and 489 f.
3. Mead, op. cit., p.493.
4. Ibid., p.480.
5. Doughty, op. cit., vol. 1, p.345.
6. Mead, op. cit., p.460.

position, which oscillate between inheritance and succession by the strongest and successful, may reflect the contradictory tendencies of, on the one hand, institutionalising in the interest of stability, and on the other hand, of distrusting institutions, i.e., of refusing to follow anybody but the natural leader. Similarly, in the tribal body, the apparent contradiction between the pride in a distinguished genealogy shared by the commoners, on the one hand, and the equal rank of the commoners, on the other hand - the well-known contradiction between their "aspirations aristocratiques et leur milieu égalitaire",[1] may be caused by the combination of a co-operative attitude with the individualistic urge for self-maximisation.

The acknowledgement of the superior status of the Arab sheik does not involve the admission of unrestricted power over his tribesmen. Instead of the "will to power over persons", which is a competitive motive, in the Arab tribe, the members have the shared aim of the welfare and advantage of the tribe sufficiently imbued to render "servile individuals who do the chief's bidding" unnecessary.[2] On the contrary, the traditional Arab sheik has himself the full share of duties to outbalance his privileges.

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1. Lammens, Berceau, p.197.
2. Mead, op. cit., p.496.

Arab popular wisdom condensed the sum total of these duties in sayings like: "the sayid is the slave of the whole world", or "When I am a sayid that's an order to be your servant."[1]

The institutionalised precautions against abuses of the power over persons are not confined to the sheikal office. Whereas in a competitive society, the strong man will be recognised as adding to his power by the exploitation of the poor,[2] the Arab tribe unmistakably demonstrates his disapproval of such tendencies by establishing sufficient safeguards against them. A weaker man who is oppressed and unable to defend his honour himself, could, according to desert usage, summon in a formalised manner, laid down by tradition, the assistance of his kinsmen whose duty it was to grant it as it was the reciprocal duty of the powerful neighbour to right the wrong done and to give compensation.[3]

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1. Gahiz, Bayan I, 151; Sigistani, Mo'ammaroun 50.2 (quoted by Lammens, Berceau, op. cit., p.216.
2. Mead, op. cit., p.496.
3. "The stronger man, with a white cloth to a stick or spear has to make a circuit of all the camps in the vicinity, waving his flag and crying 'We have done our duty'." (Musil, op. cit., p.451); cf. also p.426 the procedure adopted in case of undue oppression by a stronger man, even though he actually possesses a claim or grievance against the weaker.

The very high appreciation of property which undoubtedly exists in Arab tribal society is, in the interests of the group countered by the stress laid on the hospitality and charity not only of the sheik but of any well-to-do tribal member. This stress on liberality is the attempt to submit self-maximising tendencies of the individual to group ends by inverting the emphasis until a sense of self-maximisation is attached to the amount of property that is given away.[1] Bedouin poetry and folk-lore are rich in exalting the person who spends the last of his possessions in relieving distress or in entertaining a guest. "Liberality in the desert seems to have gone far beyond the needs of self-preservation and has become a trait valued in its own right."[2] "Pour être digne de son sang, le sayid devait exercer le générosité jusqu'à la prodigalité."[3]

The Sheik had to feed not only numerous guests but also those of his fellow tribesmen whose supplies had been stolen.[4] Arab tribal society knew a general duty to help others in days of distress. "No sooner is an

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1. Mead, op. cit., p.487.
2. Jamali, op. cit., p.50.
3. Lammens, Berceau, op. cit., p.241 with many quotations in Note 4.
4. e.g. Musil, p.90.

individual member of the tribe robbed of all his possessions than his kinsmen contribute according to their means as much as is needed in order to make up a new stock for him."[1] In this way, as is characteristic of a society with a strong individualist orientation, "helpfulness takes the place of co-operation, because of the lack of structure within which real co-operative behaviour could occur".[2] Among the Rwala, the Zu'uf or Halal, who have lost their property, go from tent to tent and feed as guests.[3]

The Arab tribe, as most societies, it follows is of a complex character. Individualist and co-operative elements appear to hold each other very nearly in balance, competitive elements scarcely to enter the picture. In other words, individual initiative is not among the primary manifestations of the individualism of the Arab tribesmen. We find in the tribal Arab's mind comparative little of the desire to overcome difficulties in the search of achievement. "Aide-toi, le ciel t'aidera. Nulle part je ne me rapelle avoir retrouvé l'équivalent de cet axiom," says Lammens,[4] "dans la litérature de cette race

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1. Jamali, p.20; Musil, op. cit., p.452.
2. Mead, op. cit., p.482.
3. "The women beseech the mistress of the tent: 'give me supper, little sister, give me supper!'" (Rwala, op. cit., p.90).
4. Lammens, Berceau, op. cit., p.106.

si riche pourtant en réflexions sententieuses".[1]

From those few and necessarily speculative remarks some conclusions may tentatively be drawn. It appears that the Arab tribe cannot rely as an integrating force on a natural co-operative bend in the individual tribesman. On the contrary, their inclinations may provide, when circumstances are ripe, a centrifugal force of considerable strength. The contradictions in the make-up of the Arab tribesman's personality which are sometimes noted,[2] seem to result from the clash between the co-operative necessities of tribal life and his powerful, innate individualism which does not submit naturally to their demand. In fact according to Lammens the tribal Arab is characterised by his "absence de dévouement, de sacrifice à l'intérêt commun, ... de toutes les cortèges de bien faisantes vertus sociales".[3] The discipline of tribal life was only forced upon him by the "instinct de conservation", strong enough to stifle "les repugnances instinctives".[4]

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1. It points in a similar direction, according to Jamali (p.53) "if several writers, including Lawrence, dwell on the fact that Bedouin imagination, although keen is not creative".
2. Cf. especially Lammens, Berceau, op. cit., 107.
3. Ibid., p.187.
4. Ibid., p.261; cf. also Special Report, op. cit., p.239 which described as "the main features of the tribesman's character ... independence, courage, improvidence and dislike of hard work." The former two qualities may be taken to represent his basic individualism, the latter, to follow from his lack of competitive urge at achievement.

It follows further that in spite of these inherent centrifugal tendencies, the tribe has become a perfectly integrated social unit, well designed to meet the tasks which confront it. The Arab tribe represents an example of a society which successfully achieved the combination of a strong "ego development" with adequate provisions for co-operation.[1] The fact of Arab "individualism" cannot be used to put up a case for the unsuitability of collective forms of social and economic organizations for tribal or recently detribalised Arabs. On the contrary the existence of some kind of effective collective organization is in the setting of tribal society not only possible, but it appears also desirable. A strong individualism, unaccompanied by a competitive urge, contains, without a counteracting co-operative force, no constructive principle in itself.[2]

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1. Mead, op. cit., p. 511, considers the confirmation of the possibility of this combination in some of the societies analysed in her book as "perhaps the most significant" result of "investigations of a wide scope".
2. Ibn Chaldun's theory of ʿAsabīyah (the esprit de corps of tribal society, which he conceived as the generating force of social energy par excellence) may be interpreted in this light. (Cf. Toynbee, A Study of History, vol. III, p. 473). Relying exclusively on the evidence derived from an Arab surrounding and Arab history, he considers the lack of ʿAsabīyah, or deficiency in social vitality as the inevitable lot of a sedentary non-tribal people. In his view, "the submission of the bourgeoisie to constituted authorities makes them strangers to the notion of self-help" (Muqaddamat, book I, section 2). The Arab world has scarcely known phenomena comparable to the Hellenic or medieval Western city state. (Cf. also Toynbee, vol. III, loc. cit.) Though it has now accepted from the West the gift of the modern national state (which - it must be hoped - will help Arab society to arrive at a creative social integration on a higher level), the desirability of maintaining tribal ʿAsabīyah as a nucleus of civic virtues and a means of attaining the desired national integration, would thereby not be obviated.

TABLE I.

AREA UNDER CULTIVATION IN IRAQ.
(According to Sir E. Dowson's Report (op. cit.))

Liwa		Total Area	Cultivated and Cultivable Area		Area under Cultivation (including shifting cultivation.)		
		sqkm	sqkm	% of total area	sqkm	% of total area	% of cultivable area
Rain-fall Zone	Mosul	45,800	15,040	32.84	14,770	32.25	98.20
	Arbil	16,600	7,160	43.13	7,160	43.13	100.00
	Sulaimaniyah	9,500	2,550	26.84	2,550	26,84	100.00
	Kirkuk	20,800	15,260	73.37	12,020	57.80	78.77
	Diyala	6,000	860	14.33	710	11.83	82.56
Total of Rain-fall Zone		98,700	40,870	41.41	37,210	37.70	91.05
Irri-gation Zone	Diyala	10,200	2,960	29.00	2,850	27.84	96.28
	Baghdad	22,100	4,870	22.04	3,980	18.01	81.72
	Dulaim	124,500	1,570	1.26	1,550	1.25	98.73
	Kerbela	21,200	680	3.21	660	3.12	97.06
	Hilla	8,100	6,530	80.62	4,900	60.49	75.04
	Kut	16,400	10,710	65.30	8,540	52.07	79.74
	Diwaniyah	83,000	11,470	13.82	5,950	7.18	51.87
	Muntafiq	38,700	5,080	13.13	4,710	12.17	92.72
	Amara	19,700	6,680	33.91	6,680	33.91	100.00
	Basrah	10,900	780	7.15	670	6.15	85.90
Total of Irrigation Zone		354,800	51,330	14.47	40,490	11.41	78.88
Grand Total		453,500	92,200	20.33	77,700	17.13	84.27

TABLE II.

LAND UTILISATION.

(Figures based on H. Boesch, op. cit., p. 354.)

		sqkm	%
A. Cultivated and Cultivable Land	a) under Cultivation:		
	Wheat	13,150	4.35
	Barley	8,090	2.67
	Rice	1,250	0.40
	Cotton	520	0.18
	Dates[1]	1,000	0.33
	Vegetables, etc.	5,000	1.65
		28,970	9.58
	b) additional cultivable Area:		
	Rainfall Zone[2]	19,030	6.31
	Irrigation Zone[3]	14,000	4.64
		62,000	20.53[4]
B. Unproductive Land	Mountainous Country	25,000	8.31
	Marshes and Lakes	15,000	5.00
	Steppe and Desert	200,000	66.16
	Total	302,000	100.00

1) Approximately 30 million date trees.

2) Including some fallow and land suitable for dry-farming.

3) Irrigable land.

4) Of this about 11% (33,200 sqkm) in Lower Iraq, and 9.5% (28.700 sqkm) in Upper Iraq.

TABLE III.

I. THE RURAL POPULATION IN 1930.

1. Tribesmen and Non-tribal Cultivators.
(In 1000's and Percentage of Total Rural Population.)
(According to estimates in "Dowson Report (op.cit.) Table II.)

Liwa	Total Rural Population		Non-tribal Fellahs		Cultivators		Tribal Population Nomads		Total	
	000	%	000	%	000	%	000	%	000	%
Mosul	241	100	176	73	20	8	45	19	65	27
Arbil	106	100	47	44	56	53	3	3	59	56
Sulaimaniyah	94	100	51	54	28	30	15	16	43	46
Kirkuk	160	100	63	39	78	49	19	12	97	61
Rainfall Zone	601	100	337	56	182	31	82	13	264	44
Diyala	240	100	79	33	160	67	1	-	161	67
Baghdad	169	100	93	55	74	43	2	2	76	45
Dulaim	147	100	39	26	49	34	59	40	108	74
Kerbela	90	100	83	92	5	6	2	2	7	8
Hilla	103	100	30	29	73	71	-	-	73	71
Kut	170	100	60	35	110	65	-	-	110	65
Diwaniyah	238	100	79	33	101	43	58	24	159	67
Muntafiq	340	100	25	7	295	87	20	6	315	93
Amara	238	100	36	15	202	85	-	-	202	85
Basrah	144	100	34	24	100	69	10	7	110	76
Irrigation Zone	1.879	100	558	29	1167	57	152	8	1321	65
Total	2480	100	895	36	1349	50	234	10	1585	60

TABLE IV.

I. THE RURAL POBULATION IN 1930.

2. Cultivators and Nomads.
(In 1000's and Percentage of Total Rural Population.)
(According to estimates in "Dowson Report" (op. cit.) Table II.)

Liwa	Cultivators Tribal & Non-tribal		Nomads	
	000	%	000	%
Mosul	196	81	45	19
Arbil	103	97	3	3
Sulaimaniyah	79	84	15	16
Kirkuk	141	88	19	12
Rainfall Zone	519	86	84	14
Diyala	239	100	1	-
Baghdad	167	98	2	2
Dulaim	88	60	59	40
Kerbela	88	98	2	2
Hilla	103	100	-	-
Kut	170	100	-	-
Diwaniyah	180	76	58	24
Muntafiq	320	94	20	6
Amara	238	100	-	-
Basrah	134	93	10	7
Irrigation Zone	1.727	92	152	8
Total	2.246	90	236	10

TABLE V.

II. TRIBAL SOCIETY, 1930.

Cultivators and Nomads.
(In Percentage of Total Tribal Population.)
(According to Table II, "Dowson Report" (op. cit.))

Liwa	Nomads %	Tribal Cultivators %
Mosul	69	31
Arbil	5	95
Sulaimaniyah	35	65
Kirkuk	20	80
Rain-fall Zone	129	69
Diyala	-	100
Baghdad	2	98
Dulaim	55	44
Kerbela	29	71
Hilla	-	100
Kut	-	100
Diwaniyah	36	64
Muntafiq	6	94
Amara	-	100
Basrah	9	91
Ir-rigation Zone	137	88
Total	266	78

TABLE VI.

CAMELS IN THE NEAR AND MIDDLE EAST. ++)

Year	Iraq	Syria and Lebanon	Trans-jordan	Palestine	Turkey	Egypt
1922	..	55,000	..	17,900	..	130,600
1923	..	51,200	..	16,300	..	140,700
1924	115,600 +)	53,400	..	20,200	..	151,200
1925	161,600 +)	53,700	..	25,600	..	159,300
1926	133,600 +)	48,000	..	27,300	..	171,100
1927	125,300 +)	32,600	..	22,600	..	179,100
1928	133,600 +)	81,600	..	23,800	..	180,500
1929	120,500 +)	60,400	..	27,600	..	172,400
1930	86,200	58,700	26,200	25,300	81,000	166,300
1931	75,800	68,200	27,600	40,300	80,000	162,000
1932	71,400	81,500	22,400	32,300	86,000	156,000
1933	64,700	57,700	15,900	40,400	85,000	154,000
1934	68,600	88,600	4,400	32,000	88,200	155,000
1935	60,100	..	3,400	..	93,700	163,700
1936	73,300	..	2,300	..	105,100	156,000
1937	76,600	..	..	..	106,000	..

+) Camels and Buffalos.

++) According to estimates by the International Institute for Agriculture in Rome (International Yearbook of Agricultural Statistics, 1938).

Table VII.

NUMBER OF SHEEP AND CAMELS IN IRAQ.(1)

Liwa	1936		1937		1938	
	Sheep	Camels	Sheep	Camels	Sheep	Camels
Mosul	712,949	8,261	746,334	9,086	869,597	9,525
Arbil	370,577	1,268	370,130	1,262	395,103	1,299
Sulaimaniyah	180,965	-	133,521	-	140,327	-
Kirkuk	438,223	4,502	476,310	5,046	548,362	5,040
Diyala	348,982	6,109	399,638	6,827	458,529	5,664
Baghdad	294,240	4,238	329,216	3,549	294,735	2,918
Dulaim	173,630	18,100	171,744	15,675	277,182	20,364
Kerbela	75,402	3,132	88,913	4,242	130,511	7,845
Hilla	332,843	2,643	346,967	1,659	339,153	1,596
Kut	307,847	3,655	295,930	2,560	341,123	3,860
Diwaniyah	378,607	6,001	380,001	5,043	453,568	8,596
Muntafiq	500,844	7,947	549,229	7,896	588,403	7,430
Amara	562,410	7,170	573,639	7,610	555,994	7,714
Basrah	114,721	291	114,826	596	132,378	652
Total	4,792,240	73,317	4,976,398	71,053	5,524,965	82,403

(1) Government of Iraq, Ministry of Economics, Statistical Abstract.

TABLE VIII.

THE "GOAT REGION" OF IRAQ.(a)

Goats

Liwa	Average 1927-33	1934	1935	1936	1937	1938
	in 1000					
Mosul	517	458	545	624	643	676
Arbil	259	281	323	364	363	372
Sulaimaniyah	206	196	219	261	220	221
Kirkuk	208	221	264	218	297	330
% of total No. of Goats	72%	72%	73%	74%	74%	72%

THE "BUFFALO REGION" OF IRAQ.(a)

Buffaloes

Liwa	Average 1927-33	1934	1935	1936	1937	1938
	in 1000					
Amara	15	18	17	17	19	20
Diwaniyah	8	7	7	7	8	9
Muntafiq	8	9	9	8	9	9
Basrah	8	8	8	8	8	9
% of Total No. of Buffaloes	90%	81%	80%	75%	80%	80%

(a) Government of Iraq, Ministry of Economics, Statistical Abstract, 1939.

Table IX.

RAINFALL AND IRRIGATION IN IRAQ. (a)

Zone	Liwa	Irrigated Area (sqkm)	% of total irrigated Area
Rainfall Zone	Mosul	14,770	
	Arbil	7,160	
	Sulaimaniyah	2,550	
	Kirkuk	12,020	
	Diyala	750	
Total		37,210	or: 47.89
Irrigation Zone	Diyala	2,850	
	Baghdad	3,980	
	Dulaim	1,550	
	Kerbela	660	
	Hilla	4,900	
	Kut	8,540	
	Diwaniyah	5,950	
	Muntafiq	4,710	
	Amara	6,680	
	Basrah	670	
Total		40,490	or: 52.11
Grand Total		77,700	

(a) According to "Dowson Report" (op. cit.) Table I.)

TABLE X.

FLOW AND LIFT IRRIGATION IN LOWER IRAQ. (1)

Liwa	Total irrigated area (sqkm)	"Canal-fed" sqkm	"Canal-fed" % of total irrigated area	"Machine-fed" sqkm	"Machine-fed" % of total irrigated area
Diyala	2,850	2,760	96.84	90	3.16
Baghdad	3,980	1,710	42.96	2,270	57.04
Dulaim	1,550	920	59.33	630	40.67
Kerbela	660	660	100.00	-	-
Hilla	4,900	4,570	93.27	330	6.73
Diwaniyah	5,950	3,770	63.36	2,180	36.64
Kut	8,540	4,680	54.80	3,860	45.20
Muntafiq	4,710	4,440	94.27	270	5.73
Amara	6,680	5,670	84.88	1,010	15.12
Basrah	670	610	91.05	60	8.95
Total	40,490	29,790	73.57	10,700	26.43

(1) According to "Dowson Report" (op. cit.) Table I.

TABLE XI.

Production Figures.

(According to League of Nations Statistical Yearbook.)

WHEAT.

Country	Area (000 ha)				Production (000 quintals)					
	1925-29	1930-34	1939 39/40	1940 40/41	1925-29	1930-34	1937 37/38	1938 38/39	1939 1939/40	1940 40/41
Iraq	300	540[1]	..	..	..	3,563[3]	5,800	6,000	..	..
Egypt	629	631	608	632	10,900	11,738	12,350	12,502	13,337	13,606
Palestine	..	194	189	233	905	691	1,274	444	890	1,360
Transjordan	..	..	..	..	378[1]	566	1,130	851	1,684	..
Syria & Lebanon	483	504	578	..	3,426	3,984	4,688	6,445	6,070	6,695
Turkey	2,447[1]	3,088	3,973	..	18,877[1]	25,346	36,958	47,786	42,042	41,831
Iran	..	1,280[2]	..	..	..	15,914[2]	19,423	...	..	..

BARLEY.

Country	Area (000 ha)				Production (000 quintals)					
	1925-29	1930-34	1939 39/40	1940 40/41	1925-29	1930-34	1937 37/38	1938 38/39	1939 1939/40	1940 40/41
Iraq	947	655[1]	..	..	2,718[4]	3,075[5]	5,700	11,384	..	..
Palestine	..	183	192	192	495	456	754	687	860	1,030
Transjordan	..	..	..	..	134[1]	227	530	459	983	..
Syria & Lebanon	294	322	359	..	3,073	3,165	2,663	3,854	3,700	3,850
Turkey	1,127	1,454	1,857	1,989	10,691[1]	15,217	21,857	23,867	22,947	22,549

1) Three years' average.
2) Four years' average.
3) Average of 1933/34.
4) 1926 only.

(a) TABLE XII.

Yield per Hectar.

WHEAT.

Country	1928-32	1933	1934	1935	1936	1937	38
Iraq	6.4	6.2	6.9	5.5	7.3	7.3	8.2
Egypt	18.3	18.8	17.4	19.9	21.0	21.5	21.0
Palestine	3.4	2.7	4.4	4.6	3.3	5.6	2.5
Syria & Lebanon	7.9	7.5	8.0	9.6	8.0	8.4	11.3
Turkey	7.8	9.9	8.6	7.4	10.9	10.8	11.1
Iran	15.2	11.5	10.7	11.8	12.7	..	..
United Kingdom	21.9	24.1	25.2	23.4	20.6	20.6	25.6
Denmark	29.4	29.8	30.8	31.6	25.6	28.5	35.1

BARLEY.

Iraq	..	4.8	7.4	4.8	6.8	7.0	..
Egypt	16.8	17.0	17.1	19.6	20.6	21.0	21.0
Palestine	2.4	1.8	3.9	2.6	2.0	3.4	3.3
Syria & Lebanon	10.8	9.2	9.8	12.0	10.5	8.3	11.3
Turkey	9.8	11.6	10.4	8.0	11.8	12.9	12.3
United Kingdom	20.5	21.3	21.5	21.2	20.6	18.2	23.0
Denmark	28.9	27.4	28.1	32.1	29.4	29.8	34.2

(a) According to estimates by the International Institute for Agriculture in Rome (International Yearbook of Agricultural Statistics, 1938).

TABLE XIII.

LAND TENURE IN IRAQ.

(According to "Dowson Report" (op. cit.)

Liwa	Cultivated Area: thereof %		Cultivated & Cultivable Area: thereof %		Total Area thereof %	
	Tapu	Miri	Tapu	Miri	Tapu	Miri
Mosul	53	47	52	48	17	83
Arbil	34	66	34	66	15	85
Sulaimaniyah	89	11	89	11	24	76
Kirkuk	52	48	41	59	30	70
Rainfall Zone Average	57	43	54	46	22	79
Diyala	96	4	89	11	21	79
Baghdad	38	62	31	69	7	93
Dulaim	94	6	91	9	1	99
Kerbela	94	6	91	9	3	97
Hilla	49	51	36	64	29	71
Kut	30	70	24	76	16	84
Diwaniyah	38	62	20	80	27	73
Muntafiq	13	87	12	88	16	84
Amara	2	98	2	98	1	99
Basrah	56	44			11	89
Irrigation Zone Average	51	49	44	56	13	88
Total	54	46	49	51	18	84

BIBLIOGRAPHY

I. Official Publications.

Great Britain.

Diplomatic and Consular Reports, Annual Series

Baghdad	1907	No. 4073
Baghdad	1908	No. 4354
Baghdad	1909	No. 4482
Baghdad	1910	No. 4696
Basrah	1907	No. 4024
Basrah	1908	No. 4267
Basrah	1909	No. 4513
Basrah	1910	No. 4730
Basrah	1912	No. 5168

Review of the Civil Administration of Mesopotamia (1914-1920), compiled by Miss Gertrude L. Bell, India Office 1920, Cmd. 1061.

Reports by His Majesty's Government .. to the Council of the League of Nations on the Administration of 'Iraq
October 1920 - March 1922, 1922.
April 1922 - March 1923, (Colonial No. 4, 1924).
April - December 1924 (Colonial No. 13, 1925).
1925 (Colonial No. 21, 1926).
1926 (Colonial No. 29, 1927).
1927 (C. No. 35, 1928).
1928 (C. No. 44, 1929).
1929 (C. No. 55, 1930).
1930 (C. No. 62, 1931).
1931 (C. No. 74, 1932). (1)
1932 (Foreign Office, 1933).

Special Report on the Progress of 'Iraq during the period 1920-1931 (Colonial No. 58, 1931). (2)

Reports by His Majesty's Government to the Council of the League of Nations on the Administration of Palestine and Trans-Jordan, 1922-1939.

(1) The Reports to the Council of the League of Nations are quoted in the text as "Report 19..".
(2) Quoted as "Special Report."

Department of Overseas Trade
Report on Economic Conditions in 'Iraq, No. 559,1933.
" " " " No.627, 1936.
" " " " No.699, 1938.

Note on the Method of Employment of the Air Arm in 'Iraq 1924, Cmd. 2217.

Report of the Financial Mission appointed ... to inquire into the Financial Position and Prospects of the Government of 'Iraq by E. Hilton Young and R.V. Vernon, 1925, Cmd. 2438.

Handbook of Mesopotamia, Admiralty War Staff Intelligence Division, 4 vols.

Mesopotamia, Handbook prepared under the Direction of the Historical Section of the Foreign Office, No. 63, 1920.

France.

République Française, Ministère des Affaires Etrangères, Rapports à la Société des Nations sur la Situation de la Syrie et du Liban, Année 1929,(1930) - 1938 (1939).(1)

United States of America.

Bureau of Foreign and Domestic Commerce, Report on Economics in 'Iraq, October 14th, 1929.

U.S. Department of Commerce, International Reference Service, vol. I, No. 39, June 1941.

U.S. Department of Agriculture
Foreign Agriculture
vol. 7, No. 8, August 1943: Land Tenure in the Middle East by A.J. Tannus.

vol. 7, No. 11, November 1943: Food Production and Consumption in the Middle East by A.J. Tannus.

---

(1) Quoted in text as "Syria Report 19..".

Iraq.

Compilation of Proclamations, Notices, etc., still in force or of Public Interest Relating to the Civil Administration and Inhabitance of Mesopotamia.
October, 1st, 1914 - August 31st, 1919 (1919).
September 1st, 1919 - September 30th, 1920 (1920).

Ottoman Law for the Election of Deputies of Parliament (1920).

Baghdad Penal Code (1920).

Reports of Administration for 1918 of Divisions and Districts of the Occupied Territories of Mesopotamia, in two Parts, (Calcutta).(1)

Review of the Civil Administration of the Occupied Territories of el 'Iraq, 1914-18, compiled in the Offices of the Civil Commissioner, Baghdad 1918.

Divisional Reports

Amarah	1919; 1920-21 (by R. Marrs)
Arbil	1919; 1920 (by W. R. Hay)
Baghdad	1919; 1921
Basrah	1919; 1920
Diwaniyah	1919
Diyalah	1919; 1920
Dulaim	1919; 1920
Hillah	1919
Kirkuk	1919; 1920; 1921
Kut	1919
Mosul	1919; 1920
Muntafiq	1919: 1920 (by A.M. Ditchburn)
Nasiriyah	1919 (by T.C. Orgill)
Rowanduz	1919
Samarra	1919; 1920
Shamiyah	1919
Sulaimaniyah	1919; 1920 (by E.B. Soane)

(1) Part I contains the Reports of the Political Divisions and is quoted in the text as"Admin. Report, .. Division, 1918."

The Muntafiq (Calcutta 1917)
Tribes of the Tigris (Calcutta 1917)
Arab Tribes of the Baghdad Wilayet (Calcutta 1919)
Arab Bureau, A Tribal Handbook of Syria, 1918
Notes on Tribes and Sheikhs of the Shatrah District by Capt. C.S.J. Berkeley, 1918
Marsh Arabs of Lower Iraq, by Capt. Buxton,1918
Notes on the Character of the Tribes and the Sheikgs of the Qal'at Sikar District, by Capt. F.L.M. Barrett,
Guli and Sindi Tribes, by Capt. Mackie, 1919. /1920./
Note on Nomad Tribes, by Major J.I.Eadie, 1919
Note on Kurdish Tribes, 1919
Note on Tribes and Sheikhs of Anah-Albu Kamal District, by Capt. C.C. Mylles, 1919
Short History of the Shatrah Tribes, by Capt. B.S. Thomas 1920

Administrative Report of the Revenue Department, 1918; 1919.
Annual Report on the Operations of the Revenue Department by S.H. Longrigg, 1927-28; 1928-29.

Notes on Land Policy, by E.B. Howell, 1919
Koda Report, by E.B. Howell, 1919
Report on the Conditions of Trade in Mesopotamia, 1920
H.St. J. Philby, Cultivation of Cotton in Mesopotamia, Preliminary Memorandum, 1919

Department of Agriculture
Possibilities of Mesopotamia as a Cotton Growing Country, 1919, by R. Thomas
Cultivation of Cotton, Leaflet No. 7 A, 1922
Report on a Cultivation Experiment with Irrigated Cotton, by R. Thomas and K. Sawhney, Memoirs No. 9, 1925.
The Economics of Rice and Cotton Cultivation in the Diyala Liwa,by K.S.A.A.Soofee, Memoirs No. 10, 1925.
Cultivation of American Cotton, Leaflet No. 15,1927

Report by Sir E. Hilton Young to the 'Iraqi Government on Economic Conditions and Policy, and Loan Policy (in Report by His Majesty's Government to the Council of the League of Nations on the Administration of 'Iraq for the Year 1930, p. 163 sq.

An Inquiry into Land Tenure and Related Questions, Proposals for the Initiation of Reform by Sir E. Dowson, 1932. (1)

Report of the Education Inquiry Commission by P. Monroe, 1932.

Ministry of Economics, Statistical Abstracts
1927-28 Baghdad 1935
1928-35 " 1936
1927-38 " 1941

Iraq Government Gazette,
1924-1941.

---

(1) Quoted as "Dowson Report."

II. BOOKS.

Abu Jusuf, K. al-Harag, translated by E. Fagnan, 1921.

Aghnides, Introduction to Mohammedan Law (reprinted in Islamic Culture 1929).

Airouth, H.H., Moeurs et Cultures des Fellahs, 1938.

Antonius, G., The Arab Awakening, 1938.

Arab of Mesopotamia, Basrah 1917.

Aref-el-Aref, Die Beduinen von Berseba, 1938.

Ashkenazi, T., Tribus séminomades de la Palestine du Nord, Paris 1938 (Etudes d'Ethnographie, de Sociologie et d'Ethnologie, Tome 2.

Becker, Carl, Beiträge zur Geschichte Ägyptens unter dem Islam, Heft 2 Die Arabisierung, 1903.

Bell, Lady Florence, The Letters of Gertrude Bell, 2 vols.

Bell, Gertrude, The Arab War, 1940. Confidential Information for General Headquarters, 1940.

Berchem, Max van, La Propriété territoriale et l'Impôt foncier sous les premiers Caliphes, Genève 1886.

Bernard A. et Lacroix, N., l'Evolution du Nomadism en Algérie, 1906.

Bernard, A., Le Maroc, 1930.

Blunt, Lady A., Bedouin Tribes of the Euphrates, 1879.

Bonne, A., Palästina, 1932.

" " The Economic Development of the Middle East, Jerusalem, 1943.

Burckhardt, J.L., Bemerkungen über die Beduinen der Wahabi, Weimar 1831.

Caetani, L., Annali dell' Islam, Milano 1905 seq.

Chapelle, de la, F., Une Cité de l'oud Wra sous le Protectorat des Nomades n Mesrat Hesperis 1929.

Charles, H., Tribus Moutonnières du Moyen Euphrate, Documents d'Etudes Orientales de l'Institut Français de Damas, vol. 8.

Chesney, F.R., The Expedition for the Survey of the Rivers Euphrates and Tigris, London 1851, 2 vol.

Chiha, H.H., Traité de la Propriété immobilière en Droit Ottoman, Cairo 1906.

Chiha, M., La Province de Baghdad, Cairo 1900.

Christensen, A., L'Iran sous les Sassanides, Paris 1936.

Clay, R., Land Tenure in Babylonia and Assyrie,1938.

Cleland, Wendell, The Population Problem in Egypt, 1936.

Crouchley, A.E., The Economic Development of Modern Egypt, London 1938.

Cuinet, Vital, La Turquie d'Asie, Paris 1892-94, vol. II and III.

Dodd, S.C., A controlled Experiment in rural Hygiene, Beyrut 1934.

" " Social Relations in the Near East, Beyrut 1940.

Fedden, R., The Land of Egypt, 1939.

Fahmi, Ahmed, Report on Iraq, Baghdad 1926.

Fariq al-Muzhir Al Fir'ann, Al-qadā' al-'ashā'irī (The tribal Code of Land), Baghdad 1939.

Field, H., Arabs of Central Iraq (Field Museum of Natural History), Chicago 1935.

Fisher, S., Ottoman Land Laws, 1919.

Forde, C.D., Habitat, Economy and Society, 1934.

Gibb, H.A.R., The Arabs, Oxford Pamphlet No. 40, 1941.

Goadby, F.M., and Donkhan, M.J., The Land Law of Palestine, Tel Aviv 1935.

Goldziher, J., Muhammedanische Studien, Halle 1889/90.

Grant, C.F., The Syrian Desert, 1937.

Haidar, S., Land Problems of Iraq, 1942 (Unpubl. Thesis).

Hall, W.A. Daniel, Reconstruction and the Land, 1942.

Hammer Purgstall, J. von, Länderverwaltung unter dem Califath 1835.

Hay, W.R., Two Years in Kurdistan, 1918-20, 1921.

Hayley, Lord, An African Survey, 1938.

Himadeh, Economic Organisation of Syria, Beyrut 1936.

" The Economic Organisation of Palestine, Beyrut 1938.

" The Economic Organ of Iraq, Beyrut 1938.

Hogarth, D.S., The Nearer East, 1902.

Hooper, C.A., The Civil Law of Palestine, vol. I, Mejelle 1934.

Hough, E.M., The co-operative Movement in India, 1932.

Housset, L., Le Statut des Terres collectives et la Fixation au Sol des Indigènes en Tunisie, Paris 1939.

Huart, C., Histoire des Arabes, Paris 1912.

Hubbard, L. E., The Economics of Soviet Agriculture, London 1939.

International Yearbook of Agricultural Statistics, Roma 1939.

Iraq Directory, Baghdad 1936.

Ireland, P.W., Iraq, 1937.

" " Editor, The Near East, Harris Foundation Lectures, Chicago 1942.

Jacob, G., Altarabisches Beduinenleben, Berlin 1897.

Jamali, M.F., The New Irak: Its Problem of Bedouin Education, New York 1939.

Jaussen, R.P., Coutume des Arabes au Pays de Moab, 1908.

Kappers, U.A., Introduction to the Anthropology of the Near East, 1934.

Kaspar, G., Koloniale Bodenrechtspolitik Frankreichs in Tunesien, 1938.

Kat Angelino, A.D.A.de, Colonial Policy, The Hague 1931.

Lammens, H., Etudes sur le règne du Calife Amayade Mo'âwia I, Beyrouth, 1907.

" Le Berceau de l'Islam, Rome 1914.

" Islam, translated by Sir E. Denison Ross, 1923.

Latron, A., La Vie rurale en Syrie et au Liban, Beyrouth 1936.

Lattimore, O., Inner Asian Frontier of China, 1940.

Leach, E.R., Social and Economic Organisation of the Rowanduz Kurds, 1940.

Leake, H.M., Land Tenure and Agricultural Production in the Tropics, 1927.

Lescot, R., Enquête sur les Jézidis de Syrie et du Djebel Sindjar, 1936.

Longrigg, S.H., Four Centuries of Modern Iraq, 1925.

Macdonald, A.D., Euphrates Exile, 1936.

MacMicheal, H.A., The Anglo-Egyptian Sudan, 1934.

al-Mawardī, K. al-Ahkām as-sultānīja, translated by E. Fagnan, Algiers 1915.

Maynard, John, The Russian Peasant, 1942.

Mead, M., Co-operation and Competition among primitive People, 1937.

Merner, P.J., Das Nomadentum in Nordwestafrika, Berliner Geographische Arbeiten, Heft 12, 1937.

Mez, A., Die Renaissance des Islam, 1922.

Midhat, A.H., Life of Midhat Pasha, 1903.

Mohammed Saleh, La Petite Propriété Rurale en Egypte, 1922.

Müller, Victor, En Syrie avec les Bédouins, Paris 1931.

Musil, A., The Middle Euphrates, New York 1927.

" " Manners and Customs of the Rwala Bedouins, New York 1928.

Nationalism. A Report by a Study Group of Members of the Royal Institute National Affairs, 1939.

Niebuhr, C., Beschreibung von Arabien, Copenhagen 1772.

Oppenheim, M.,Freiherr von, Vom Mittelmeer zum Persischen Golf, Berlin 1900.

" " Die Beduinen, unter Mitbearbeitung von E. Bräunlich and W. Caskel, vol. I, Die Beduinenstämme in Mesopotamien und Syrien, Leipzig 1939.

Padel, W., and Steeg, L., De la Législation foncière Ottomane Paris 1904.

Peake, F.G., The chief Tribes and Clans of Trans-Jordan, Amman 1938 (stencilled).

Philby, H.St.J.B., Arabia, 1930.
" " Arabia of the Wahabis, 1928.

Plunkett, (Horace), Foundation, Yearbooks of Agricultural Co-operation, 1930-1942.

Poidebare, La Trace de Rome dans le Désert de Syrie, 1934.

Poliak, A.N., Feudalism in Egypt, Palestine and the Lebanon, 1939.

Raynard et Martinet, Les Bédouins de la Mouvance de Damas, Beyrouth 1922.
Rihani, Ameen, Ibn Sa'ud of Arabia, 1928.
Roberts, S.H., History of French Colonial Policy, 2 vol., 1929.

Rostovtsev, M.I., Caravan Cities, 1932.

Sarrage, M., La Nécessité d'une Réforme Agraire en Syrie, 1936.

Scemama, La Tunisie Agricole, 1938.

Schmidt and Wilhelmy, Die faschistische Kolonisation in Nordafrika, 1939.

Strickland, C.F., Report on the Possibility of introducing agricultural Co-operation in Palestine, 1930.
" " Co-operation for Africa, 1933.
" " Co-operation in India, 3rd ed., 1938.

Sykes, Sir Mark, The commercial Futire of Baghdad, 1917.

Tawney, R.H., Religion of the Rise of Capitalism, 1926.

Terrier, Les Tribus Nomades et Sémi-nomades des Etats du Levant, Beyrouth, 1930.

Tischendorf, P.A., Das Lehnswesen in den moslemischen Staaten, 1872.

Thomas, B. The Arabs, 1937.

Thoumin, R., Géographie humaine de la Syrie centrale, Paris 1936.

Toynbee, A., A Study of History, vol. 3.

" " Survey of International Affairs 1934, 1935.

Tute, R.C., The Ottoman Land Laws, Jerusalem 1927.

Ubach, E., and Rackow, E., Sitte und Recht in Nordafrika, Stuttgart 1923.

Vollenhoven, J. van, Essais sur les Fellah Algérien, 1903.

Webb, S. and B., Sovjet Communism, a new Civilisation, 2 vols., 2nd ed., 1937.

Weber, Max, Gesammelte Aufsätze zur Religionssoziologie I-III, Tübingen 1921/22.

" " Gesammelte Aufsätze zur Sozial- und Wirtschafts-geschichte, Tübingen 1924.

Wellhausen, Das Arabische Reich and sein Sturz, 1902.

Willcocks, Sir William, The Irrigation of Mesopotamia, 1911.

" " Egyptian Irrigation and the public Health, Cairo 1927.

" " Sixty Years in the East, 1935.

Wilson, Sir A.T., Loyalties, Mesopotamia 1914-17, 1930.

" " Mesopotamia 1917-20, 1932.

Young, G., Corps de Droit Ottoman, 7 vols., Oxford 1905-06.

III. ARTICLES.

Ammar Abbas, Conditions of Life in rural Sharqiyah. The Sociological Review, 1940.

Becker, C.H., Islam und Wirtschaft. Archiv für Wirtschaft im Orient,1916.

" " Steuerpacht und Lehnswesen. Der Islam,1916.

Belin, Du Régime des Fiefs militaires dans l'Islamisme. Journal Asiatique, 6e série, 1870.

Bernard, A., et Lacroix, N., L'Evolution du Nomadisme en Algérie. Annales de Géographie, 1906.

Boesch, H.H., El'Iraq. Economic Geography, 1939.

Bonne, A., Conditions and Problems in the Agriculture of Iraq. International Institute of Agriculture, Monthly Bulletin of Agricult. Economy and Sociology, 1934.

" " Agrarian Problems in Iraq, in Palestine and the Middle East. Economic Magazine, 1937.

" " Recent socio-economic Changes in the Middle East. Journal of Royal Central Asian Society, 1940.

Boucheman, A. de, Notes sur la Rivalité de deux Tribus moutonnières de Syrie. Etudes Islamiques, 1934.

" " La Sédentarisation des Nomades du Désert de Syrie. L'Asie Française, 1934.

Bräunlich, E., Beiträge zur Gesellschaftsordnung der Arabischen Beduinenstämme. Islamica, 1933/34.

Chardin, F.W., The Tribal Problem. The Empire Review, 1927.

Conference on Co-operation in Europe. The Advancement of Science (British Association for the Advancement of Soience), 1943.

Curinotta, Nomadi e Nomadismo nei Trattati coloniale. Rivista Coloniale, 1927.

Djamalzadeh, A.M., Economic and Social Development in Iraq. International Labour Review, 1937.

Eastwood, A., Empire Cotton Growing Review, 1931.

Elazari-Volkani, J., The Transition from primitive to modern Agriculture in Palestine. Bulletin of Palestine Economic Society, 1925.

Epstein, J., The Hauran. Journ. Central Asian Society, 1936.

" " The Bedouin of Transjordan. Journ. Royal Central Asian Soc., 1938.

" " in: 19th Oriental Congress, Rome.

" " Bedouins of Negeb. Palestine Exploration Quarterly, April 1939.

" " The Hauran Rise and Decline. Ibid., January, 1940.

" " The Economic Situation of the Transjordan Tribes. Journal of R. Centr. Asian Soc., 1939.

" " Al Jezirah. Ibid., 1940.

Ess, J. van, Personal Sidelights on Irak. Asia, 1942.

" " Forty Years among the Arabs. The National Geographical Magazine, Washington, 1942.

Field, H., Marsh Arabs of Iraq. Asia, 1936.

" " The Arabs of Iraq. American Journal of Physical Anthropology, 1936.

Froidenaux, Henri, L'Avenir des Nomades du Désert. L'Asie Française, Mars, 1934.

Gibb, H.A.R., Social Reaction in the Muslim World. J.R. Centr. Asian Soc., 1934.

Glubb, J.B., Bedouins of Northern Iraq. Journ. R. Centr. Asian Soc., 1935.

" " Arab Civilization and Foreign Culture. Ibid., 1937.

" " Arab Chivalry. Ibid., 1937.

" " Economic Situation of the Transjordan Tribes. Ibid., 1938.

Gowan, C.H., Northern Iraq. Journ. Royal Centr. Asian Soc., 1938.

Guest, Evan, Report on the Work on Cotton. Empire Cotton Growing Corporation Reports, received from Experiment Stations, 1932.

Hakki bey Babran Zade, De Stamboul à Bagdad. Revue du Monde Musulman, 1911.

Hintze, Otto, Wesen und Verbreitung des Feudalismus. Situngsbericht der Preussischen Akademie der Wissenschaften Phil.-Hist. Klasse, 1929.

Hirsch, S., Sheep and Goats in Palestine. Palestine Econ. Society, 1933.

Hogg, G., Iraq. Journ. Royal Centr. Asian Soc., 1940.

Howell, E., The Qanun el Aradhi. Journ. Centr. Asian Soc., 1922.

Jarvis, R.C., The Desert Bedouin and his Future. Journ. Royal Central Asian Society, 1936.

" " The "Goat Standard". Ibid., 1937.

Johnson, C.A., Kurds of Irak. Geographical Magazine, 1939/40.

Kofler, H., Translation of Ibn Gama'ah's Handbuch des Islamischen Staats- und Verwaltungsrechts. Islamica, 1934-38.

Lammens, H., Politique agraire de Mo'âwia. Mélanges de la Faculté orientale. Université de St. Joseph, Beyrouth, 1907.

Lyautey, Du Rôle Coloniale de l'Armée. Revue des Deux Mondes 1900.

MacCutchan McBride, G., Under "Peonage," Encyclopaedia of Social Sciences.

Macdonald, A.D., Political Development in Iraq up to the Rising of 1935. Journ. Royal Centr. Asian Soc., 1936.

Maitrot de la Motte-Capron, Essai sur le Nomadism. Revue Internationale de Sociologie, 1939.

Minovsky, V., Under "Kurds," in Encyclopaedia of Islam, 1927.

Montagne, P., Les Jemmar du Negd. Revue des Etudes Islamiques 1932.

" " Quelques Aspects du Peuplement de la Haute-Djeziré. Bulletin des Etudes Orientales, 1932.

Padel, W., Grundeigentum in der Türkei. Mitteilungen des Seminars für Orientalische Sprachen, Berlin, 1900-01.

Paterson, D.D., Problems of the Iraq Cultivator. Tropical Agriculture, 1932.

Peake, H.J.E., Encyclop. of Social Sciences, under "Village Community."

" " Trans-Jordan. Journ. R. Centr. Asian Soc., 1939.

Poliak, N., Some Notes on the Feudal Systems of the Mamluks. Ibid., 1937.

" " La Féodalité Islamique. Revue des Etudes Islamiques, 1936.

" " Classification of Land in the Islamic Law. American Journ. of Semitic Languages, 1940.

" " Bedouin Settlement in Arabic Countries. Bulletin of the Economic Research Institute of the Jewish Agency for Palestine, 1942.

Price, J.W., A Desert Survey. The Royal Engineer Journal, vol. 52, 1938.

Prinz, H., Babylonische Landwirtschaft einst und jetzt. Weltwirtschaftliches Archiv, June, 1916.

Pröbster, E., Privateigentum und Kellektivismus im Nomadischen Liegenschaftsrecht. Islamica, 1931.

Rabbath, E., Esquisse sur les Populations Syriennes. Revue Internationale de Sociologie, 1938.

Raswan, C.R., Tribal Areas and Migration Lines of the North Arabian Bedouins. Geographical Review, 1930.

Rondot, P., Les Tribus Montagnards de l'Asie Antérieure. - Quelques Aspects sociaux des Populations Kurdes et Assyriennes. Bulletin des Etudes Orientales, 1936.

492 (alk.)

Shanklin, W.M., Anthropology of the Akeydat and Mawali. American Journal of Physical Anthropology, 1936.

" " Anthropology of the Rwala Bedouin. Jorunal of Anthropology Institute of Great Britain, 1935.

Sykes, Sir Mark, The Kurdish Tribes of the Ottoman Empire. Journ. of the Royal Anthropological Institute, 1908.

Uhlig, Mesopotamien. Zeitschrift der Gesellschaft für Erdkunde zu Berlin, 1917.

Wilson, Sir A.T., Northern Iraq and its Peoples. Journ. Royal Central Asian Soc., 1937.

'225 to 492', 268 leaves of which
275 and 276 are one and 333 is double.